

Table of Contents

2023-11-13 Regular Meeting Agenda.pdf	2
Item 2 - Minutes.pdf	9
Item 3 - List of Demands.pdf	24
Item 5 - Lease Agreement NCTD 299-100-3300 Trailhead Parking Lot.docx.pdf	66
Item 6 - 2023 SAC Climate Resolution.pdf	107
Item 7 - Consulting services with the Solana Center.pdf	115
Item 8 - Award Construction Contract for 2023 Water Wastewater Pavement Storm Drain.pdf	123
Item 9 - Update on Housing Work Program.pdf	166
Item 10 - SCBA Replacement.pdf	193
Item 11 - MDC Replacement.pdf	230
Item 12 - Lagoon Committee Appointment and Charter Amendment.pdf	236
Item 13 - Introduction of an Ordinance Regulating Balloons Filled with a Gas Lighter Than Air.pdf	256
Item 14 - EP23-073 for 157 6th Street.pdf	265
Item 15 - DM Guiding Principles - LOSSAN Rail Realignment Project.pdf	281
Item 16 - 2024 Council Meeting Schedule.pdf	284



Del Mar City Council Meeting Agenda

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

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, November 13, 2023 at 4:30 PM

Tracy Martinez
Mayor

Dan Quirk
Deputy Mayor

Dave Druker
Council Member

Terry Gaasterland
Council Member

Dwight Worden
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 remotely and in-person. 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 addressed 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.

Remote Participation: Members of the public can participate in the meeting remotely using the Zoom link and/or dial-in information provided below. Those wishing to comment live should join the Zoom meeting when the item(s) they wish to speak on is announced or at the meeting start time for items not on the agenda. **Zoom Link:** <https://us02web.zoom.us/j/84790910014>; **Phone:** (669) 900-6833; **Meeting ID:** 847 9091 0014

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 or raise their hand in Zoom 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. CITY COUNCIL COMMENTS
- VI. COMMUNITY ANNOUNCEMENTS
- VII. CITY MANAGER'S REPORT
- VIII. PRESENTATIONS
 - 1. **RE:BEACH City of Oceanside Coastal Resilience Project**

Recommended Action: Receive a presentation from City of Oceanside Coastal Zone Administrator Jayme Timberlake.

Reference: Clerk's File No. 1404-1, 1505-7

- IX. 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 or raise your hand in Zoom.

- 2. **Approval of Minutes: October 2, 2023 Regular Meeting, October 16, 2023 Regular and Special Meeting**

Recommended Action: Approve Minutes.

Reference: Clerk's Minutes Book

3. Ratification of List of Demands, dated November 13, 2023

Recommended Action: Ratify the List of Demands.

Reference: Clerk's File No. 201-3

4. Waiver of Reading of Ordinances on Agenda

Recommended Action: Waive Reading of Ordinances.

Reference: Clerk's File No. 401-4

5. Lease Agreement with the North County Transit District for Parcel 299-100-33-00 (Trailhead Parking Lot)

Recommended Action: Staff recommends that the City Council approve a ten-year lease agreement with the North County Transit District (NCTD) for Parcel 299-100-3300 (Trailhead Parking Lot) (Attachment A); authorize the City Manager to execute the Lease Agreement; and amend the Fiscal Year (FY) 2023-2024 Operating and Capital Budget as described in the Fiscal Impact Section of this report.

Reference: Clerk's File No. 406-1, 1506-20

6. Resolution Re-affirming the Declaration of a Climate Emergency for the City of Del Mar

Recommended Action: Mayor Martinez and Council Member Worden recommend the City Council adopt a resolution (Attachment A) re-affirming the declaration of a climate emergency for the City of Del Mar and the need for accelerated action to address the climate crisis.

Reference: Clerk's File No. 1403-4

7. Scope of Work with the Solana Center for Environmental Innovation for Organics Recycling Compliance Support Services

Recommended Action: Staff recommends that the City Council approve a scope of work totaling \$38,000 with Solana Center for Environmental Innovation (Solana Center) (Attachment A) for Organics Recycling Compliance Support Services under an existing agreement between the Solana Center and the Regional Solid Waste Association (RSWA) Joint Powers Authority, of which the City is a member agency, and authorize the City Manager to execute the required documents.

Reference: Clerk's File No. 906-9

8. Award of Construction Contract to Bali Construction, Inc. for the 2023 Water, Wastewater, Pavement, and Storm Drain Project

Recommended Action: Staff recommends that the City Council: 1) Award a \$1,675,555 construction contract to Bali Construction, Inc (Attachment A) for the 2023 Water, Wastewater, Pavement, and Storm Drain Project; 2) Award a \$136,340 Task Order to Dudek for Construction Management and Inspection Services (Attachment B); 3) Approve a 10% project contingency of \$167,525; 4) Authorize the City Manager to execute the required documents and any contract changes necessary to complete the work; and 5) Amend the Fiscal Year 2023-2024 Operating and Capital Budget as described in the Fiscal Impact Section of this report.

Reference: Clerk's File No. 406-1

9. Update on the Housing Element Implementation Work Program

Recommended Action: Staff recommends that the City Council receive the update on the Housing Element Work Program.

Reference: Clerk's File No. 304-7

10. Approval to Purchase Firefighter Self Contained Breathing Apparatus and Rapid Intervention Team Packs

Recommended Action: Staff recommends that the City Council: 1) Authorize the purchase and replacement of critical fire equipment including (10) Self Contained Breathing Apparatus (SCBAs), (1) Rapid Intervention Team Packs, and related accessories totaling \$122,445.77 from Municipal Emergency Services (MES) (Attachment A); 2) Authorize the City Manager to execute the necessary documents; and 3) Amend the Fiscal Year 2023-2024 Operating and Capital Budget as described in the Fiscal Impact section of this report.

Reference: Clerk's File No. 1101-8

11. Purchase of Mobile Data Computers, Operating Software, Accessories, and Installation for Emergency Vehicles

Recommended Action: It is recommended that the City Council approve the purchase and installation of two (2) Mobile Data Computers (MDCs), Tablet Command Operating Software, Accessories for the MDCs, Installation into the Fire Engine, and amend the Fiscal Year 2023-2024 Operating and Capital Budget as described in the Fiscal Impact section of this report.

Reference: Clerk's File No. 1101-8

12. Lagoon Committee Appointment and Charter Amendment

Recommended Action: The City Council Liaisons to the Lagoon Committee recommend that: 1) the City Council re-appoint Udo Wahn as a voting member of the Lagoon Committee to serve a second full three-year term starting November 1, 2023, and ending on November 30, 2026; and 2) Adopt a Resolution (Attachment A) amending the Committee Charter to reduce the membership to seven voting members and convert the ex-officio, non-voting member to a voting member (Exhibit A to Attachment A).

Reference: Clerk's File No. 401-5

X. PUBLIC HEARING

13. Introduction of an Ordinance Regulating Balloons Filled with a Gas Lighter Than Air

Recommended Action: Staff recommends that the City Council conduct a public hearing and introduce an ordinance (Attachment A) to add Chapter 11.48 to the Del Mar Municipal Code (DMMC) that would prohibit the use, sale, and distribution of balloons filled with a gas lighter than air.

Reference: Clerk's File No. 401-4, 401-9, 1403-4

14. Encroachment Permit EP23-073 – Request to Retain Unpermitted Fencing, Entry Arbor, and Landscaping within the Public Right-of-Way at 157 6th Street (Applicant: Arturo Vivar)

Recommended Action: It is recommended that the City Council adopt a Resolution (Attachment A) denying Encroachment Permit EP23-073, based on the project's non-compliance with the Del Mar Municipal Code (DMMC) and City Council Policy 110 - Private Encroachments into City Rights-of-Way (Attachment B).

Reference: Clerk's File No. 802-1

XI. COUNCIL MEETING RECESS

XII. CITY COUNCIL OTHER BUSINESS

15. Proposed Del Mar Guiding Principles Regarding the LOSSAN Rail Realignment Project

Recommended Action: Councilmembers Druker and Gaasterland request that the City Council adopt the proposed Del Mar Guiding Principles Regarding the LOSSAN Rail Realignment Project (Attachment A).

Reference: Clerk's File No. 1005-2

16. Adoption of the 2024 City Council Meeting Schedule

Recommended Action: Staff recommends that the City Council adopt the Resolution (Attachment A) approving the 2024 City Council Meeting Schedule (Exhibit A to Attachment A) or provide direction to staff regarding changes to the proposed schedule.

Reference: Clerk's File No. 401-1

XIII. 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. 22nd District Agricultural Association Community Relations Committee (Gaasterland/Martinez)
- B. Clean Energy Alliance JPA (CEA) Board of Directors (Druker/Worden)
- C. CSA-17 Ambulance District Advisory Board (Martinez/Quirk)
- D. Fire Governance Board, Solana Beach/Del Mar/Encinitas (Quirk/Martinez)
- E. League of California Cities – San Diego Chapter (Martinez/Worden)
- F. League of California Cities – Coastal Cities Group (Worden)
- G. North County Transit District (NCTD) (Druker/Gaasterland)
- H. Regional Solid Waste Association (Worden/Quirk)
- I. San Diego Association of Governments Board (SANDAG) (Gaasterland/Martinez/Druker)
- J. SANDAG Borders Committee (Druker)
- K. SANDAG Regional Planning Committee (Gaasterland)
- L. SANDAG Shoreline Preservation Working Group (Worden/Gaasterland/Martinez)
- M. SANDAG LOSSAN Executive Task Force (Druker/Gaasterland)
- N. San Diego Metropolitan Wastewater Commission/JPA (Worden/Quirk/Druker)
- O. San Dieguito River Valley Regional Open Space Park JPA –Executive Committee (Worden/Quirk)
- P. Other Regional Organization Reports

XIV. 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. Arts Advisory Committee (Druker)
- B. Clean Water Rate Project
- C. Del Mar Community Connections (Martinez/Worden)
- D. Del Mar Village Association (Gaasterland/Martinez)
- E. Finance Committee (Druker/Worden)

- F. Housing Subcommittee (Gaasterland/Martinez)
- G. Human Resources Subcommittee (Druker/Worden)
- H. Legislative Subcommittee (Gaasterland/Martinez)
- I. Measure Q Citizen Oversight Committee (Gaasterland/Quirk)
- J. Parks and Recreation Committee (Martinez/Worden)
- K. Del Mar Railroad Committee (Druker/Gaasterland)
- L. Lagoon Committee (Quirk/Worden)
- M. Sea-Level Rise Adaptation Plan Implementation Subcommittee (Gaasterland/Martinez)
- N. Shores Advisory Committee
- O. Sustainability Advisory Committee (Martinez/Worden)
- P. Traffic and Parking Advisory Committee (Quirk/Worden)
- Q. Undergrounding Project Advisory Committee (Druker/Gaasterland)
- R. Other Committee-Subcommittee Reports

XV. 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.

December 4, 2023
2024 Advisory Committee Meeting Schedule
Second Reading and Adoption of Ordinance Prohibiting the Use, Sale and Distribution of Balloons Filled With a Gas Lighter Than Air
Utility Undergrounding District 1A Project Final Design, Permit Approval; and Authorization to Initiate the Public Bidding Process
Introduction of an Ordinance to Amend Accessory Dwelling Unit Regulations and Local Coastal Program
Introduction of an Ordinance to Amend Accessory Dwelling Unit Incentive Program
Adoption of Resolution to Create an Accessory Dwelling Unit Amnesty Program

XVI. 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 8th day of November, 2023 at approximately 5:30 p.m.



Sarah Krietor, Administrative Services Manager/
City Clerk

11/8/2023
Date



**CITY OF DEL MAR
CITY COUNCIL REGULAR MEETING MINUTES
OCTOBER 2, 2023
City of Del Mar Town Hall
1050 Camino del Mar, Del Mar California 92014**

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 Martinez called the Regular Meeting to order at 4:30 p.m.

ROLL CALL

Present: Mayor Tracy Martinez; Deputy Mayor Dan Quirk; Councilmembers Dave Druker, Terry Gaasterland, and Dwight Worden

CITY ATTORNEY CLOSED SESSION REPORT

City Attorney Leslie Devaney reported that all members of the City Council were present and that there were no reportable actions for the October 2, 2023, City Council Closed Session meeting. She reported that Councilmember Druker was recused from items A and B due to living within 500 feet of the subject matter of that discussion.

City Attorney Leslie Devaney reported that there were no legally required reportable actions from the City Council Closed Session that occurred on September 29, 2023; however, the City Council reports that the majority of the City Council voted not to accept the draft executive summary of the investigation and not to accept or view the draft investigation report due to both being incomplete. City Attorney Devaney reported further that there would be no charge for the investigation and the City Council authorized the hiring of another investigator to begin an investigation of the allegations already identified as soon as possible,

PLEDGE OF ALLEGIANCE

Mayor Martinez led the Pledge of Allegiance.

PUBLIC ORAL COMMUNICATIONS

None.

CITY COUNCIL COMMENTS & COMMUNITY ANNOUNCEMENTS

Councilmember Worden reported on the first San Diego Association of Governmentns (SANDAG) Sediment Management Technical Taskforce meeting; SANDAG tunneling issues update, and League of

California Cities Annual Conference. Mayor Martinez reported on an upcoming Coastal Cities Mayors meeting.

CITY MANAGER’S REPORT

City Manager Ashley Jones reported on City traffic conduit repairs at intersection Via De La Valle, Jimmy Durante Boulevard and Valley Avenue; settlement agreement with Winston School; and announced an upcoming SANDAG’s workshop related to the LOSSAN Rail Realignment Project.

PRESENTATIONS

ITEM 1: PROCLAMATION IN SUPPORT FOR AND DECLARATION OF CALIFORNIA CLEAN AIR DAY ON OCTOBER 4, 2023 (CLERK’S FILE NO. 1201-5)

Mayor Martinez presented a proclamation in support for and declaration of California Clean Air Day.

CONSENT CALENDAR

Management Analyst Nestor Machado 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 COUNCILMEMBER DAVE DRUKER, SECONDED BY COUNCILMEMBER TERRY GAASTERLAND TO APPROVE THE CONSENT CALENDAR ITEMS 2 THROUGH 9 AND ITEM 12 THAT WAS MOVED TO THE CONSENT CALENDAR. (VOTE 5-0)

Ayes: Mayor Martinez, Deputy Mayor Quirk, and Councilmembers Druker, Gaasterland and Worden;
Noes: 0; Absent: 0; Abstain: 0.

ITEM 2: APPROVAL OF MINUTES: APPROVAL OF MINUTES: SEPTEMBER 18, 2023 REGULAR AND SPECIAL MEETING, SEPTEMBER 25, 2023 SPECIAL MEETING (CLERK’S MINUTES BOOK)

Council approved the minutes, on consent.

ITEM 3: RATIFICATION OF LIST OF DEMANDS, DATED OCTOBER 2, 2023 (CLERK’S FILE NO. 201-3)

Council approved the list of demands, on consent.

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

Council waived the reading of ordinances, on consent.

ITEM 5: CHARGEPOINT ELECTRIC VEHICLE CHARGING STATIONS WARRANTY COVERAGE AND MAINTENANCE CONTRACT EXTENSION (CLERK’S FILE NO. 406-1)

Council authorized the City Manager to execute a five-year network service and warranty extension through May 24, 2029, with the City’s electrical vehicle charging vendor, ChargePoint, in an amount not to exceed \$22,350; and amended the Fiscal Year 2023-2024 Operating and Capital Budget as indicated in the Fiscal Impact section of this report, on consent.

ITEM 6: ALERT AND WARNING MEMORANDUM OF AGREEMENT BETWEEN THE COUNTY OF SAN DIEGO AND THE CITY OF DEL MAR (CLERK'S FILE NO. 406-1, 1503-5)

Council approved the Alert and Warning Memorandum of Agreement between the County of San Diego and the City of Del Mar; and authorized the City Manager to execute the Memorandum of Agreement, on consent.

ITEM 7: AWARD OF CONSTRUCTION CONTRACT FOR 25TH STREET LIFEGUARD TOWER EXTERIOR DOOR REPLACEMENT PROJECT (CLERK'S FILE NO. 406-1)

Council awarded a \$39,635 construction contract with CTT Contemporary Furniture Incorporated (CTT Furniture) for the 25th Street Lifeguard Tower Exterior Door Replacement Project (Project); approved a project contingency of \$5,000; and authorized the City Manager to execute the contract and any contract changes necessary to complete the work, on consent.

ITEM 8: PARKS AND RECREATION COMMITTEE APPOINTMENT (CLERK'S FILE NO. 401-5)

Council appointed Ann Feeney as a voting member to the Committee to serve the balance of a vacant term starting October 2, 2023, and ending on January 1, 2024, on consent.

ITEM 9: PURCHASE OF REAL PROPERTY RELATED TO THE DEL MAR RIVERPATH PHASE 3 PROJECT (CLERK'S FILE NO. 702-1)

Council approved a Purchase & Sale Agreement for the purchase of Assessor Parcel Number (APN) 299-200-51 (Property); adopted Resolution 2023-29, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, ACCEPTING REAL PROPERTY KNOWN AS ACCESSOR PARCEL NUMBER (APN) 299-200-51 FROM ALEXANDER VONLOKNER FOR USE AND OPERATION OF PUBLIC BENEFIT TO THE CITY OF DEL MAR; authorizing recordation of a Certificate of Acceptance and a Grant Deed to purchase real property known as APN 299-200-51; and authorized the City Manager to execute and record documents necessary to facilitate acquisition of the Property, on consent.

PUBLIC HEARING

ITEM 10: CONTINUED TO OCTOBER 16, 2023 COUNCIL MEETING: INTRODUCE UPDATED ACCESSORY DWELLING UNIT (ADU) ORDINANCE, INCLUDING PROVISIONS FOR TINY HOMES (CLERK'S FILE NO. 303-1, 304-7, 401-4, 401-9)

City Council continued the item to the October 16, 2023, City Council meeting.

ITEM 11: CONTINUED TO OCTOBER 16, 2023 COUNCIL MEETING: INTRODUCE UPDATED ADU INCENTIVE PROGRAM ORDINANCE (UNCODIFIED) (CLERK'S FILE NO. 303-1, 304-7, 401-4)

City Council continued the item to the October 16, 2023, City Council meeting.

ITEM 12: RIVERPATH DEL MAR EXTENSION PROJECT PHASE 3 DESIGN REVIEW PERMIT, LAND CONSERVATION PERMIT, AND FINAL DESIGN ACCEPTANCE (CLERK'S FILE NO. 301-5)

Mayor Martinez opened and closed the public hearing. There were no public speakers. The item was moved to the consent calendar for approval.

Council adopted a Resolution 2023-40, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, TO APPROVE DESIGN REVIEW (DRB23-008) AND LAND CONSERVATION (LC23-003) PERMITS TO CONSTRUCT AN APPROXIMATELY 2,070 LINEAR-FOOT EXTENSION OF THE RIVERPATH DEL MAR TRAIL WITH ASSOCIATED GRADING NORTH OF SAN DIEGUITO DRIVE IN THE FLOODWAY ZONE AND LAGOON OVERLAY ZONE, IN DEL MAR, CALIFORNIA" conditionally approving Design Review Permit DRB23-008 and Land Conservation Permit LC23-003 for the construction and associated grading of the Riverpath Del Mar Extension Project Phase 3; and 2) Accepted the Final Design, on consent.

CITY COUNCIL OTHER BUSINESS

ITEM 13: CONTINUED TO OCTOBER 16, 2023 COUNCIL MEETING: RESOLUTION TO ADOPT ADU AMNESTY PROGRAM/POLICY (CLERK'S FILE NO. 303-1, 304-7)

City Council continued the item to the October 16, 2023, City Council meeting.

ITEM 14: DISCUSSION OF REGULATORY FRAMEWORK EXAMPLES AND POLICY DIRECTION FOR SHORT TERM RENTAL REGULATION (CLERK'S FILE NO. 301-19)

An introduction to the item was provided by City Manager Jones. A presentation was provided by Principal Planner Amanda Lee and Deputy City Attorney Wendy House.

Council questions focused on category #1 *City can Define Short Term Rentals (STR) Ownership Types* clarifying example of maximum 90 days/year; advertising versus identification signage regulations; definition of tenancy; multi-unit Accessory Parcel Numbers for condominiums; exclusion of special events; 25 or more people in public spaces requiring a special event permit; and operational requirements for noise.

Council questions further focused on category #4 *Overall Cap* regarding Short Term Rentals capacity within 5 miles radius of other visitor accommodations; official registry process for STRs; Laguna Beach's maximum non-hosted STRs numbers; no code enforcement pertaining to operating an STR; accommodations of existing STRs above the set cap and making the permit non-transferable. Council questions focused on category #6 *Duration of STR Rental and Use* regarding the maximum length of stay per year; category #8 *Manner of Rental* regarding parking requirements; locations of advertised STRs and 148 existing STRs equivalence to 5.7% of total dwelling units.

Mayor Martinez opened the item to public comment and the following people spoke:

- 1) Gina Mattern (time donation by Gerard Pascale and Nina Detrow)
- 2) Kimberly Jackson (time donation by Rory Revier)
- 3) Ken Assi

Mayor Martinez closed the item to public comment.

Council discussion focused on #1 issue category (*STR ownership types*) and discussed limiting permit issuance to the owner; distinguishing Primary Residence and Full-Time STR; including a long-term tenant option in Primary Residence description; and considering category for units with primary resident that is not the owner.

Council discussion focused on #2 issue category (*STR Permit and Licensing Procedures*) agreeing with an annual renewal requirement; \$1 million in property insurance; maintaining and providing records of STR operations for audit and inspection purposes; identifying the permit/license number on advertisements; making the permit non-transferable; issuing to the property owner only; and staff level approval and appeals process if the permit/license or renewal is denied, suspended, revoked to be heard by an Administrative Hearing Officer. Council further discussed requiring the STR permit; and pre-issuance safety measures self-checklist requirement with City's ability to do site inspections throughout the time.

Council discussion focused on #3 issue category (*Designated Point of Contact for Timely Response to Complaints*) and concurred designating a local 24-hour point of contact to respond within 30 minutes; requiring on-site posting; the City implementing a licensing software system to facilitate STR permitting; and mailing contact information to property owners/occupants within 300 feet radius providing the City's ordinance, link to the City's website, 24-hour point of contact information and maximum number of occupants and parking spaces available.

Council discussion focused on #4 issue category (*Overall STR Cap to Preserve Housing Stock*) agreeing to set a maximum cap at 5% of total dwelling units; and accommodate existing STRs above the cap as needed. Councilmember Worden noted his concerns accommodating STRs above the cap.

Council discussion focused on #5 issue category (*Limits on Concentration by Neighborhood*) agreeing with Staff's recommendations. Councilmember Worden noted importance of breaking Citywide overall limit by neighborhoods. Council further discussed STRs concentration and asked the Staff to come back with some policy options. Councilmember Gaasterland noted concerns for rental apartment building units becoming STRs and asked to consider for by-right and density bonuses projects to be precluded from having STRs.

Council discussion focused on #6 issue category (*Limits on the Duration and Use of STR*) recommendations and agreed to require a three-night minimum length of stay; prohibit special events; and specify the minimum age for rental to be 25 years of age.

Council further discussed and agreed with Staff's recommendation for #7 issue category (*Good Neighbor Policy*) to identify good neighbor policies and establish a procedure; #8 issue category (*Operational Requirements*) to require compliance with existing legislation; and #8 issue category (*Operational Requirements*) to identify options for monitoring and enforcement.

COUNCIL MEETING RECESS:

The City Council took a meeting recess from approximately 7:45 p.m. to 8:06 p.m.

ITEM 15: CITY COUNCIL CONSIDERATION OF FOLLOW UP ACTIONS PURSUANT TO THE AGREEMENT FOR WITHDRAWAL OF THE REFERENDUM AGAINST CITY ORDINANCE 973 RELATING TO ALLOWABLE LAND USE AND DEVELOPMENT IN THE NORTH COMMERCIAL ZONE INCLUDING SHORT TERM RENTALS AND CONDOMINIUM CONVERSIONS (CLERK'S FILE NO. 301-19, 302-7)

Mayor Martinez and Deputy Mayor Quirk were recused due to living within 500 feet of the subject matter of the discussion.

An introduction to the item was provided by Councilmember Gaasterland. An overview was provided by Principal Planner Amanda Lee.

Council questions focused on the timeline; possible conflicts of interest; and proponent's submitted public comment.

There were no public speakers for this item.

Council discussion focused on process and timing and framework for Condominium Conversion to be brought back prior to beginning of 2024.

IT WAS MOVED BY COUNCILMEMBER WORDEN, SECONDED BY COUNCILMEMBER GAASTERLAND TO DEFER ANY DECISIONS ON LIMITS FOR CONDOMINIUM CONVERSIONS AND STRs IN THE NC ZONE TO COINCIDE WITH THE CITYWIDE POLICY DISCUSSIONS AND DECISIONS THAT ARE FORTHCOMING RELATED TO THOSE RESPECTIVE SPECIAL PROJECTS IN PROCESS AND TO BRING BACK A TIMELINE FOR PROCESSING CONDOMINIUM CONVERSIONS BY THE END OF THE YEAR WITH MAYOR MARTINEZ AND DEPUTY MAYOR QUIRK RECUSED. (VOTE 3-0-2)

Ayes: and Councilmembers Druker, Gaasterland and Worden; Noes: 0; Absent: 0; Abstain: Mayor Martinez and Deputy Mayor Quirk.

ITEM 16: APPROVAL OF CONCEPTUAL DESIGN FOR THE 20TH STREET LIFEGUARD TOWER DRIVEWAY PROJECT (CLERK'S FILE NO. 102-4, 103-6)

An introduction to the item was provided by City Manager Ashley Jones. A presentation was provided by Project Manager II Martin Boyd and Engineer Geoffrey Retemeyer P.E. with Michael Baker International (MBI).

Council discussion focused on administrative design review process; access to the public; expanded driveway for the Lifeguards; whether unloading area would be available for the beach goers; whether the surface will be pervious; and whether the existing puddling on Ocean and 20th Street would be impacted.

There were no public speakers for this item.

IT WAS MOVED BY COUNCILMEMBER GAASTERLAND, SECONDED BY MAYOR MARTINEZ TO APPROVE THE CONCEPTUAL DESIGN FOR THE 20TH STREET LIFEGUARD TOWER DRIVEWAY PROJECT. (VOTE 5-0)

Ayes: Mayor Martinez, Deputy Mayor Quirk, and Councilmembers Druker, Gaasterland and Worden; Noes: 0; Absent: 0; Abstain: 0.

ITEM 17: APPROVAL OF RECOMMENDED DESIGN ALTERNATIVE (PHASE I) AND TASK ORDER WITH MICHAEL BAKER INTERNATIONAL TO PERFORM ENGINEERING DESIGN SERVICES (PHASE II) FOR THE HOSKA ALLEY PROJECT (CLERK'S FILE NO. 406-1)

A presentation was provided by Project Manager II Martin Boyd and Engineer Geoffrey Retemeyer P.E. with Michael Baker International (MBI).

Council questions and discussion focused on surface improvements; drainage from the alley to the existing conveyance system at the intersection of Camino Del Mar and 9th Street and trash capture devices; impact on the 9th street drainage; slight increase in runoff to be accommodated in 9th street runoff area; public outreach and engagement; not recommending alternative 3 due to drywell system's odor; underground piping through the existing encroachments; the anticipated timeline; issue of drainage catch basin discharging across private property located at 406 8th Street; proposed paved alley with center ribbon gutter due to limited right-of-way; public alley versus private alley definitions; handling of existing encroachments as part of the project; and clarification on the cost of the project.

There were no public speakers for this item.

IT WAS MOVED BY COUNCILMEMBER GAASTERLAND, SECONDED BY MAYOR MARTINEZ TO 1) APPROVE FURTHER DESIGN OF ALTERNATIVE 2 FROM THE PHASE I HOSKA ALLEY DEVELOPMENTAL ALTERNATIVES ANALYSIS; 2) APPROVE A \$41,100 TASK ORDER WITH MICHAEL BAKER INTERNATIONAL (MBI) TO PROCEED WITH PHASE II FINAL PLANS, SPECIFICATIONS, AND ESTIMATE (PS&E) FOR THE DEVELOPMENT OF HOSKA ALLEY; AND 3) AUTHORIZE THE CITY MANAGER TO EXECUTE THE TASK ORDER. (VOTE 5-0)

Ayes: Mayor Martinez, Deputy Mayor Quirk, and Councilmembers Druker, Gaasterland and Worden;
Noes: 0; Absent: 0; Abstain: 0.

ITEM 18: CONSIDERATION OF CITY COUNCIL MEETING SCHEDULE CHANGE (CLERK'S FILE NO. 401-1)

A brief presentation was provided by Mayor Martinez.

Council questions and discussion focused on regular council meeting days for other cities; desire to align Del Mar's meeting day with the majority of agencies in the region; whether and how this change would affect agenda process timing; and potential scheduling conflicts. As part of the Council discussion, Councilmember Gaasterland indicated that changing from a Monday to a Tuesday or Wednesday regular Council meeting day would not be possible at this time due to her current work schedule and obligations. The Council decided to continue with the current meeting schedule, and agreed that this may be something to revisit in the future when/if possible based on Councilmember availability.

REGIONAL ORGANIZATION AND COUNCIL COMMITTEES/SUBCOMMITTEES/COMMUNITY ORGANIZATION REPORTS

City Council representatives reported on the Clean Energy Alliance; and Finance Committee.

ADJOURNMENT

Mayor Martinez adjourned the meeting at 9:16 p.m.

Nestor Machado, Management Analyst



**DEL MAR CITY COUNCIL
SPECIAL MEETING MINUTES
CLOSED SESSION
OCTOBER 16, 2023**

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

CALL TO ORDER

Mayor Martinez called the meeting to order at 3:44 P.M.

ROLL CALL

Present: Mayor Tracy Martinez; Deputy Mayor Dan Quirk; Councilmembers Dave Druker, Terry Gaasterland and Dwight Worden

CLOSED SESSION

- A) Conference with Legal Counsel – Existing Litigation
Olson v. City of Del Mar
San Diego Superior Court Case No. 37-2023-0023407-CU-PT-CTL.
Authority: Government Code Section 54956.9(d)(1)
Reportable Action: None.

- B) Conference with Legal Counsel – Existing Litigation
Olson v. City of Del Mar
San Diego Superior Court Case No. 37-2019-00069156-CU-MC-CTL
Authority: Government Code Section 54956.9(d)(1)
Reportable Action: None.

- C) Conference with Legal Counsel - Significant Exposure to Litigation
Number of Cases: One
Description: Potential liabilities related to code enforcement
Authority: Government Code Section 54956.9(b)
Reportable Action: None.

ADJOURNMENT

Mayor Martinez adjourned the meeting at 4:27 P.M.

Sarah Krietor, Administrative Services Manager/
City Clerk



**CITY OF DEL MAR
CITY COUNCIL REGULAR MEETING MINUTES
OCTOBER 16, 2023
City of Del Mar Town Hall
1050 Camino del Mar, Del Mar California 92014**

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 Martinez called the Regular Meeting to order at 4:35 p.m.

ROLL CALL

Present: Mayor Tracy Martinez; Deputy Mayor Dan Quirk; Councilmembers Dave Druker, Terry Gaasterland, and Dwight Worden

CITY ATTORNEY CLOSED SESSION REPORT

City Attorney Leslie Devaney reported on the October 9, 2023, closed session that there were no legally reportable actions and that the City Council reports that a majority of the City Council voted to retain special counsel to oversee the continued investigation. City Attorney Leslie Devaney reported that there were no recusals or reportable actions for the October 16, 2023, City Council Closed Session meeting.

PLEDGE OF ALLEGIANCE

Mayor Martinez led the Pledge of Allegiance.

PUBLIC ORAL COMMUNICATIONS

Mayor Martinez opened public oral communication and the following people spoke:

- 1) Carol Kerridge spoke regarding the Climate Change symposium on November 12, 2023
- 2) Terri-Ann Skelly spoke on behalf of San Dieguito Alliance for Drug Free Youth in support of Red Ribbon Week
- 3) Peggy Walker on behalf of San Dieguito Alliance for Drug Free Youth in support of Red Ribbon Week

CITY COUNCIL COMMENTS & COMMUNITY ANNOUNCEMENTS

None.

CITY MANAGER'S REPORT

City Manager Ashley Jones reported on the San Diego Association of Governments (SANDAG) workshop held on October 4, 2023, to provide information to the public on the LOSSAN Rail Realignment Study/Project and the upcoming SANDAG virtual meeting on October 19, 2023, from 6:00 - 7:30 p.m.

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 COUNCILMEMBER DRUKER, SECONDED BY COUNCILMEMBER GAASTERLAND TO APPROVE THE CONSENT CALENDAR ITEMS 1 THROUGH 4. (VOTE 5-0)

Ayes: Mayor Martinez, Deputy Mayor Quirk, and Councilmembers Druker, Gaasterland and Worden;
Noes: 0; Absent: 0; Abstain: 0.

ITEM 1: APPROVAL OF MINUTES: SEPTEMBER 29, 2023 SPECIAL MEETING, OCTOBER 2, 2023 SPECIAL MEETING, OCTOBER 9, 2023 SPECIAL MEETING (CLERK'S MINUTES BOOK)

Council approved the minutes, on consent.

ITEM 2: RATIFICATION OF LIST OF DEMANDS, DATED OCTOBER 16, 2023 (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: APPOINTMENT TO THE FINANCE COMMITTEE AND AMENDMENT TO COMMITTEE CHARTER RELATED TO MEMBERSHIP (CLERK'S FILE NO. 401-5)

Council reappointed Jeff Sturgis as a voting member to the Committee to serve a partial term of eighteen (18) months effective November 10, 2023, and ending on May 30, 2025; and adopted Resolution 2023-41, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, AMENDING AND RESTATING THE FINANCE COMMITTEE CHARTER TO REDUCE MEMBERSHIP SIZE FROM NINE TO SEVEN MEMBERS", which will be accomplished over time through attrition, on consent.

ITEM 5: AGREEMENT WITH SCI CONSULTING GROUP FOR ASSESSMENT ENGINEERING SERVICES FOR SAN DIEGUITO DRIVE IMPROVEMENTS (CLERK'S FILE NO. 405-3, 406-1)

The item was pulled from the Consent Calendar for City Council questions. Council questions focused on whether a Proposition 218 process is required to form an assessment district; how general benefit will be assessed; and how the concept of general benefit applies to assessment districts.

IT WAS MOVED BY COUNCILMEMBER DRUKER, SECONDED BY COUNCILMEMBER GAASTERLAND TO APPROVE A \$41,500 AGREEMENT WITH SCI CONSULTING GROUP (SCI) TO PERFORM ASSESSMENT ENGINEERING SERVICES FOR IMPROVEMENTS TO SAN DIEGUITO DRIVE; AND AUTHORIZED THE CITY MANAGER TO EXECUTE THE AGREEMENT. (VOTE 5-0)

Ayes: Mayor Martinez, Deputy Mayor Quirk, and Councilmembers Druker, Gaasterland and Worden; Noes: 0; Absent: 0; Abstain: 0.

PUBLIC HEARING

ITEM 6: CONTINUED FROM OCTOBER 2, 2023: INTRODUCTION OF AN ORDINANCE TO AMEND THE CITY'S ACCESSORY DWELLING UNIT REGULATIONS AND CERTIFIED LOCAL COASTAL PROGRAM (CLERK'S FILE NO. 303-1, 304-7, 401-4, 401-9)

An introduction to the item was provided by Planning and Community Development Director Karen Brindley. A presentation was provided by Principal Planner Amanda Lee. Assistant City Attorney Ralph Hicks and Associate Planner Adriana Jaramishian were available to answer City Council questions.

Council questions focused on where the public can find the City's Local Coastal Program (LCP) on the City's website; clarification on the history of the City's LCP; whether the Accessory Dwelling Unit (ADU) ordinance previously adopted by the City Council is now void based on new State legislation; septic tanks; parking; tree protections; deed restrictions; whether the City can hold hearings for ADU applications; time constraints to process the required ADU ordinance; ADU height limits; public safety concerns; Federal Emergency Management Agency (FEMA) flood plain maps; potential reporting requirements related to ADU uses; whether the City can provide a courtesy notice to neighbors when an ADU application is submitted; noticing provisions in the proposed ordinance; ADU development in areas with narrow and deficient road widths; retaining walls; slopes; and whether the ordinance requires California Department of Housing and Community Development (HCD) approval.

Mayor Martinez opened the item to public comment and the following people spoke:

- 1) Richard Jamison with a donation of time from Dolores Davies Jamison
- 2) Nancy Stoke
- 3) John Imperato
- 4) Chic Sullivan
- 5) Julie Hamilton
- 6) Mark Wyland

Mayor Martinez closed the item to public comment.

Council discussion focused on the process and timing constraints for adoption of an ADU ordinance; California Environmental Quality Act (CEQA) as it relates to ADU regulations; desire for Council to see a redline of the proposed ordinance; relationship between the Coastal Act and State housing law; City's LCP document and related amendments; deed restrictions; concerns about noticing, public safety and fire protection; and revisions to Ordinance Section 30.91.040(X) of the proposed ordinance as shown in the Staff red dot.

City Council consensus was for staff to return to City Council at a future meeting with the following information and amended proposed ordinance to incorporate recommendations included in the red dot submitted by resident Richard Jamison; incorporating Ordinance Section 30.91.040(X) as shown in the staff report; provide a red line version of the Ordinance and matrix showing the proposed changes to the ADU ordinance; provide information to the City Council on the City's certified Local Coastal Program, including the original LCP and certified amendments.

City Council consensus was to prioritize adoption of ADU regulations and to defer short-term rental regulations to future City Council meetings likely in January 2024.

ITEM 7: CONTINUED FROM OCTOBER 2, 2023: INTRODUCTION OF AN ORDINANCE TO AMEND THE ACCESSORY DWELLING UNIT INCENTIVE PROGRAM TO IMPLEMENT HOUSING ELEMENT PROGRAM 2A (INCENTIVES TO CREATE LOW INCOME UNITS) AND PROGRAM 5A (PRESERVATION OF EXISTING MULTI-UNIT HOUSING) (CLERK’S FILE NO. 303-1, 304-7, 401-4)

This item was not heard by the City Council and will return to Council for consideration at the December 4, 2023, meeting.

ITEM 8: RESOLUTION DESIGNATING UTILITY UNDERGROUNDING DISTRICT (UUD) 1B – STRATFORD COURT NORTH (CLERK’S FILE NO. 406-1, 1001-2)

Councilmember Druker recused from participating in this agenda item due to living within 500 feet of the subject matter of the discussion. An introduction to the item was provided by City Manager Jones. A presentation was provided by Project Manager II Martin Boyd. City undergrounding consultant Bridget Black with Utility Specialists was available to answer questions.

Council questions and discussion focused on private property laterals and easements needed in the district as part of the project; whether there is opportunity to construct 1A, X1A, and 1B at the same time; whether it is possible to include the poles on 10th Street for the 941 Camino del Mar project (paying in lieu fees) into the 1B project; and timeline for design and construction.

There were no public speakers for the item.

IT WAS MOVED BY COUNCILMEMBER GAASTERLAND, SECONDED BY MAYOR MARTINEZ TO ADOPT RESOLUTION 2023-42, “A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, ESTABLISHING AN UNDERGROUND UTILITY DISTRICT IN THE CITY OF DEL MAR, ON STRATFORD COURT (WEST OF CAMINO DEL MAR 11TH STREET TO JUST NORTH OF 15TH STREET (L’AUBERGE DEL MAR))”, IDENTIFIED AS UNDERGROUND UTILITY DISTRICT (UUD) 1B (STRATFORD COURT NORTH) SUBJECT TO CALIFORNIA PUBLIC UTILITIES COMMISSION (CPUC) RULE 20 IN ACCORDANCE WITH DEL MAR MUNICIPAL CODE SECTION 23.54.030; 2) ALLOCATE \$445,000 IN FUNDING FROM THE MEASURE Q FUND FOR THE PRE-CONSTRUCTION ACTIVITIES FOR UUD 1B (STRATFORD COURT NORTH); 3) APPROVE A \$439,747 TASK ORDER (ATTACHMENT B) WITH UTILITY SPECIALISTS SOUTHWEST, INC. TO PERFORM PRE-CONSTRUCTION SERVICES FOR UUD 1B (STRATFORD COURT NORTH); AND 4) AUTHORIZE THE CITY MANAGER TO EXECUTE THE TASK ORDER. (VOTE 4-0-1 WITH COUNCILMEMBER DRUKER RECUSED)

Ayes: Mayor Martinez, Deputy Mayor Quirk, and Councilmembers Gaasterland and Worden; Noes: 0; Absent: 0; Abstain: Councilmember Druker.

COUNCIL MEETING RECESS:

The City Council took a meeting recess from approximately 8:27 – 8:48 p.m.

Ayes: Mayor Martinez, Deputy Mayor Quirk, and Councilmembers Druker, Gaasterland and Worden; Noes: 0; Absent: 0; Abstain: 0.

CITY COUNCIL OTHER BUSINESS

**ITEM 9: INITIAL CONSIDERATION OF AN APPEAL OF THE CITY MANAGER'S APPROVAL OF ENCROACHMENT PERMIT EP22-101
EP APPELLANT: TANYA YOUNG AND MICHAEL MCMANUS
APPELLANT'S ADDRESS: 919 KLISH WAY (APN: 300-263-20) (CLERK'S FILE NO. 802-1)**

City Attorney Leslie Devaney explained the protocols for the initial consideration. Councilmember Worden disclosed that he met with the appellant's representative Attorney Matt Peterson at the site and read the agenda materials. Councilmember Gaasterland disclosed that she reviewed the agenda materials and met with appellant's representative Attorney Matthew Peterson. Councilmember Druker disclosed that he visited the site, did not meet with the appellant or their representative, and that he was on the City Council in 2000 when the prior encroachment permit was approved for the property. Mayor Martinez disclosed that she met with the appellant Tanya Young and her representative Attorney Matt Peterson at the site. Deputy Mayor Quirk disclosed that he met with Attorney Matthew Peterson and Tanya Young at the site.

A presentation was provided by Principal Planner Matt Bator. Assistant City Attorney Ralph Hicks was available to answer questions.

Council questions focused on whether it is standard for the City to require an encroachment permit to remove vegetation and the scope of the hearing should the City Council set the item for a de novo hearing.

The appellant's representative Attorney Matthew Peterson provided a presentation.

Mayor Martinez opened the item to public comment and the following people spoke:

- 1) Mary Friestedt spoke in support of the appellant
- 2) John McNulty spoke in support of staff's recommendation
- 3) Alana McNulty spoke in support of staff's recommendation
- 4) Carol Kerridge spoke to provide history on the site
- 5) Nicholas Frost spoke in support of the appellant
- 6) Alice Brown spoke in support of the appellant
- 7) Tanya Scheiderman spoke in support of the appellant

Mayor Martinez closed the item to public comment.

City Attorney Leslie Devaney provided clarification that the de novo hearing would be specific to the revised minor encroachment permit. Planning and Community Development Director Karen Brindley provided an explanation of the process for a major encroachment permit application. Council questions focused on public safety and flooding issues.

Mayor Martinez and Councilmembers Gaasterland and Worden indicated they would like to set the item for a de novo hearing, which exceeded the threshold of two members in support in order to set the matter for a de novo hearing.

ITEM 10: CONTINUED FROM OCTOBER 2, 2023: ADOPTION OF A CITY COUNCIL POLICY TO IMPLEMENT HOUSING ELEMENT PROGRAM 2B (ACCESSORY DWELLING UNIT AMNESTY PROGRAM TO CREATE AFFORDABLE UNITS) (CLERK'S FILE NO. 303-1, 304-7)

the This item was not heard by the City Council and will return to Council for consideration at December 4, 2023, meeting.

ITEM 11: UNDERGROUNDING PROGRAM UPDATE AND APPROVAL OF TASK ORDER AMENDMENTS WITH UTILITY SPECIALISTS SOUTHWEST, INC. FOR UTILITY UNDERGROUNDING DISTRICTS 1A - STRATFORD COURT SOUTH AND X1A - CREST CANYON PRE-CONSTRUCTION SERVICES (CLERK'S FILE NO. 406-1, 1001-2)

City Attorney Devaney provided an overview of the conflict analysis for this agenda item. Councilmember Druker and Gaasterland were recused from asking questions or voting on the task order related to Undergrounding District 1A due to the location of their residences in the project area; however, they were permitted to receive the informational update from staff. An introduction to the item was provided by Project Manager Boyd. City consultant Bridget Black with Utility Specialists was available to answer questions.

Council questions focused on the difference in the planned outreach/communications on the Tewa/10th Street pilot project and Utility Undergrounding Districts 1A and X1A projects; cost estimates per linear foot; estimated project costs; required public bidding process; communications plan; and project timeline.

There were no public speakers for the item.

IT WAS MOVED BY COUNCILMEMBER GAASTERLAND, SECONDED BY COUNCILMEMBER DRUKER TO APPROVE A \$67,100 TASK ORDER AMENDMENT (ATTACHMENT B) WITH UTILITY SPECIALISTS SOUTHWEST, INC. FOR ADDITIONAL PRE-CONSTRUCTION SERVICES FOR THE UTILITY UNDERGROUNDING DISTRICT X1A (CREST CANYON) PROJECT AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE TASK ORDER AMENDMENT. (VOTE 5-0)

Ayes: Mayor Martinez, Deputy Mayor Quirk, and Councilmembers Druker, Gaasterland and Worden; Noes: 0; Absent: 0; Abstain: 0.

IT WAS MOVED BY COUNCILMEMBER WORDEN, SECONDED BY MAYOR MARTINEZ TO APPROVE A \$32,800 TASK ORDER AMENDMENT (ATTACHMENT A) WITH UTILITY SPECIALISTS SOUTHWEST, INC. FOR ADDITIONAL PRE-CONSTRUCTION SERVICES FOR THE UTILITY UNDERGROUNDING DISTRICT 1A (STRATFORD COURT SOUTH) PROJECT AND AUTHORIZE THE CITY MANAGER TO EXECUTE THE TASK ORDER AMENDMENT. (VOTE 3-0-2 WITH COUNCILMEMBERS DRUKER AND GAASTERLAND RECUSED.)

Ayes: Mayor Martinez, Deputy Mayor Quirk, and Councilmember Worden; Noes: 0; Absent: 0; Abstain: Councilmembers Druker and Gaasterland (recused).

ITEM 12: ADOPTION OF THE 2024 CITY COUNCIL MEETING SCHEDULE (CLERK'S FILE NO. 401-1)

This item was not heard by the City Council and was moved to the November 13, 2023, City Council meeting for consideration.

EXTENSION OF CITY COUNCIL MEETING PAST 10:00 P.M.

IT WAS MOVED BY COUNCILMEMBER WORDEN TO EXTEND THE MEETING UTIL 10:15 P.M. MAYOR MARTINEZ SECONDED THE MOTION AND INTRODUCED A FRIENDLY AMENDMENT TO EXTEND THE MEETING UNTIL THE COMPLETION OF ITEM 13, WHICH COUNCILMEMBER WORDEN ACCEPTED. (VOTE 5-0)

Ayes: Mayor Martinez, and Councilmembers Druker, Gaasterland and Worden; Noes: 0; Absent: 0; Abstain: 0.

ITEM 13: COUNCIL DISCUSSION REGARDING EXPECTATIONS FOR COUNCILMEMBER COMMUNICATIONS RELATED TO PUBLIC EXPRESSION OF PERSONAL VIEWS (CLERK'S FILE NO. 401-1, 1506-1)

A presentation was provided by Councilmembers Druker and Gaasterland.

Mayor Martinez opened the item to public comment and Clive Freeman spoke.

Council discussion focused on the expectations of Councilmembers related to their public expression of personal views and the critical importance of disclosing when you are speaking as an individual and not on behalf of the City Council.

IT WAS MOVED BY COUNCILMEMBER WORDEN, SECONDED BY MAYOR MARTINEZ TO AUTHORIZE COUNCILMEMBERS DRUKER AND GAASTERLAND TO SEND A CLARIFICATION LETTER TO SANDAG AND FOR THEM TO WORK WITH STAFF TO BRING BACK A POLICY. (VOTE 4-1 WITH DEPUTY MAYOR QUIRK OPPOSED)

Ayes: Mayor Martinez, and Councilmembers Druker, Gaasterland and Worden; Noes: Deputy Mayor Quirk; Absent: 0; Abstain: 0.

ADJOURNMENT

Mayor Martinez adjourned the meeting at 10:15 p.m.

Sarah Krietor, Administrative Services Manager/
City Clerk



LIST OF DEMANDS
CITY OF DEL MAR
for
City Council Meeting
November 13, 2023

Vendor Payment Checks	\$ 246,786.32
VOIDS	(571.80)
Electronic Fund Transfers (EFT)	806,013.49
Electronic Wires	60,572.55
Total	<u><u>\$ 1,112,800.56</u></u>

Approved by:


Monica Molina
Finance Manager/Treasurer

Date:
11/7/2023

Approved by:

Tracy Martinez
Mayor

Date:

Attachments: Check Registers

Bank : eusbnk EFT GENERAL ACCOUNT US E

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total	
5309	10/13/2023	cha36	CHARGEPOINT INC	IN219954	10/6/2023	EV CHARGING STATION MAIN	22,348.00	22,348.00
		Voucher: 5309						
5310	10/13/2023	cor11	CORODATA MEDIA STORAGE DS1306429		9/30/2023	STORAGE SRVCS SEP	233.33	233.33
		Voucher: 5310						
5311	10/13/2023	cor07	CORODATA RECORDS MGT IIRS4945084		9/30/2023	STORAGE SRVCS SEP	150.51	150.51
		Voucher: 5311						
5312	10/13/2023	dix01	DIXIELINE LUMBER CO	06-0524769	9/27/2023	SMALL TOOLS PW	22.97	22.97
		Voucher: 5312						
5313	10/13/2023	lou01	LOUKELTON DISTRIBUTING I180543		10/2/2023	JANITORIAL SUPP PW	1,054.74	1,054.74
		Voucher: 5313						
5314	10/13/2023	mic11	MICHAEL BAKER INTERNATIC1190527		9/18/2023	CITY ENGINEER AUG	36,751.66	36,751.66
		Voucher: 5314						
5315	10/13/2023	mik03	MIKHAIL OGAWA ENGINEERIN11014		9/30/2023	CLEAN WATER SRVCS SEP	31,539.79	
		Voucher: 5315	11017	10/2/2023	TRASH CAP DEV SEP	3,928.60		
			11015	10/2/2023	SAN DIEGUITO TMDL SEP	2,590.38		
			11019	10/2/2023	FOG SRVCS SEP	464.88		38,523.65
5316	10/13/2023	mof04	MOFFATT & NICHOL	00782302	9/26/2023	SHORELINE MGT PROJ AUG	18,877.13	18,877.13
		Voucher: 5316						
5317	10/13/2023	can05	PACIFIC SWEEPING, A CANN(157400PS		9/30/2023	ST SWEEPING SEP	6,008.69	6,008.69
		Voucher: 5317						
5318	10/13/2023	par51	PARKWOOD LANDSCAPE MAI106040		9/30/2023	LANDSCAPNG SRVCS SEP	16,950.00	16,950.00
		Voucher: 5318						
5319	10/13/2023	pru01	PRUDENTIAL OVERALL SUPP 132213561		9/29/2023	UNIFORMS PW	78.60	78.60
		Voucher: 5319						
5320	10/13/2023	red04	REDFLEX TRAFFIC SYSTEMSINV0062139		9/30/2023	REDLIGHT CAMERA SEP	5,120.61	5,120.61
		Voucher: 5320						
5321	10/13/2023	uni03	SAN DIEGO - UNION TRIBUNE7953897		9/25/2023	AD PUBLIC HEARING	1,328.08	
		Voucher: 5321	7953478	10/4/2023	AD PUBLIC HEARING	718.66		
			7947948	8/18/2023	AD PUBLIC HEARING	278.40		
			7948826	8/24/2023	PLANNING COMM AGENDA	89.91		
			7941583	7/6/2023	DRB AGENDA	84.76		
			7953315	9/21/2023	PLANNING COMM AGENDA	64.13		
			7952938	9/19/2023	AD ADOPT ORD 999	55.11		
			7952941	9/19/2023	AD ADOPT ORD 1000	55.11		2,674.16

Bank : eusbnk EFT GENERAL ACCOUNT US E (Continued)

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
5322	10/13/2023	sol06	SOLANA CENTER FOR ENV 40-45-9-23	10/9/2023	SB1383 SUPP SEP	1,156.25	1,156.25
		Voucher: 5322					
5323	10/13/2023	tow05	TOWNSEND PUBLIC AFFAIRS 20587	10/1/2023	LEGISLATIVE SRVCS OCT	3,500.00	3,500.00
		Voucher: 5323					
5324	10/13/2023	wex01	WEX BANK 0496-00-495760	10/6/2023	GAS & OIL FIRE SEP/OCT	1,768.67	1,768.67
		Voucher: 5324					
5325	10/13/2023	whi25	WHITAKER REAL ESTATE SR\20230000032	10/4/2023	CONSULTING SRVCS SEP	400.00	400.00
		Voucher: 5325					
Sub total for EFT GENERAL ACCOUNT US BANK:							155,618.97

Bank : gusbnk GENERAL ACCOUNT US BANF

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
137271	10/13/2023	ale04 Voucher: 137271	ALESHIRE & WYNDER LLP 79979	9/29/2023	ATTORNEY SRVCS AUG	4,758.00	4,758.00
137272	10/13/2023	ame47 Voucher: 137272	AMERICAN SPECIALTY HEALT10042023	10/4/2023	REFUND REF DEPOSIT PHCC	800.00	800.00
137273	10/13/2023	sbc03 Voucher: 137273	AT&T 9391059863	10/1/2023	TELEPHONE SEP	396.04	396.04
137274	10/13/2023	cal32 Voucher: 137274	CALIFORNIA STATE LANDS C(B9481	7/28/2023	CONTRACTUAL SERVICES JL	595.25	595.25
137275	10/13/2023	cli04 Voucher: 137275	CLIFTONLARSONALLEN LLP 3903831	9/30/2023	AUDIT FY 23	1,200.00	1,200.00
137276	10/13/2023	coa10 Voucher: 137276	COASTAL LIVESCAN SERVICE43169	9/30/2023	LIVESCAN SRVC SEP	62.00	62.00
137277	10/13/2023	hds01 Voucher: 137277	CORE & MAIN LP T617826	10/4/2023	MANHOLE FRAME/CVR PW	8,906.63	8,906.63
137278	10/13/2023	cou01 Voucher: 137278	COUNTY OF SAN DIEGO SEP-23	10/10/2023	PARKING BAIL SEP	26,588.00	26,588.00
137279	10/13/2023	csm03 Voucher: 137279	CSMFO 200018522	10/9/2023	CSMFO CONF M MOLINA	515.00	515.00
137280	10/13/2023	lov07 Voucher: 137280	DAVE LOVE 10032023	10/3/2023	REFUND REF DEPOSIT PHCC	800.00	800.00
137281	10/13/2023	dun02 Voucher: 137281	DUNN-EDWARDS PAINTS 2082361278	10/4/2023	PAINT SUPPLIES PW	180.25	180.25
137282	10/13/2023	ats01 Voucher: 137282	GARDA CL WEST LOCKBOX #10753077	10/1/2023	ARMORED SRVCS OCT	669.29	669.29
137283	10/13/2023	mci03 Voucher: 137283	HEATHER MCINTOSH 10042023	10/4/2023	REFUND REF DEPOSIT PHCC	800.00	800.00
137284	10/13/2023	hiw01 Voucher: 137284	HI-WAY SAFETY INC. 148181	9/21/2023	ROADMAX WHITE PAINT PW	175.63	175.63
137285	10/13/2023	mar11 Voucher: 137285	MARSHALLS INDUSTRIAL HAF768986/1	9/28/2023	MAINT/REPAIR SUPP PW	92.58	92.58
137286	10/13/2023	nap01 Voucher: 137286	NAPA AUTO PARTS 694883	9/29/2023	CLEANING SUPPLIES	75.62	75.62
137287	10/13/2023	nat16 Voucher: 137287	NATIONAL SAFETY COMPLIAN95496	9/30/2023	EMPLOYEE TESTING	210.70	210.70

Bank : gusbnk GENERAL ACCOUNT US BANK (Continued)

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
137288	10/13/2023	nor13	NORTH COUNTY DISPATCH JI202324-110	8/31/2023	DISPATCH PW 1Q	787.15	787.15
		Voucher: 137288					
137289	10/13/2023	con17	OCCUPATIONAL HEALTH CTR80672162	9/22/2023	EMPLOYEE TESTING SEP	155.00	
		Voucher: 137289	80592471	9/14/2023	EMPLOYEE TESTING SEP	113.00	268.00
137290	10/13/2023	pat10	PATHWAYS TO CITIZENSHIP 10042023	10/4/2023	REFUND REF DEPOSIT PHCC	800.00	800.00
		Voucher: 137290					
137291	10/13/2023	rcp01	RCP BLOCK & BRICK INC. 32964400	9/28/2023	BULK RIVER ROCK PW	709.22	709.22
		Voucher: 137291					
137292	10/13/2023	san107	SAN DIEGO DIVERS 11	10/3/2023	SMALL TOOL/EQUIP CS	46.87	46.87
		Voucher: 137292					
137293	10/13/2023	san138	SAN DIEGO ELEVATOR & LIFT3687	9/30/2023	ELEVATOR MAINT CH SEP	200.00	200.00
		Voucher: 137293					
137294	10/13/2023	sdg02	SAN DIEGO GAS & ELECTRIC 0081 7377 2988	10/5/2023	UTILITIES SEP	8,044.49	
		Voucher: 137294	0066 5491 6833	10/5/2023	UTILITIES SEP	4,888.68	
			0067 3735 0888	10/5/2023	UTILITIES SEP	290.49	
			2100 0065 8024	10/5/2023	UTILITIES SEP	107.06	
			0096 3381 7034	10/5/2023	UTILITIES SEP	35.02	
			0065 9549 9411	10/5/2023	UTILITIES SEP	25.16	
			0097 5436 8967	10/5/2023	UTILITIES SEP	19.26	
			0053 7739 5442	10/5/2023	UTILITIES SEP	19.19	
			0085 7750 3585	10/5/2023	UTILITIES SEP	17.77	
			0099 5222 5392	10/3/2023	UTILITIES SEP	16.93	
			0055 0306 8492	10/5/2023	UTILITIES SEP	14.38	
			0057 1108 9098	10/5/2023	UTILITIES SEP	13.49	
			0066 5491 5032	10/3/2023	UTILITIES SEP	11.37	13,503.29
137295	10/13/2023	dar02	SANDRA S RAMEY 1001236051	10/1/2023	DEAD ANIMAL REMOVAL SEP	56.66	56.66
		Voucher: 137295					
137296	10/13/2023	sou08	SOUTHWEST SIGNAL SERVIC82825	9/30/2023	TRAFFIC SIGNAL MAINT SEP	738.11	
		Voucher: 137296	82823	9/30/2023	TRAFFIC SIGNAL MAINT SEP	472.50	
			82824	9/30/2023	TRAFFIC SIGNAL MAINT SEP	72.50	1,283.11
137297	10/13/2023	sta36	STANDARD PLUMBING SUPPLUQC25	10/2/2023	MAINT/REPAIR SUPP PW	798.24	798.24
		Voucher: 137297					
137298	10/13/2023	ter01	TERMINIX INT CO LTD, PARTM438743056	10/3/2023	PEST CONTROL SRVCS CH	140.00	
		Voucher: 137298	438743048	10/3/2023	PEST CONTROL SRVCS LIBR	100.80	240.80

Bank : gusbnk GENERAL ACCOUNT US BANK (Continued)

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
137299	10/13/2023	und01	UNDERGROUND SERVICE ALI920230214	10/1/2023	CONT SRVCS SEP	53.75	53.75
		Voucher: 137299					
137300	10/13/2023	vec01	VECTOR RESOURCES INC 98365	10/2/2023	SECURITY TECHNICIAN SRV(250.00	250.00
		Voucher: 137300					
137301	10/13/2023	wes29	WEST COAST ARBORISTS INC(205171	9/15/2023	TREE MAINT 9/01-9/15/23	3,063.39	3,063.39
		Voucher: 137301					
Sub total for GENERAL ACCOUNT US BANK:							68,885.47

48 checks in this report.

Grand Total All Checks: 224,504.44

MB 10/11/23

Bank : gusbnk GENERAL ACCOUNT US BANK

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
3917	10/11/2023	ida01	IDAHO STATE TAX COMMISSION Ben172346	9/8/2023	IDAHO STATE TAX COMMISSION	218.34	218.34
		Voucher: 3917					
3921	10/11/2023	ida01	IDAHO STATE TAX COMMISSION Ben172501	9/22/2023	IDAHO STATE TAX COMMISSION	209.34	209.34
		Voucher: 3921					
5608	9/28/2023	mut01	MUTUAL OF OMAHA 001580912152	8/21/2023	MUTUAL OF OMAHA LIFE OCT IN	4,707.24	4,707.24
		Voucher: 5608					
5609	10/12/2023	hea02	HEALTH NET BFC29AOct23	9/22/2023	HEALTHNET INSURANCE OCT PI	29,906.75	29,906.75
		Voucher: 5609					
5610	10/12/2023	kai01	KAISER PERMANENTE 475311891818	9/15/2023	KAISER HEALTH OCT PREMIUM	16,690.32	16,690.32
		Voucher: 5610					
5611	10/12/2023	sun11	SUN LIFE ASSURANCE CO, OF C.915639OCT	9/15/2023	SUN LIFE ASSURANCE OCT INV(66.00	66.00
		Voucher: 5611					
137302	10/12/2023	cap01	CAPF CA PUBLIC SAFETY ADMIN Ben172481	9/22/2023	CAPF: FF LTD/LIFE OCTOBER PA	234.00	234.00
		Voucher: 137302					
Sub total for GENERAL ACCOUNT US BANK:							52,031.99

7 checks in this report.

Grand Total All Checks: 52,031.99

MS 10/12/23

Bank : gusbnk GENERAL ACCOUNT US BANK

<u>Check #</u>	<u>Date</u>	<u>Vendor</u>	<u>Invoice</u>	<u>Inv Date</u>	<u>Description</u>	<u>Amount Paid</u>	<u>Check Total</u>
137303	10/12/2023	div04	DIVISION OF, THE STATE ARCCY22 3rd&4th D:	10/12/2023	SB1186 DSA QUARTERLY FILI	58.00	58.00
		Voucher:					
					Sub total for GENERAL ACCOUNT US BANK:		58.00

1 checks in this report.

Grand Total All Checks: 58.00

MS 10/12/23

Bank : eusbnk EFT GENERAL ACCOUNT US E

<u>Check #</u>	<u>Date</u>	<u>Vendor</u>	<u>Invoice</u>	<u>Inv Date</u>	<u>Description</u>	<u>Amount Paid</u>	<u>Check Total</u>
5326	10/13/2023	pru01	PRUDENTIAL OVERALL SUPP 132159310	12/2/2022	UNIFORMS PW	83.72	
	Voucher:	5326	132143259	9/9/2022	UNIFORMS PW	77.35	
			132175937	3/3/2023	UNIFORMS PW	42.61	203.68
Sub total for EFT GENERAL ACCOUNT US BANK:							203.68

1 checks in this report.

Grand Total All Checks: 203.68

MG 10/13/23

Bank : eusbnk EFT GENERAL ACCOUNT US E

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
5327	10/20/2023	ace02	ACE UNIFORMS LLC	SD0143841	9/22/2023	UNIFORMS FIRE	2,031.00
	Voucher:	5327		SD0130039	6/20/2023	CREDIT - INV #SD0126720	-67.88
5328	10/20/2023	als02	ALS GROUP USA CORP	522305094	10/11/2023	WATER SAMPLING OCT	676.00
	Voucher:	5328					676.00
5329	10/20/2023	civ01	CIVICPLUS LLC	269227	10/1/2023	WEBSITE CODE HOSTING	696.00
	Voucher:	5329					696.00
5330	10/20/2023	cof01	COFFEE AMBASSADOR, INC.	INV39450	10/10/2023	COFFEE - PW	305.55
	Voucher:	5330					305.55
5331	10/20/2023	del02	DEL MAR BLUE PRINT CO, INC	587410	10/11/2023	CORRECTION NOTICE PL	195.75
	Voucher:	5331					195.75
5332	10/20/2023	dev02	DEVANEY PATE MORRIS & CA	8608	10/5/2023	CITY ATTORNEY AUG	21,423.20
	Voucher:	5332					21,423.20
5333	10/20/2023	dix01	DIXIELINE LUMBER CO	06-0526005	10/9/2023	CLEANING SUPPLIES CS	197.60
	Voucher:	5333		06-0525703	10/5/2023	SMALL TOOLS PW	99.19
				06-0525914	10/6/2023	SMALL TOOLS PW	78.68
				06-0525806	10/6/2023	SMALL TOOLS PW	45.27
				06-0526109	10/9/2023	MAINT/REPAIR SUPP PW	24.90
5334	10/20/2023	hel04	HELIX ENVIRONMENTAL PLAN	20288	9/29/2023	RIVER PATH ENV ENG PHASE	1,650.00
	Voucher:	5334					1,650.00
5335	10/20/2023	ind09	INDUSTRIAL ELECTRIC SERV	0092280	10/4/2023	FREEZER REPAIR CH	1,820.65
	Voucher:	5335		0092312	10/4/2023	ICE MAKER REPAIR CH	317.75
5336	10/20/2023	lif01	LIFE-ASSIST	1364122	9/18/2023	AMBULANCE SUPP FIRE	440.44
	Voucher:	5336		1364457	9/19/2023	AMBULANCE SUPP FIRE	334.03
				1364226	9/18/2023	AMBULANCE SUPP FIRE	114.75
				1366466	9/26/2023	AMBULANCE SUPP FIRE	108.95
5337	10/20/2023	man12	MANERI TRAFFIC CONTROL	19957	9/18/2023	CUSTOM TRAFFIC SIGNS PW	766.69
	Voucher:	5337		19956	10/6/2023	CUSTOM TRAFFIC SIGNS PW	623.14
5338	10/20/2023	pru01	PRUDENTIAL OVERALL SUPP	132214814	10/6/2023	UNIFORMS PW	78.18
	Voucher:	5338		132214813	10/6/2023	SHOP TOWELS PW	3.72
5339	10/20/2023	pru01	PRUDENTIAL OVERALL SUPP	132214812	10/6/2023	FLOOR MATS PW	15.47
	Voucher:	5339					15.47
5340	10/20/2023	uni03	SAN DIEGO - UNION TRIBUNE	7955924	10/9/2023	DRB AGENDA	690.79
	Voucher:	5340		7954464	9/27/2023	AD PUBLIC HEARING	216.22

Bank : eusbnk EFT GENERAL ACCOUNT US E (Continued)

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
5341	10/20/2023	san03	SAN DIEGO COUNTY WATER .0923-2	10/9/2023	RAW WATER SEP	140,532.20	140,532.20
	Voucher:	5341					
5342	10/20/2023	uti01	UTILITY SPECIALISTS INC	24854	9/30/2023	UP - 1A STRATFORD - AUG	30,380.75
	Voucher:	5342		24855	9/30/2023	UP - X1A CREST - AUG	22,165.25
				24856	9/30/2023	UP - 1B STRATFORD - AUG	16,158.75
				24857	9/30/2023	UP - X1A CREST - REIMB	84.36
				24858	9/30/2023	UP - 1B STRATFORD - REIMB	28.70
5343	10/20/2023	wex01	WEX BANK	0496-00-496530	10/6/2023	GAS & OIL PW SEP	5,450.22
	Voucher:	5343					
Sub total for EFT GENERAL ACCOUNT US BANK:							247,686.27

Bank : qusbnk GENERAL ACCOUNT US BANF

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total	
137304	10/20/2023	all21	ALLWAYS FIRE PROTECTION	10172023	10/17/2023	REFUND REF B2020-0177	440.90	440.90
		Voucher: 137304						
137305	10/20/2023	cha71	CHARTER COMM HOLDINGS	18448410060128	10/1/2023	CABLE/INTERNET PW OCT	222.04	222.04
		Voucher: 137305						
137306	10/20/2023	sol01	CITY OF SOLANA BEACH	220747	6/30/2023	PALOMAR TRAINING SPRING	142.00	142.00
		Voucher: 137306						
137307	10/20/2023	civ02	CIVIC SOLUTIONS INC	102580	10/2/2023	CONSULTING SRVCS SEP	2,565.00	2,565.00
		Voucher: 137307						
137308	10/20/2023	hds01	CORE & MAIN LP	T712147	10/5/2023	WATER PARTS PW INVENTOI	1,066.73	
		Voucher: 137308		T711653	10/5/2023	WATER PARTS PW INVENTOI	531.21	1,597.94
137309	10/20/2023	cos06	COSCO FIRE PROTECTION IN	1000619869	6/16/2023	ANNUAL MAINTENANCE	1,610.00	1,610.00
		Voucher: 137309						
137310	10/20/2023	del06	DEL MAR AUTOMOTIVE SERV	46032	10/9/2023	VEHICLE MAINT PW #88	123.86	
		Voucher: 137310		46064	10/12/2023	VEHICLE MAINT CS #391	69.35	193.21
137311	10/20/2023	dem09	DEMING DESIGNS INC	6461	10/11/2023	LEGREST BEACH WHEELCH	5,275.00	5,275.00
		Voucher: 137311						
137312	10/20/2023	fir01	FIRE ETC.	182670	8/24/2023	STRUCTURE BOOTS FIRE	1,206.80	1,206.80
		Voucher: 137312						
137313	10/20/2023	eva05	GLENN AND CATHERINE EVA	10102023	10/10/2023	REFUND REF B2023-0161	1,743.00	1,743.00
		Voucher: 137313						
137314	10/20/2023	haw01	HAWTHORNE MACHINERY C	CS3350201	10/4/2023	FORK ATTACHMENT FOR SKI	4,190.74	4,190.74
		Voucher: 137314						
137315	10/20/2023	goo10	JOHN GOODKIND	10112023	10/11/2023	REFUND REF DEPOSIT PHCC	800.00	800.00
		Voucher: 137315						
137316	10/20/2023	kap07	LINDSAY R KAPLAN	10112023	10/11/2023	REFUND REF DEPOSIT PHCC	800.00	800.00
		Voucher: 137316						
137317	10/20/2023	wol11	MARISSA WOLF	10162023	10/16/2023	REFUND REF DEPOSIT PHCC	800.00	800.00
		Voucher: 137317						
137318	10/20/2023	mis10	MISSION POOLS	10122023	10/12/2023	REFUND REF ADR23-039	605.00	605.00
		Voucher: 137318						
137319	10/20/2023	mun07	MUNICIPAL MAINTENANCE E	C014452	10/3/2023	VAC CON SUPPLIES	61.71	61.71
		Voucher: 137319						
137320	10/20/2023	nat18	NATIONAL FOUNDATION FOR	10122023	10/12/2023	REFUND REF DEPOSIT PHCC	800.00	800.00
		Voucher: 137320						

Bank : gusbnk GENERAL ACCOUNT US BANK (Continued)

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
137321	10/20/2023	par35	PARADIGM MECHANICAL COF5859	9/15/2023	QTRLY MAINT SRVCS CH	2,062.00	2,062.00
		Voucher: 137321					
137322	10/20/2023	pso01	PSOMAS 200802	10/5/2023	WTR / WASTEWTR / PAVING	3,495.00	3,495.00
		Voucher: 137322					
137323	10/20/2023	sdg02	SAN DIEGO GAS & ELECTRIC 0066 5392 2766	10/5/2023	UTILITIES SEP	1,285.87	
		Voucher: 137323	0069 0908 1676	10/5/2023	UTILITIES SEP	456.14	
			0092 4576 5583	10/12/2023	UTILITIES SEP	87.40	1,829.41
137324	10/20/2023	sch79	SCHOTT ROOFING & CONSTF10122023	10/12/2023	REFUND REF B2023-0266	863.14	863.14
		Voucher: 137324					
137325	10/20/2023	sig12	SIGNA DIGITAL SOLUTIONS INAR-S299996	10/12/2023	COPIER- CS 10/11-1/10/24	175.89	175.89
		Voucher: 137325					
137326	10/20/2023	sig12	SIGNA DIGITAL SOLUTIONS INAR-S299995	10/12/2023	COPIER- CS 7/13-10/11/23	145.09	145.09
		Voucher: 137326					
137327	10/20/2023	soc06	SOCAL TRUCK ACCESSORIES50682	4/13/2023	CAMPER SHELL FORD F250 F	4,562.20	4,562.20
		Voucher: 137327					
137328	10/20/2023	spa01	SPARKLETTS 18139543 10082	10/8/2023	WATER CH	39.96	39.96
		Voucher: 137328					
137329	10/20/2023	bec08	TORRIN BECHTEL 10112023	10/11/2023	REFUND REF DEPOSIT PHCC	800.00	800.00
		Voucher: 137329					
137330	10/20/2023	uni28	UNITED RENTALS INC 225564994-001	10/9/2023	FLOOR SCRUBBER RENTAL F	557.04	
		Voucher: 137330	225242258-001	10/2/2023	FLOOR SCRUBBER RENTAL F	557.04	1,114.08
Sub total for GENERAL ACCOUNT US BANK:							38,140.11

44 checks in this report.

Grand Total All Checks: 285,826.38
AC 10/18/23

Bank : gusbnk GENERAL ACCOUNT US BANK

<u>Check #</u>	<u>Date</u>	<u>Vendor</u>	<u>Invoice</u>	<u>Inv Date</u>	<u>Description</u>	<u>Amount Paid</u>	<u>Check Total</u>
3927	10/20/2023	irs01	IRS, UNITED STATES TREASUBen172840	10/20/2023	FEDERAL TAX: PAYMENT	35,126.65	35,126.65
		Voucher: 3927					
3929	10/20/2023	edd01	EMPLOYMENT DEVELOPMENBen172844	10/20/2023	STATE TAX: PAYMENT	10,026.25	10,026.25
		Voucher: 3929					
Sub total for GENERAL ACCOUNT US BANK:							45,152.90

Bank : eusbnk EFT GENERAL ACCOUNT US E

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
5344	10/27/2023	mis07	107413 STATE ST BANK & TR	10/20/2023	401A PLAN: PAYMENT	516.84	516.84
		Voucher: 5344					
5345	10/27/2023	mis08	303845 STATE ST BANK & TR	10/20/2023	MISSION SQUARE 457B: PAYI	9,586.06	9,586.06
		Voucher: 5345					
5346	10/27/2023	mis09	803808 STATE ST BANK & TR	10/20/2023	RETIREMENT HEALTH SAVIN	655.94	655.94
		Voucher: 5346					
5347	10/27/2023	del76	DE LAGE LANDEN FINANCIAL 81258004	10/23/2023	COPIER CS NOV	70.15	70.15
		Voucher: 5347					
5348	10/27/2023	uni21	DEL MAR CITY EMPLOYEES A	10/20/2023	DMCEA DUES: PAYMENT	264.00	264.00
		Voucher: 5348					
5349	10/27/2023	dev02	DEVANEY PATE MORRIS & CA8669	10/17/2023	LEGAL FEES AUG	3,611.20	3,611.20
		Voucher: 5349					
5350	10/27/2023	dix01	DIXIELINE LUMBER CO	10/11/2023	PAINT SUPP PW	227.27	
		Voucher: 5350	06-0526342	10/23/2023	BLDG MAINT SUPP PHCC	65.53	
			06-0527817	10/13/2023	STAKES PW	61.98	
			06-0526811	10/17/2023	MAINT/REPAIR SUPP PW	44.28	
			06-0527058	10/12/2023	BLDG MAINT SUPP FIRE	29.42	
			06-0526618	10/11/2023	PAINT SUPP PW	20.47	
			06-0527062	10/17/2023	MAINT/REPAIR SUPP PW	9.82	
			06-0527046	10/17/2023	ROPE SUPP PW	4.84	463.61
5351	10/27/2023	ind09	INDUSTRIAL ELECTRIC SERV 0091215	9/14/2023	ICE MAKER REPAIR CH	1,687.09	1,687.09
		Voucher: 5351					
5352	10/27/2023	kle01	KLEINFELDER	10/13/2023	CDM BRIDGE SEP	88,409.50	88,409.50
		Voucher: 5352					
5353	10/27/2023	lou01	LOUKELTON DISTRIBUTING I	10/10/2023	JANITORIAL SUPP PW	1,175.73	
		Voucher: 5353	80575	10/9/2023	JANITORIAL SUPP PW	994.25	
			80566	10/16/2023	JANITORIAL SUPP PW	849.88	
			80600	10/13/2023	JANITORIAL SUPP PW	568.53	
			80576	10/16/2023	JANITORIAL SUPP PW	287.15	3,875.54
			80598				
5354	10/27/2023	nat15	NATIONAL BENEFIT SERVICE	10/20/2023	SEC. 125 FLEXIBLE SAVINGS	1,465.41	1,465.41
		Voucher: 5354					
5355	10/27/2023	pru01	PRUDENTIAL OVERALL SUPP 132216080	10/13/2023	UNIFORMS PW	73.18	73.18
		Voucher: 5355					
5356	10/27/2023	uni03	SAN DIEGO - UNION TRIBUNE7951552	9/7/2023	DRB AGENDA	87.33	87.33
		Voucher: 5356					

Bank : eusbnk EFT GENERAL ACCOUNT US E (Continued)

<u>Check #</u>	<u>Date</u>	<u>Vendor</u>	<u>Invoice</u>	<u>Inv Date</u>	<u>Description</u>	<u>Amount Paid</u>	<u>Check Total</u>
5357	10/27/2023	tru09	TRUE NORTH COMPLIANCE SDM23-09	10/19/2023	BLDG CODE PC & INSP SEP	26,144.70	26,144.70
	Voucher:	5357					
5358	10/27/2023	par21	U.S. BANK PARS FFC 6746022Ben172832	10/20/2023	PUBLIC AGENCY RETIREMEN	1,597.16	1,597.16
	Voucher:	5358					
Sub total for EFT GENERAL ACCOUNT US BANK:							138,507.71

Bank : qusbnk GENERAL ACCOUNT US BANK

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total	
137331	10/27/2023	zep01	ACUITY SPECIALTY PRODUC	9009039875	10/2/2023	CLEANING SUPP FIRE	534.95	534.95
		Voucher:	137331					
137332	10/27/2023	adt02	ADT SECURITY SERVICES	1015890764	9/13/2023	ALARM PW OCT	112.77	
		Voucher:	137332	1021978585	10/13/2023	ALARM PW NOV	112.77	225.54
137333	10/27/2023	sbc03	AT&T	9391054486	10/20/2023	TELEPHONE OCT	185.28	185.28
		Voucher:	137333					
137334	10/27/2023	sbc03	AT&T	9391031502	10/20/2023	TELEPHONE OCT	65.40	65.40
		Voucher:	137334					
137335	10/27/2023	sbc03	AT&T	9391026230	10/20/2023	TELEPHONE OCT	56.21	56.21
		Voucher:	137335					
137336	10/27/2023	sbc03	AT&T	9391026231	10/20/2023	TELEPHONE OCT	55.22	55.22
		Voucher:	137336					
137337	10/27/2023	sbc03	AT&T	9391026228	10/20/2023	TELEPHONE OCT	28.38	28.38
		Voucher:	137337					
137338	10/27/2023	zep03	AUBREY ZEPEDA	10162023	10/16/2023	REFUND REF DEPOSIT PHCC	800.00	800.00
		Voucher:	137338					
137339	10/27/2023	cal67	CALIFORNIA BUILDING STAND	JUL - SEP 2023	10/24/2023	BLDG STANDARDS FEE JUL/S	289.00	289.00
		Voucher:	137339					
137340	10/27/2023	cha71	CHARTER COMM HOLDINGS	8448410060151	10/14/2023	INTERNET CH OCT	1,257.52	
		Voucher:	137340	8448410010640	10/11/2023	ETHERNET INTERSTATE/PEG	453.71	
				8448410060151	10/15/2023	FIBER CONNECTION CS OCT	358.52	
				8448410060151	10/15/2023	FIBER CONNECTION FIRE OC	294.50	
				8448410060152	10/14/2023	METRO ETHERNET FIRE OCT	294.50	
				8448410060171	10/13/2023	PUBLIC WIFI PHCC OCT	137.98	
				8448410060153	10/10/2023	INTERNET TV STUDIO OCT	119.98	
				8448410060174	10/13/2023	INTERNET CS OCT	87.98	
				8448410060151	10/15/2023	INTERNET TV STUDIO OCT	84.31	3,089.00
137341	10/27/2023	gre27	CHRISTINA M GREMEL	09182023	9/18/2023	REFUND REF DEPOSIT PHCC	800.00	800.00
		Voucher:	137341					
137342	10/27/2023	cin02	CINTAS	5180539478	10/19/2023	FIRST AID KIT SUPP PW	154.68	154.68
		Voucher:	137342					
137343	10/27/2023	sol01	CITY OF SOLANA BEACH	10252023	10/25/2023	OFF TRACK AUG	318.00	318.00
		Voucher:	137343					
137344	10/27/2023	cou16	COUNTY OF SAN DIEGO - RE	24CTOFDMC03	10/1/2023	RCS PAGING SRVCS - SEP	70.00	70.00
		Voucher:	137344					

Bank : qusbnk GENERAL ACCOUNT US BANF (Continued)

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
137345	10/27/2023	dai03	DAILY DIRECT MAIL	14402-14	10/16/2023	UP - 1A MAILING	90.00
		Voucher: 137345		14402-15	10/16/2023	UP - X1A MAILING	35.00
137346	10/27/2023	dai02	DAILY JOURNAL CORP	A3746440	10/16/2023	BID WTR INFRASTRUCTURE P	164.50
		Voucher: 137346					125.00
137347	10/27/2023	day03	DAY WIRELESS SYSTEMS	INV796269	10/12/2023	BATTERIES APX4000 PW	553.75
		Voucher: 137347					553.75
137348	10/27/2023	del06	DEL MAR AUTOMOTIVE SERV	46102	10/19/2023	VEHICLE MAINT CS #391	778.19
		Voucher: 137348					778.19
137349	10/27/2023	dep07	DEPT OF CONSERVATION	JUL-SEP 2023	10/24/2023	SMIP FEES JUL/SEP	935.60
		Voucher: 137349					935.60
137350	10/27/2023	fer07	FERGUSON ENTERPRISES	IN0837581	10/10/2023	WATER METER PARTS	619.88
		Voucher: 137350					619.88
137351	10/27/2023	fun01	FUN BIKE CENTER	32134056	10/12/2023	HONDAATV REPAIR CS	1,711.34
		Voucher: 137351					1,711.34
137352	10/27/2023	gal02	GALLS LLC	024803176	6/15/2023	UNIFORM HATS PRKG ENF	51.68
		Voucher: 137352		024763431	6/12/2023	UNIFORM PANTS PRKG ENF	33.50
137353	10/27/2023	hin06	HINDERLITER DE LLAMAS AN	SIN031820	9/22/2023	SALES TAX SRVCS JUL/SEP	300.00
		Voucher: 137353					300.00
137354	10/27/2023	lew05	LEWIS, FELICIA	Ref000172847	10/23/2023	UB Refund Cst #00008187	188.70
		Voucher: 137354					188.70
137355	10/27/2023	los03	LOS ANGELES TRUCK CENTER	A290033493:0	10/10/2023	VACCON TRUCK EMERGENC	5,795.93
		Voucher: 137355					5,795.93
137356	10/27/2023	bru07	MARC AND PATRICIA BRUTTE	10192023	10/19/2023	REFUND REF EP20-067	850.00
		Voucher: 137356					850.00
137357	10/27/2023	mca02	MCAVOY & MARKHAM ENG	AM17082	10/12/2023	ITRON WTR MTR SFTWR PW	300.00
		Voucher: 137357					300.00
137358	10/27/2023	nor13	NORTH COUNTY DISPATCH	J1202324-131	10/17/2023	DISPATCH - FIRE Q2	14,956.25
		Voucher: 137358		202324-132	10/17/2023	DISPATCH PW 2Q	562.25
137359	10/27/2023	pac28	PACIFIC MOBILE STRUCTURE	INV-00333037	11/1/2023	MOBILE OFFICE PW NOV	226.20
		Voucher: 137359					226.20
137360	10/27/2023	pac05	PACIFIC PIPELINE SUPPLY	S100456898.001	10/17/2023	WATER METER PARTS	604.48
		Voucher: 137360		S100456902.001	10/17/2023	SMALL TOOLS/EQUIP PW	175.39
				S100456903.001	10/17/2023	WATER METER PARTS	146.58
137361	10/27/2023	rcp01	RCP BLOCK & BRICK INC.	32977397	10/17/2023	BULK FERTILIZED SOIL PW	382.64
		Voucher: 137361					926.45
							382.64

Bank : gusbnk GENERAL ACCOUNT US BANr (Continued)

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
137362	10/27/2023	san107	SAN DIEGO DIVERS	157	10/17/2023	SMALL TOOL/EQUIP SCOTT F	70.31
		Voucher: 137362		156	10/17/2023	SMALL TOOL/EQUIP SCOTT F	26.25
							96.56
137363	10/27/2023	sdg01	SAN DIEGO GAS & ELECTRIC	0042 2198 4063	10/16/2023	UTILITIES SEP	5,629.81
		Voucher: 137363					5,629.81
137364	10/27/2023	san75	SAN DIEGO MAIN	10182023	10/18/2023	POSTAGE FY24	5,000.00
		Voucher: 137364					5,000.00
137365	10/27/2023	san20	SAN DIEGUITO RIVER PARK, /	10252023	10/25/2023	OFF TRACK AUG	159.00
		Voucher: 137365					159.00
137366	10/27/2023	hir06	SCOTT HIRAOKA	10192023	10/19/2023	REFUND REF DEPOSIT PHCC	800.00
		Voucher: 137366					800.00
137367	10/27/2023	sde01	SD ELECTRIC BIKE LLC	220000032847	10/7/2023	BIKE MAINT PRKG ENF	206.05
		Voucher: 137367					206.05
137368	10/27/2023	son02	SONSRAY MACHINERY LLC	PSO100731-1	10/5/2023	BACKHOE REPAIR PARTS	137.55
		Voucher: 137368					137.55
137369	10/27/2023	ter01	TERMINIX INT CO LTD, PARTM	439265884	10/17/2023	PEST CONTROL SRVCS PW	124.00
		Voucher: 137369		439252869	10/17/2023	PEST CONTROL SRVCS CS	113.00
				439252810	10/17/2023	PEST CONTROL SRVCS PHC	94.00
							331.00
137370	10/27/2023	uni31	UNITED SITE SRVCS OF, CAL	114-13707147	10/4/2023	PORTABLE RESTROOM SRVC	1,450.85
		Voucher: 137370					1,450.85
137371	10/27/2023	uni29	UNIVERSAL SITE SERVICES II	23035841	9/15/2023	CH GARAGE SWEEPING SEP	160.00
		Voucher: 137371					160.00
137372	10/27/2023	usb03	US BANK CORP PYMT SYSTE	4052394	7/28/2023	JUN-23 BANK ANALYSIS FEE	3,612.28
		Voucher: 137372					3,612.28
137373	10/27/2023	wes29	WEST COAST ARBORISTS INC	205898	9/30/2023	TREE MAINT 9/16-9/30/23	10,837.10
		Voucher: 137373		205897	9/30/2023	TREE MAINT 9/16-9/30/23	625.80
							11,462.90
137374	10/27/2023	act03	WILLIAMS SCOTSMAN INC	9019137263	10/15/2023	MOBILE OFFICE PW OCT/NO	156.12
		Voucher: 137374					156.12
Sub total for GENERAL ACCOUNT US BANK:							65,335.64

61 checks in this report.

Grand Total All Checks: 248,996.25

Jm
10/25/23

Bank : gusbnk GENERAL ACCOUNT US BANK

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
3926	10/25/2023	ida01	IDAHO STATE TAX COMMISSIO(Ben172667	10/6/2023	IDAHO STATE TAX COMMISSIO	218.34	218.34
	Voucher:	3926					
3930	10/25/2023	ida01	IDAHO STATE TAX COMMISSIO(Ben172846	10/20/2023	IDAHO STATE TAX COMMISSIO	209.34	209.34
	Voucher:	3930					
Sub total for GENERAL ACCOUNT US BANK:							427.68

Bank : eusbnk EFT GENERAL ACCOUNT US E

<u>Check #</u>	<u>Date</u>	<u>Vendor</u>	<u>Invoice</u>	<u>Inv Date</u>	<u>Description</u>	<u>Amount Paid</u>	<u>Check Total</u>
5359	10/27/2023	lif06 Voucher: 5359	GEN DIGITAL INC.	CDM0063 & CDI	10/15/2023 LIFE LOCK SEPT & OCT PREI	169.88	169.88
5360	10/27/2023	leg04 Voucher: 5360	LEGALACCESSPLANS USA, C31458	10/1/2023	LEGAL ACCESS PLANS OCTC	89.75	89.75
Sub total for EFT GENERAL ACCOUNT US BANK:							259.63

Bank : qusbnk GENERAL ACCOUNT US BANK

<u>Check #</u>	<u>Date</u>	<u>Vendor</u>	<u>Invoice</u>	<u>Inv Date</u>	<u>Description</u>	<u>Amount Paid</u>	<u>Check Total</u>
5612	10/25/2023	pri11	PRINCIPAL FINANCIAL GROUF1003938 Oct	9/16/2023	PRINCIPAL DENTAL-VISION C	4,652.96	4,652.96
		Voucher: 5612					
5613	10/25/2023	mut01	MUTUAL OF OMAHA 001586488585	9/14/2023	MUTUAL OF OMAHA LIFE OC	4,289.65	4,289.65
		Voucher: 5613					
Sub total for GENERAL ACCOUNT US BANK:							8,942.61

6 checks in this report.

Grand Total All Checks: 9,629.92

MS 10/25/23

Bank : gusbnk GENERAL ACCOUNT US BANK

<u>Check #</u>	<u>Date</u>	<u>Vendor</u>	<u>Invoice</u>	<u>Inv Date</u>	<u>Description</u>	<u>Amount Paid</u>	<u>Check Total</u>
3928	10/26/2023	per01 PERS Voucher: 3928	Ben172842	10/20/2023	PERS CONTRIBUTIONS: PAYI	52,533.07	52,533.07
Sub total for GENERAL ACCOUNT US BANK:							52,533.07

1 checks in this report.

Grand Total All Checks:

52,533.07

pc 10/26/23

Bank : gusbnk GENERAL ACCOUNT US BANK

<u>Check #</u>	<u>Date</u>	<u>Vendor</u>	<u>Invoice</u>	<u>Inv Date</u>	<u>Description</u>	<u>Amount Paid</u>	<u>Check Total</u>
137375	10/31/2023	usb03 Voucher: 137375	US BANK CORP PYMT SYSTE 4246-0445-5565	9/22/2023	US BANK CHARGES SEP	12,809.10	12,809.10
Sub total for GENERAL ACCOUNT US BANK:							12,809.10

1 checks in this report.

Grand Total All Checks: 12,809.10
AK 10/31/23

Bank: gusbnk
Account: 158300179799

<u>Orig check</u>	<u>Date</u>	<u>Voided</u>	<u>Check amt</u>	<u>EFT</u>	<u>Paid to</u>	<u>Repl check</u>	<u>Date</u>	<u>Reason</u>
136715	6/16/2023	6/16/2023	571.80	No	PARTNERSHIP TERMINIX INT CO LT	137376	6/16/2023	Lost
		Bank total:	571.80					
		Checks total:	571.80					

Bank : eusbnk EFT GENERAL ACCOUNT US E

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
5361	11/3/2023	ace02	ACE UNIFORMS LLC	SD0148227	10/26/2023 UNIFORMS CS	175.75	175.75
		Voucher: 5361					
5362	11/3/2023	kay01	ADAM KAYE	OCT-23	10/1/2023 COMM SRVCS OCT	5,025.00	5,025.00
		Voucher: 5362					
5363	11/3/2023	als02	ALS GROUP USA CORP	522305232	10/23/2023 WATER SAMPLING OCT	496.00	496.00
		Voucher: 5363					
5364	11/3/2023	cal81	CALLTOWER INC	201664792	10/25/2023 TELEPHONE NOV	3,130.80	3,130.80
		Voucher: 5364					
5365	11/3/2023	phi01	CLEAN EARTH	72403926744	10/11/2023 HSHLD HAZ WASTE AUG	309.48	
		Voucher: 5365		72403941957	10/30/2023 HSHLD HAZ WASTE SEP	187.48	496.96
5366	11/3/2023	del14	DEL MAR VILLAGE ASSOCIATI5		10/31/2023 DMVA AGRMNTSEP	27,417.99	27,417.99
		Voucher: 5366					
5367	11/3/2023	del31	DELL MARKETING L.P.	10705921228	10/20/2023 OPTIPLEX FORM FACTOR PV	983.14	
		Voucher: 5367		10706234102	10/23/2023 EXTENDED WARRANTY LG P	292.52	1,275.66
5368	11/3/2023	dev02	DEVANEY PATE MORRIS & CA	8695	10/23/2023 CITY ATTORNEY SEP	5,460.00	
		Voucher: 5368		8706	10/23/2023 CITY ATTORNEY SEP	3,944.50	
				8692	10/23/2023 CITY ATTORNEY SEP	2,879.20	
				8698	10/23/2023 CITY ATTORNEY SEP	2,569.00	
				8697	10/23/2023 CITY ATTORNEY SEP	2,329.50	
				8701	10/23/2023 CITY ATTORNEY SEP	1,250.00	
				8700	10/23/2023 CITY ATTORNEY SEP	1,246.45	
				8696	10/23/2023 CITY ATTORNEY SEP	393.15	
				8694	10/23/2023 CITY ATTORNEY SEP	367.50	
				8699	10/23/2023 CITY ATTORNEY SEP	182.00	
				8693	10/23/2023 CITY ATTORNEY SEP	24.50	20,645.80
5369	11/3/2023	dix01	DIXIELINE LUMBER CO	06-0527236	10/18/2023 HRDWR SUPP PW	108.05	
		Voucher: 5369		06-0527628	10/20/2023 BLDG MAINT/REPAIR SUPP P	97.44	
				06-0527308	10/18/2023 MAINT/REPAIR SUPP PW	51.58	
				06-0527239	10/18/2023 WATER MAINT/REPAIR SUPP	26.42	283.49
5370	11/3/2023	lou01	LOUKELTON DISTRIBUTING II	80617	10/19/2023 JANITORIAL SUPP PW	164.32	164.32
		Voucher: 5370					
5371	11/3/2023	man12	MANERI TRAFFIC CONTROL I	12006	10/18/2023 CUSTOM TRAFFIC SIGNS PW	396.20	396.20
		Voucher: 5371					

Bank : eusbnk EFT GENERAL ACCOUNT US E (Continued)

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total	
5372	11/3/2023	mic11	MICHAEL BAKER INTERNATIC1193558	10/17/2023	CITY ENGINEER SEP	46,486.32	46,486.32	
		Voucher:	5372					
5373	11/3/2023	pho01	PHOENIX GROUP INFO SYSTI092023036	10/20/2023	CITE SRVCS SEP	12,787.90	12,787.90	
		Voucher:	5373					
5374	11/3/2023	pru01	PRUDENTIAL OVERALL SUPP 132217352	10/20/2023	UNIFORMS PW	73.18		
		Voucher:	5374	132217351	10/20/2023	SHOP TOWELS PW	3.72	76.90
5375	11/3/2023	pru01	PRUDENTIAL OVERALL SUPP 132217350	10/20/2023	FLOOR MATS PW	15.47	15.47	
		Voucher:	5375					
5376	11/3/2023	san56	SAN ELIJO JOINT POWERS, A09112023	9/11/2023	RECLAIMED WATER JUL/AUG	45,137.54	45,137.54	
		Voucher:	5376					
5377	11/3/2023	wex01	WEX BANK	0496-00-496745	10/23/2023	GAS & OIL CS OCT	1,443.43	1,443.43
		Voucher:	5377					
Sub total for EFT GENERAL ACCOUNT US BANK:							165,455.53	

Bank : qusbnk GENERAL ACCOUNT US BANP

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
137377	11/3/2023	sbc03 AT&T	9391065056	10/27/2023	TELEPHONE OCT	27.21	27.21
		Voucher: 137377					
137378	11/3/2023	sbc03 AT&T	9391065053	10/27/2023	TELEPHONE OCT	27.06	27.06
		Voucher: 137378					
137379	11/3/2023	sbc03 AT&T	9391065055	10/27/2023	TELEPHONE OCT	27.06	27.06
		Voucher: 137379					
137380	11/3/2023	sbc03 AT&T	9391065054	10/27/2023	TELEPHONE OCT	27.06	27.06
		Voucher: 137380					
137381	11/3/2023	bar29 BARNETT QUALITY CONTROL21014		10/14/2023	RIVERPATH PHASE 3 SEP	170.00	170.00
		Voucher: 137381					
137382	11/3/2023	nes01 BLUETRITON BRANDS INC, DI03J0033982810		10/20/2023	WATER PW	50.00	50.00
		Voucher: 137382					
137383	11/3/2023	cha71 CHARTER COMM HOLDINGS I8448410060151	8448410060151	10/15/2023	FIBER CONNECTION PW OC	358.52	
		Voucher: 137383	8448410060151	10/14/2023	METRO ETHERNET CS OCT	358.52	
			8448410060153	10/21/2023	PUBLIC WIFI NOV	119.98	837.02
137384	11/3/2023	cit07 CITY OF SAN DIEGO	1000368452	10/26/2023	METRO SEWER 2ND QTR	5,914.00	5,914.00
		Voucher: 137384					
137385	11/3/2023	hds01 CORE & MAIN LP	T796679	10/23/2023	WATER PARTS PW INVENTOI	817.83	817.83
		Voucher: 137385					
137386	11/3/2023	del06 DEL MAR AUTOMOTIVE SERV46146		10/25/2023	VEHICLE MAINT CS #394	165.60	165.60
		Voucher: 137386					
137387	11/3/2023	dyn02 DYNAMITE ELECTRIC BIKES I220000009767		10/25/2023	ELECTRIC BIKE PRK ENF	2,441.44	2,441.44
		Voucher: 137387					
137388	11/3/2023	gal02 GALLS LLC	025917419	10/10/2023	TACTICAL PANTS PRKG ENF	55.92	55.92
		Voucher: 137388					
137389	11/3/2023	gat07 IVAN GATARIC	10312023	10/31/2023	REFUND REF CITATION 1207	150.00	150.00
		Voucher: 137389					
137390	11/3/2023	ras04 KATHLEEN M RASMUSSEN	10262023	10/26/2023	REFUND REF DEPOSIT PHCC	800.00	800.00
		Voucher: 137390					
137391	11/3/2023	kok01 KOKATAT	200249	10/25/2023	DRYSUIT CS	1,363.09	1,363.09
		Voucher: 137391					
137392	11/3/2023	nct01 NCTD	11012023	11/1/2023	FY2022-23 REVENUE SHARE	37,353.00	37,353.00
		Voucher: 137392					
137393	11/3/2023	nov05 NOVINZIO	DMAR-1027202	9/27/2023	ESIGNATURE SBSCRPTN	1,042.00	1,042.00
		Voucher: 137393					

Bank : gusbnk GENERAL ACCOUNT US BAN# (Continued)

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
137394	11/3/2023	off03	OFFICE DEPOT	332669076001	10/16/2023	OFFICE SUPPLIES CH	225.12
		Voucher: 137394		332940014001	10/16/2023	OFFICE SUPPLIES CH	15.49
137395	11/3/2023	ost05	OSTARI INC	501684	10/15/2023	PALO ALTO FIREWALL OCT/D	441.00
		Voucher: 137395					441.00
137396	11/3/2023	por10	PORTABLE STORAGE CORP	154736	10/20/2023	STORAGE CS NOV	176.00
		Voucher: 137396					176.00
137397	11/3/2023	sig12	SIGNA DIGITAL SOLUTIONS	INAR-S300674	10/25/2023	COPIER - CH QTRLY MAINT	2,179.52
		Voucher: 137397		AR-S300673	10/25/2023	COPIER - PW QTRLY MAINT	285.81
				31416179	10/12/2023	COPIER - PW OCT	138.74
137398	11/3/2023	sig12	SIGNA DIGITAL SOLUTIONS	IN31429421	10/18/2023	COPIER - CH AUG/SEP	1,537.82
		Voucher: 137398		31429422	10/18/2023	COPIER - CH OCT	766.91
137399	11/3/2023	uni25	STAXUP - UNITS LLC	021 18080	10/26/2023	STORAGE CS NOV	289.85
		Voucher: 137399					289.85
137400	11/3/2023	und09	UNDER TOE LLC	10252023	10/25/2023	REFUND REF ADU23-013	823.50
		Voucher: 137400					823.50
137401	11/3/2023	uni31	UNITED SITE SRVCS OF, CAL	114-13712873	10/11/2023	PORTABLE RESTROOM SRVC	565.25
		Voucher: 137401		114-13712872	10/11/2023	PORTABLE RESTROOM SRVC	265.25
137402	11/3/2023	ver12	VERIZON	72726908	10/20/2023	SCADA SECURE CLOUD SEP	307.50
		Voucher: 137402					307.50
137403	11/3/2023	ver03	VERIZON WIRELESS	570653198-000C	10/18/2023	TELEPHONE OCT	367.51
		Voucher: 137403					367.51
137404	11/3/2023	ver03	VERIZON WIRELESS	872374736-000C	10/18/2023	TELEPHONE OCT	298.52
		Voucher: 137404					298.52
137405	11/3/2023	ver03	VERIZON WIRELESS	872374736-000C	10/18/2023	TELEPHONE OCT	226.49
		Voucher: 137405					226.49
137406	11/3/2023	ver03	VERIZON WIRELESS	570653198-000C	10/18/2023	TELEPHONE OCT	213.68
		Voucher: 137406					213.68
137407	11/3/2023	ver03	VERIZON WIRELESS	542070053-000C	10/20/2023	TELEPHONE OCT	166.72
		Voucher: 137407					166.72
137408	11/3/2023	ver03	VERIZON WIRELESS	570653198-000C	10/18/2023	TELEPHONE OCT	114.03
		Voucher: 137408					114.03
137409	11/3/2023	ver03	VERIZON WIRELESS	570653198-000C	10/18/2023	TELEPHONE OCT	38.01
		Voucher: 137409					38.01

Sub total for GENERAL ACCOUNT US BANK: 60,711.01

MG 11/1/23

50 checks in this report.

Grand Total All Checks: 226,166.54

MG 11/1/23

Bank : gusbnk GENERAL ACCOUNT US BANK

<u>Check #</u>	<u>Date</u>	<u>Vendor</u>	<u>Invoice</u>	<u>Inv Date</u>	<u>Description</u>	<u>Amount Paid</u>	<u>Check Total</u>
137410	11/2/2023	irs01 Voucher: 137410	IRS, UNITED STATES TREASU3rd Qtr 941	10/2/2023	3RD QUARTER 941 AMOUNT	41.19	41.19
Sub total for GENERAL ACCOUNT US BANK:							41.19

1 checks in this report.

Grand Total All Checks:

41.19

Ac 11263



City of Del Mar Agenda Report

TO: Honorable Mayor and City Council Members

FROM: Michael Luna, Special Projects & Programs Manager
Ashley Jones, City Manager

DATE: November 13, 2023

SUBJECT: Lease Agreement with the North County Transit District for Parcel 299-100-33-00 (Trailhead Parking Lot)

REQUESTED ACTION/RECOMMENDATION:

Staff recommends that the City Council approve a ten-year lease agreement with the North County Transit District (NCTD) for Parcel 299-100-3300 (Trailhead Parking Lot) (Attachment A); authorize the City Manager to execute the Lease Agreement; and amend the Fiscal Year (FY) 2023-2024 Operating and Capital Budget as described in the Fiscal Impact Section of this report.

DISCUSSION/ANALYSIS:

The parking lot at the northeast corner of San Dieguito Drive and Jimmy Durante Boulevard consists of a portion of City-owned property and property owned by NCTD. The site was vacated by the previous tenant in 2010 and leased by NCTD to the City in 2013. The parcel has a gross lot area of 29,280 square feet, of which about 4,000 square feet is within the San Dieguito River. With NCTD's permission, the City made improvements to the parcel with the addition of interpretive signage, twenty-nine (29) defined parking spaces (which includes two ADA spaces), and the installation of a park-pay-and-display machine to provide paid public parking for access to the San Dieguito Lagoon and Coast to Crest Trail. Revenue generated from the paid parking is shared between the City of Del Mar and NCTD.

The City Council approved the current ten-year lease agreement with NCTD on June 3, 2013, through Resolution 2013-30. On September 1, 2023, the City Manager executed a one-time amendment extending the lease an additional three (3) months to negotiate a new lease as requested by NCTD pursuant to NCTD Board Policy No. 11 Real Estate (Attachment B). The amended lease will expire on November 30, 2023.

The City desires to provide continued access to the San Dieguito Lagoon and Coast to Crest Trail through the walkway along San Dieguito Road and provide public parking in the area. The parking meter revenue generated over the past ten years has increased significantly with recent development in the area, which has benefited both parties. NCTD has agreed to continue to lease its parcel at the corner of San Dieguito Drive and Jimmy Durante Boulevard for public parking through a new ten-year lease agreement with the City.

City Council Action:

Over the last few months, City and NCTD staff have negotiated a fair market lease for the City’s continued use of the Trailhead Parking Lot, the key deal points for which are summarized in Attachment B. The initial annual rent will start at \$41,040 and be increased on July 1 annually by 3% or Consumer Price Index (CPI), whichever is greater. The cost of annual rent will be credited back to the City through a reduction in the shared parking revenue to be paid to NCTD, as well as a reduction to revenues for the City’s administrative costs related to parking enforcement and processing citations.

The terms and conditions of the newly proposed lease are substantially the same as the current lease agreement. Consistent with the terms of the current lease, the new proposed lease provides that the gross parking revenue (less City operating/maintenance costs) is shared equally between the City and NCTD. Currently, the gross revenue generated from the NCTD parking lot totals approximately \$200,000 annually, of which the City retains approximately \$100,000 as its share of the gross revenue, along with 20% of the gross revenues for costs related to administration (\$40,000) and a credit back to the City of \$41,010 related to rent. A breakdown of how the revenues are distributed is included in Exhibit C to the Lease Agreement (Attachment A). Although the annual rent has increased to the current market rate, as required by NCTD Board Policy No. 11 (Attachment C), the new revenue share structure nets the City approximately the same annual revenue as in the previous lease.

FISCAL IMPACT:

Approval of the lease would require a budget adjustment in the Fiscal Year 2023-2024 Operating and Capital Budget to cover the cost of the rent for the initial year as follows:

PROGRAM	FUND	ACCOUNT	AMOUNT
Property/Equipment Rental	General Fund	01.5632.3600	\$41,040

Revenues for the current and upcoming fiscal year are already included in the approved budget. Staff will include the rental cost for Fiscal Year 2024-2025 in the Budget Update report that will be presented to the City Council in June 2024, and will include subsequent rent costs for the remaining years of the lease in future proposed budgets.

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:

This is an operational item that is unrelated to the City Council Goals and Priorities.

ATTACHMENTS:

- Attachment A – Lease Agreement with NCTD
- Attachment B – Key Lease Deal Points
- Attachment C – NCTD Board Policy No. 11 Real Estate



REAL PROPERTY LEASE

This Lease Agreement ("Lease") is made and entered into as of 1st day of December, 2023 ("Effective Date"), by and between the NORTH COUNTY TRANSIT DISTRICT, a public agency existing under the laws of the State of California, pursuant to California Public Utility Code sections 125000, et seq. ("NCTD" or "Lessor") and CITY OF DEL MAR (Lessee), a charter city and municipal corporation (hereinafter referred to as the "Parties").

ARTICLE 1 – SUMMARY OF BASIC LEASE PROVISIONS

1. Basic Lease Provisions ("Basic Lease Provisions")

1.1. Lessor: NORTH COUNTY TRANSIT DISTRICT

Lessor's Address for Notices:

Real Estate Department
810 Mission Avenue
Oceanside, CA 92054

1.2. Lessee: CITY OF DEL MAR

Lessee's Address for Notices:

City Manager's Office
1050 Camino Del Mar
Del Mar, CA 92014

1.3. Leased Property. Assessors Parcel Number (APN) 299-100-33-00 located at the northeast intersection of Jimmy Durante Boulevard and San Dieguito Drive located in the City of Del Mar, County of San Diego, State of California, consisting of approximately 29,490 square feet, more or less, as defined in Exhibit "A" hereto (the "Property").

1.4. Permitted Use. Lessee shall use the Property for the purpose of public parking for trails and the Del Mar Fairground, along with public access to scenic lagoon views. NCTD and Lessee agree that the primary purpose of the Property will be to increase public access to the San Dieguito Lagoon and the Coast to Crest Trail, and that Lessee is under no obligation to maximize the revenue received from parking operations.

1.5. Term. Rental of the Property shall be for a nine (9) year and seven (7) month term commencing on December 1, 2023 ("Commencement Date") and ending June 30, 2033 ("Expiration Date").

1.6. Annual Rent. The Annual Rent in the amount of \$41,040 per year, payable within thirty (30) days of the first day of each fiscal year (July 1), pursuant to Section 4.1

("Annual Rent"). Annual Rent for the first year (July 1, 2023- June 30, 2024) shall be paid within 30 days of the Effective Date.

- 1.7. **Security Deposit.** No Security Deposit is required.
- 1.8. **Annual Rent Increase.** Annual Rent will be increased annually starting on July 1, 2024, and each July 1 thereafter ("Adjustment Date") by 3.0% or Consumer Price Index for All Urban Consumers, U.S. All items, 1982-84=100 ("CPI"), whichever is greater. On July 1 ("Adjustment Date"), the Annual Rent then in effect shall be multiplied by a fraction the numerator of which shall be the Index published in the two (2) months prior to the Adjustment Date ("Adjustment Index") and the denominator of which shall be the Index published two (2) months prior to the Effective Date, being one (1) year after the Adjustment Index ("Base Index"). The sum so calculated shall constitute the new monthly rent beginning on the Anniversary Date. In no case shall the adjusted Annual Rent be less than the Annual Rent in effect immediately prior to the Adjustment Date.
- 1.9. **Shared Parking Revenue.** NCTD shall be paid annually fifty-percent (50%) of the Gross Parking Revenue earned from parking operations for each fiscal year (July 1 - June 30) by Lessee ("Shared Parking Revenue") less Annual Rent and Lessee Administration Fee. "Gross Parking Revenue" is defined as meter revenue and citation revenue collection at the Property. The "Lessee Administration Fee" takes into account the Lessee's direct administrative costs for parking meter revenue collection and processing, parking enforcement, and maintenance related only to the parking operations on the Property and shall be twenty-percent (20%) of the Gross Parking Revenue collected from parking operations at the Property by Lessee. "Net Revenue" is defined as Gross Parking Revenue collected less the Annual Rent paid each year by Lessee and less the Lessee Administration Fee. In the event the NCTD Net Revenue from Shared Parking Revenue is less than the Annual Rent, the Lessee shall not be required to pay anything additional to NCTD. Shared Parking Revenue shall be paid within one-hundred and twenty (120) days of the close of Lessee's fiscal year and shall include documentation that supports the Gross Revenue collected as well as the Lessee Administration Fee and deduction of Annual Rent. Example of this Calculation is shown in Exhibit "C" attached hereto.
- 1.10. **Utilities and Services Provided by NCTD.** Pursuant to the terms set forth in Article 11, Lessee shall be responsible for the payment of all utilities and services.
- 1.11. **Attachments.** Attachments A through C constitute a part of this Lease as though fully set forth herein.

ARTICLE 2 – PROPERTY

2. **Property.** NCTD leases to Lessee and Lessee leases from NCTD the Property for the term, at the rental, and upon all of the conditions set forth in this Lease.

2.1. **Acceptance of Property.** Lessee accepts the Property in its present physical "as-is" condition, and agrees to make no demands upon NCTD for any improvements or alterations. By signing this Lease, Lessee represents and warrants that Lessee has independently inspected the Property and the area immediately surrounding and made all investigations, tests, and observations necessary to satisfy Lessee as to the condition of the Property, zoning and land use laws, regulations, and ordinances affecting the Property, and all of the conditions, restrictions, encumbrances, and other matters of record relating to the Property. Lessee agrees that Lessee is relying solely on Lessee's independent inspection and that NCTD has made no warranty or representation with regard to the Property except as expressly set forth in this Lease. NCTD shall not be responsible for any latent defect or change in condition in the Property and Lessee's obligations under this Lease shall not be diminished on account of any defect in the Property, any change of condition, or any damages occurring on the Property except as expressly provided in this Lease. Lessee hereby releases NCTD from all future claims, actions, or demands that Lessee may have or may hereinafter have, known and unknown, in any way relating to the quality, fitness, or condition of the Property, and Lessee specifically waives all rights under California Civil Code section 1542, which provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

Lessee Initial: _____

2.2. **Right to Enter.** NCTD and NCTD's agents shall have the right to enter the Property at reasonable times for the purpose of inspecting the Property, performing any services required of NCTD, showing the Property to prospective purchasers, lenders, or Lessees, taking such safety measures as NCTD may reasonably deem necessary or desirable, posting notices of non-responsibility, or making repairs to NCTD's adjacent property and railroad right-of-way, and erecting, using and maintaining of utilities, services, pipes and conduits through the Property and/or other property as long as there is no material adverse effect to Lessee's use of the Property. NCTD will repair any physical damage to the permanent improvements located on the Property resulting from NCTD exercising the rights reserved in this section. Unless the entry is the result of an emergency threatening life, health, or property, NCTD shall first give twenty-four (24) hours notice to Lessee.

- 2.3. **Mineral and Water Rights.** Excepted and reserved from the Property are all minerals and mineral rights, water and water rights of every kind or nature located upon or below the surface of the Property.
- 2.4. **Quiet Possession.** NCTD covenants that, subject to the limitations expressly set forth in this Lease, Lessee, upon Lessee's timely payment of the Annual Rent and Shared Property Revenue and performance of Lessee's covenants and obligations under this Lease, may quietly have, hold and enjoy the Property during the term of this Lease, without hindrance or interruption by NCTD, subject to NCTD's right to enter upon the Property as provided herein.
- 2.5. **Representation.** NCTD has made no representations or warranties, express or implied, with respect to the Property and Lessee shall acquire no rights, easements or licenses in or to the Property by implication or otherwise except as expressly set forth in this Lease. NCTD represents that it has full authority and ability to enter into this Lease.
- 2.6. **Easements.** NCTD reserves to itself the right, from time to time, to grant such easements, rights and dedications that NCTD deems necessary or desirable, and to cause the recordation of parcel maps and restrictions, so long as such easements, rights, dedications, maps and restrictions do not unreasonably interfere with the use of the Property by Lessee. Lessee shall sign any of the aforementioned documents upon request of NCTD and failure to do so shall constitute a material default of this Lease by Lessee without the need for further notice to Lessee.
- 2.7. **Temporary Use.** This Lease and the use of the Property for public parking is temporary in nature. This Lease does not convey any permanent interest in any real property, nor does it confer any right or obligation to any third party, including but not limited to, public access rights under any law, regulation or ordinance of any local, state or federal agency. Should any third party assert such a claim of right, title or interest, Lessee shall defend and indemnify NCTD pursuant to Section 8 of this Lease. Lessee expressly agrees and understands that any removal or relocation of any improvements installed under this Lease, including but not limited to parking, shall be at the Lessee's sole expense, cost and risk.

ARTICLE 3 – TERM

3. **Term.** The term and Commencement Date of this Lease shall be as specified in Article 1.5 of the Basic Lease Provisions.
- 3.1. **Renewal Option.** The Lease may not be renewed.
- 3.2. **Termination Option.** NCTD or Lessee shall have the right to terminate this Lease with thirty (30) days written notice.

ARTICLE 4 – RENT

4. Rent.

- 4.1. **Annual Rent.** Lessee shall pay to NCTD the Annual Rent for the Property within 30 days of the first day of each fiscal year (July 1), with the exception of the initial Annual Rent as set forth in Article 1.6 of the Basic Lease Provisions, without deduction, setoff, prior notice, or demand. Annual Rent for any partial year shall be prorated at the rate of 1/30th of the Annual Rent per day. Rent shall be payable in lawful money of the United States.
- 4.2. **Additional Rent.** All costs and expenses which Lessee assumes or agrees to pay under this Lease, other than the Annual Rent, shall be deemed to be "Additional Rent". If Lessee defaults in the making of any payment required under this Lease, other than the payment of Annual Rent, or defaults in performing any obligation under this Lease that can be performed by the expenditure of money, NCTD may, without obligation to do so, make such payment or expenditure. The amount of such payment or expenditure by NCTD shall be payable by Lessee as Additional Rent upon demand by NCTD. The Annual Rent and Additional Rent are collectively called "Rent."
- 4.3. **Market Reset.** Notwithstanding Article 1.7, the Annual Rent is subject to adjustment on the fifth Anniversary Date (July 1, 2028) and each fifth anniversary thereafter ("Reset Date") to an amount determined by appraisal to be the current fair market value. The cost of the appraisal shall be borne by NCTD. If the cost of an appraisal is not justified by the anticipated compensation, NCTD may choose to use an alternative method to establish the fair market value. In no event shall the adjusted Annual Rent be lower than the Annual Rent in existence immediately preceding the Reset Date. In the event that NCTD elects to adjust the Annual Rent in accordance with this Article 4.3, NCTD shall give Lessee notice of the adjustment not less than thirty (30) days prior to the Reset Date.
- 4.4. **Late Charge.** Lessee acknowledges that late payment by Lessee to NCTD of Annual Rent, Additional Rent, Shared Parking Revenue, or other sums due under this Lease will cause NCTD to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges and late charges which may be imposed on NCTD. Accordingly, if any installment of Annual Rent, Additional Rent, Shared Parking Revenue, or any other sum due from Lessee is not received by NCTD or NCTD's designee within ten (10) days after such amount is due, then, without any requirement for notice from NCTD, Lessee shall pay to NCTD a late charge equal to ten percent (10%) of such overdue amount. The Parties hereby agree that such late charge represents a fair and reasonable estimate of the costs NCTD will incur by reason of late payment by Lessee. Acceptance of such late charge by NCTD shall in no event constitute a waiver of

Lessee's default with respect to such overdue amount, nor prevent NCTD from exercising any of the other rights and remedies granted under this Lease or at law.

4.5. **Payment of Rent.** All Rent shall be made payable to North County Transit District at 810 Mission Avenue, Oceanside, California 92054; provided that NCTD may by written notice to Lessee direct that Rent be made payable to NCTD at such address as NCTD may designate in such notice, or to such other person as NCTD may designate at such address as NCTD may designate in such notice.

4.6. **Failure to Pay Rent.** Failure to pay Rent shall be a non-curable event of default without the necessity of any notice or cure period provided in Article 13. At NCTD's sole discretion, immediately following such a non-curable event of default, NCTD may terminate the Lease and seek any remedy available by this Lease or at law. If Lessee tenders a check, which is dishonored by a banking institution, than the Lessee shall tender cash or cashier's check only for all future payments, which shall continue until such time as written consent is obtained from NCTD. In addition, Lessee shall be liable in the sum of \$25 for each dishonored check that is returned to NCTD.

ARTICLE 5 – PERMITTED USE

5. Use.

5.1. **Permitted Use.** The Property shall be used and occupied only for the purpose set forth in Article 1.4 of the Basic Lease Provisions and for no other purpose.

5.2. **Compliance with Laws.** Lessee shall comply with all applicable laws and regulations concerning the Property or Lessee's use of the Property, including, without limitation, the obligation at Lessee's cost to alter, maintain, or restore the Property, or to construct improvements in or to the Property, in compliance and conformity with all laws and government requirements relating to the condition, use, or occupancy of the Property, or construction or land disturbance activities on the Property, during the term of this Lease, whether foreseen or unforeseen, regardless of cost, and regardless of when during the term the work is required.

5.3. **Hazardous Materials.** Lessee shall not cause or permit any Hazardous Material to be used, stored, transported, generated, or disposed in or about the Property by Lessee, Lessee's agents, employees, contractors, sublessee, licensees, or invitees. "Hazardous Material" means any hazardous, toxic, or infectious substance, material, or waste which is or becomes regulated by NCTD or any local governmental entity, the State of California, or the United States Government under any law, regulation or ordinance regulating or controlling any Hazardous Material (the "Hazardous Materials Laws"), including, without limitation, any material, or substance which is: (i) defined as a "hazardous waste," "extremely

hazardous waste" or "restricted hazardous waste" under California Health and Safety Code §§ 25115, 25117 or 25122.7, or listed pursuant to California Health and Safety Code § 25140, (ii) defined as a "hazardous substance" under California Health and Safety Code § 25316, (iii) defined as a "hazardous material," "hazardous substance" or "hazardous waste" under California Health and Safety Code § 25501 (iv) defined as a "biohazardous waste" under California Health and Safety Code § 117635, (v) petroleum or petroleum product, (vi) asbestos, (vii) designated as a "hazardous substance" pursuant to § 311 of the Federal Water Pollution Control Act, 33 U.S.C. 1251. et seq. (33 U.S.C. § 1317), (viii) defined as a "hazardous waste" pursuant to § 1004 of the Federal Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq. (42 U.S.C. § 6903), or (ix) defined as a "hazardous substance" pursuant to § 101 of the Comprehensive Environmental Response Compensation and Liability Act, 42 U.S.C. § 9601 et seq. (42 U.S.C. § 9601).

5.3.1. Lessee shall immediately notify NCTD in writing of: (i) any enforcement, cleanup, removal or other governmental, or regulatory action instituted, completed or threatened pursuant to any Hazardous Materials Laws; (ii) any claim made or threatened by any person against Lessee, any sublessee, or the Property relating to damage, contribution, cost recovery compensation, loss or injury resulting from or claimed to result from any Hazardous Materials; and (iii) any reports made to any environmental agency arising out of or in connection with any Hazardous Materials in or removed from the Property, including any complaints, notices, warnings, or asserted violations in connection therewith. Lessee shall also supply to NCTD as promptly as possible, and in any event within five (5) business days after Lessee first receives or sends the same, with copies of all claims, reports, complaints, notices, warnings, or asserted violations, relating in any way to the Property or Lessee's use thereof. Lessee shall promptly deliver to NCTD copies of hazardous waste manifests reflecting the legal and proper disposal of all Hazardous Materials removed from the Property.

5.3.2. Lessee shall indemnify, defend (by counsel reasonably acceptable to NCTD), protect, and hold NCTD and each of NCTD's employees, agents, attorneys, successors and assigns, free and harmless from and against any and all claims, liabilities, penalties, forfeitures, losses, or expenses (including attorneys' fees), or death of or injury to any person or damage to any property whatsoever, arising from or caused in whole or in part, directly or indirectly, by: (i) the presence in, on, under or about the Property or discharge in or from the Property, of any Hazardous Materials; (ii) the use, analysis, storage, transportation, disposal, release, threatened release, discharge or generation of Hazardous Materials to, in, on, under, about, or from the Property by Lessee; or (iii) Lessee's failure to comply with any Hazardous Materials Law. Lessee's obligations hereunder shall include, without limitation, and whether foreseeable or unforeseeable, all costs of any required or necessary repair, cleanup or detoxification, or

decontamination of the Property, or the preparation and implementation of any closure, remedial action, or other required plans in connection therewith, and shall survive the expiration or earlier termination of the Lease. For purposes of the release and indemnity provisions hereof, any acts or omissions of Lessee, or by employees, agents, sublessee, assignees, contractors, or subcontractors of Lessee or others acting for or on behalf of Lessee (whether or not they are negligent, intentional, willful, or unlawful) shall be strictly attributable to Lessee.

5.3.3. Upon expiration or earlier termination of the Lease, Lessee shall cause all Hazardous Materials to be removed from the Property and transported for use, storage or disposal in accordance with and compliance with all applicable Hazardous Materials Laws. Lessee shall not take any remedial action in response to the presence of any Hazardous Materials in or about the Property, nor enter into any settlement agreement, consent decree, or other compromise in respect to any claims relating to any Hazardous Materials in any way connected with the Property, without first notifying NCTD of Lessee's intention to do so and affording NCTD ample opportunity to appear, intervene, or otherwise appropriately assert and protect NCTD's interest with respect thereto.

5.4. Storm Water Pollution Prevention: Compliance with Construction General Permit for the Property.

5.4.1. If coverage under the Construction General Permit and/or NCTD MS4 Program requirements (as defined in this Article 6.4.1) pursuant to applicable NCTD, local, state, and federal ordinances, laws, rules and regulations is required, Lessee shall prepare, implement and monitor a Storm Water Pollution Prevention Plan ("SWPPP") that is consistent with the current NCTD SWPPP template and is in compliance with the current Construction General Permit for the purpose of preventing, among other things, the discharge of pollutants into receiving waters. This includes elimination of non-storm water pollution discharges such as improper dumping, spills or leakage from storage tanks or transfer areas. If coverage under the Construction General Permit is required, in addition to the requirements set forth in Article 7.2, Lessee shall not perform or cause to be performed any construction or demolition activities on the Property until Lessee obtains a Waste Dischargers Identification number, as that term is defined in the Construction General Permit. For purposes of this Article 6.4, "Construction General Permit" shall mean the State Water Resources Control Board ("SWRCB") National Pollutant Discharge Elimination System ("NPDES") General Permit for Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction and Land Disturbance Activities, as it may be amended or superseded, (currently Order No. 2012-0006-DWQ); and MS4 Program shall mean the RWQCB issued Phase II Small Municipal Separate Storm Sewer System ("MS4")

Program (currently Order No. 2013-0001-DWQ) as it may be amended or superseded.

- 5.4.2. The Lessee shall prepare, implement and monitor an Erosion and Sediment Control Plan ("ESCP") consistent with the current NCTD ESCP template for the purpose of preventing the discharge of pollutants into receiving waters for all construction or demolition activities performed or caused to be performed by Lessee on the Property for activities not requiring coverage under the Construction General Permit, industrial general permit or an individual National Pollutant Discharge Elimination System permit, including activities that result in a total land disturbance of less than one acre that are not part of a larger common plan of development or sale. This includes elimination of non-storm water pollution discharges such as improper dumping, spills or leakage from storage tanks or transfer areas.
- 5.4.3. Without limiting the provisions set forth in Articles 6.2, 7.2 and Article 8, the Lessee shall comply with the NCTD Storm Water Management Program and all NCTD, local, state and federal ordinances, laws, rules and regulations governing storm water discharges, including but not limited to those associated with construction and demolition activities such as clearing, excavating, grading, demolition and other land disturbances.
- 5.4.4. The Lessee shall pay and be responsible for all fees, as applicable and as required by SWRCB, during the term of this Lease.
- 5.4.5. The Lessee shall submit all SWRCB required documentation, as applicable and including but not limited to Permit Registration Documents, as that term is defined in the Construction General Permit, to the SWRCB through the SWRCB SMARTS online system and shall provide a copy of such documentation and proof of submittal to NCTD.
- 5.4.6. Lessor may approve or disapprove any provision in the Permit Registration Documents or ESCP or proposed work in Lessor's sole and absolute discretion, as set forth further in Article 7.2, and Lessor may require such changes or impose such conditions as Lessor, in its sole and absolute discretion, deems necessary or appropriate. Without limiting the provisions set forth further in this Lease, including but not limited to Article 7.2.1 and Article 8, Lessor and Lessor's employees, consultants, and agents assume no responsibility for and make no representations or warranties, express or implied, as to the Permit Registration Documents or ESCP or Lessee's compliance with the same, including but not limited to the design, condition, workmanship, or adequacy of the drawings, specifications, construction documents, Permit Registration Documents, ESCP or work. No review, comments, requirements, or inspection shall relieve Lessee or Lessee's engineers, contractors, subcontractors, or

consultants from its responsibility under the Construction General Permit, including but not limited to errors or omissions in the drawings, specifications, application, construction documents, Permit Registration Documents or ESCP, or for the quality or adequacy of the work.

5.4.7. As required by NCTD's Phase II MS4 Permit (Order No. 2013-0001-DWQ) ("MS4 Permit"), NCTD may conduct periodic water sampling associated with any drainage facility installed by Lessee within the Easement Area. Lessee shall be required to reimburse NCTD for costs associated with collection, sampling and reporting. NCTD may require Lessee to perform corrective actions, at Lessee's sole cost and expense, in order to meet the requirements of the MS4 Permit.

5.5. Storm Water Pollution Prevention: Compliance with Individual or Industrial National Pollutant Discharge Elimination System Permit for the Property.

5.5.1. If coverage under an industrial general permit or individual National Pollutant Discharge Elimination System (NPDES) permit is required pursuant to applicable NCTD, local, state, and federal ordinances, laws, rules and regulations, Lessee shall obtain such coverage in order to lawfully discharge storm water associated with its activity on the Property, prior to conducting any activity on the Property triggering such permit, and shall comply with the approved permit. Lessee shall submit to Lessor, for review and approval, a draft permit application. Lessor may approve or disapprove any provision or proposed work in Lessor's sole and absolute discretion, as set forth further in Article 7.2, and Lessor may require such changes or impose such conditions as Lessor, in its sole and absolute discretion, deems necessary or appropriate. Without limiting the provisions set forth herein, including but not limited to Article 7.2.1 and Article 8, Lessor and Lessor's employees, consultants, and agents assume no responsibility for and make no representations or warranties, express or implied, as to the application or Lessee's compliance with the permit, including but not limited to the design, condition, workmanship, or adequacy of the drawings, specifications, construction documents, application or work. No review, comments, requirements, or inspection shall relieve Lessee or Lessee's engineers, contractors, subcontractors, or consultants from its responsibility under the NPDES permit, including but not limited to errors or omissions in the drawings, specifications, application, or construction documents, or for the quality or adequacy of the work.

5.6. Rail-related Conditions of Use. Lessee shall not encroach within twenty-five (25) feet of any rail at any time. Lessee shall have no right to cross any rail to access the Property.

**ARTICLE 6 – MAINTENANCE, REPAIRS,
ALTERATIONS AND COMMON AREA SERVICES**

6. Maintenance, Repairs, Alterations and Common Area Services.

6.1. Maintenance and Repairs. Lessee shall keep the Property in good condition and repair; and clean, sanitary, free of debris and graffiti. All graffiti will be removed within 24 hours of Lessee's knowledge of the graffiti. Lessee shall store any garbage and debris in appropriate metal containers.

6.2. Alterations and Additions. Lessee shall not, without NCTD's prior written consent, make any alterations, improvements, additions, Utility Installations in, on or about the Property. "Utility Installation" means tower construction, power panels, electrical distribution systems, lighting fixtures, telephone and telecommunications wiring and equipment. At the termination or expiration of the term of this Lease, NCTD may require in its sole and absolute discretion, the removal of any or all of alterations, improvements, additions, or Utility Installations, (collectively, "Improvements"), and the restoration of the Property to its prior condition, at Lessee's expense.

6.2.1. Lessee shall deliver to NCTD drawings, specifications, and other construction documents for any proposed Improvements, including but not limited to documents as required pursuant to Articles 6.4 and 6.5, all sufficient for NCTD to determine the scope and nature of the proposed Improvements, for NCTD's review and approval to proceed with Improvements. NCTD shall not be liable for and Lessee expressly agrees to indemnify, defend and hold harmless NCTD for any claims made related to design or construction of Improvements in accordance with the Indemnification provision set forth in Article 8. In the event that NCTD approves proceeding with any proposed Improvements, Lessee shall make the Improvements in substantial compliance with the construction documents reviewed by NCTD and in compliance with all applicable federal, State, and local laws, regulations, ordinances, codes, rules, and requirements. Lessee shall obtain all necessary permits and approvals from the applicable governmental agencies and shall furnish a copy thereof to NCTD prior to the commencement of the work. Lessee shall use only a contractor approved by NCTD. NCTD may require Lessee to provide NCTD, at Lessee's sole cost and expense, a lien and completion bond in an amount equal to one and one-half times the estimated cost of such Improvements, to insure NCTD against any liability for mechanic's and materialmen's liens and to insure completion of the work. Should Lessee make any Improvements without the prior approval of NCTD, NCTD may, at any time during the term of this Lease, require Lessee remove any part or all of the same.

- 6.2.2. Lessee shall carry out any construction, expansion and/or development of the Property in conformity with all applicable federal and state labor laws (including, without limitation, if applicable the requirement under California law to pay prevailing wages and to hire apprentices). Lessee shall be solely responsible for determining and effectuating compliance with applicable laws, and NCTD makes no representation as to the applicability or non-applicability of the laws to any construction, expansion and/or development of the Property by Lessee. Lessee expressly acknowledges and agrees that NCTD has not previously represented to the Lessee or its contractor(s), in writing or otherwise, whether the construction, expansion and/or development of the Property is or is not a “public work” as defined by section 1720 of the Labor Code. Lessee shall have the sole obligation to provide any and all disclosures or identification as required by Labor Code section 1781 and any other similar law, as the same may be amended from time to time, if applicable.
- 6.2.3. Lessee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use in the Property. Lessee shall not permit any mechanics' or other liens to be filed against the Property nor against Lessee's Leasehold Interest. If any such lien is filed, Lessee shall cause the lien to be discharged of record, either by payment of the claim or posting and recording the bond contemplated by Civil Code section 3143 or any successor statute, within twenty (20) days after demand by NCTD. Lessee shall indemnify, hold harmless, and defend NCTD from and against any such lien.
- 6.2.4. Lessee shall give NCTD not less than ten (10) days' notice prior to the commencement of any work in the Property by Lessee, and NCTD shall have the right to post notices of non-responsibility in or on the Property as provided by law.
- 6.2.5. Lessee shall reimburse NCTD for all cost incurred as a result of any Improvements including but not limited to plan design review, review of documents pursuant to Articles 6.4 and 6.5, furnishing of any security, flag protection, inspectors, and for performing any work, during the installation of any Improvements.

ARTICLE 7 – EXCULPATION, INSURANCE, AND INDEMNITY

7. Exculpation, Insurance, and Indemnity.

- 7.1. **Exculpation of NCTD.** NCTD shall not be liable to Lessee for any damage to Lessee or Lessee's property from any cause. Lessee waives all claims against NCTD for damage to person or property arising for any reason, except that NCTD shall be liable to Lessee for damage to Lessee resulting from the sole negligence or willful misconduct of NCTD, its Board of Directors, officers, employees,

consultants, contractors and agents. Lessee acknowledges that railroad tracks are located adjacent to the Property and that operation of trains over the tracks does and will produce vibrations and noise levels which may be considered objectionable by Lessee or Lessee's employees, agents, sub-lessees, licensees, or invitees. With knowledge and understanding of these facts, Lessee agrees that no legal action or complaint of any kind whatsoever shall be instituted by Lessee or on Lessee's behalf as result of the vibrations or noise or as the result of the use of the railroad track in general, whether by NCTD or any other railroad operation on the tracks.

7.2. Indemnity. NCTD shall not be liable for, and Lessee shall indemnify, defend and hold NCTD, its Board of Directors, officers, employees, consultants, contractors and agents harmless from and against any and all liabilities or claim of liability, losses, damages, expenses, demands, judgments, fines, mechanics liens or other liens, labor disputes, charges or costs, including defense costs and legal fees and claims for damages of whatsoever character, nature and kind, whether directly or indirectly arising from or connected with an act or omission of Lessee, or an agent, invitee, guest, employee, or anyone in, on, or about the Property, with respect to the Property or the operations or services under this Lease, including, but not limited to: bodily injury, death, personal injury, or property damage caused by negligence, creation or maintenance of a dangerous condition of property, breach of express or implied warranty of product, defectiveness of product, or intentional infliction of harm, including any workers' compensation suits, liability, or expense, arising from or connected with services performed by on behalf of Lessee by any person pursuant to this Lease; nonpayment for labor, materials, or power, performed on, or furnished or contributed to the Property; infringement of a patent or copyright or disclosure of a trade secret; and violation of state and federal antitrust laws; provided, however, that nothing herein shall relieve any party indemnified hereunder from liability to the extent that such liability arises from such party's sole established gross negligence or willful misconduct.

This indemnity shall not require payment of a claim by NCTD or any of its Board of Directors, officers, employees, consultants, contractors or agents as a condition precedent to NCTD's recovery hereunder. Lessee's obligation to indemnify hereunder shall not be restricted to insurance proceeds, if any, received by NCTD and its Board of Directors, officers, employees, consultants, contractors or agents.

Nothing contained herein shall prohibit NCTD, in its sole discretion, from participating in the defense of any demand, claim, action, proceeding, or litigation. In no event shall NCTD's participation in the defense of any demand claim, action, proceeding, or litigation affect the obligations imposed upon Lessee herein.

This and all other Lessee indemnities shall survive the termination of this Lease and shall remain in effect for as long as the underlying claim or action remains viable.

7.3. Insurance. Without limiting Lessee's indemnification obligations to NCTD under this Lease, Lessee shall provide and maintain during the term and for other period required in this Lease, at its sole expense, insurance in the amounts and form specified in Exhibit B, INSURANCE REQUIREMENTS. Lessee shall name NCTD as an additional insured on each of the aforementioned insurance policies and the policies shall state that they are primary and that any policies NCTD maintains shall be noncontributory. Lessee shall provide NCTD with written certificates of insurance evidencing such coverage prior to the Effective Date. Said policies shall expressly provide that the policies shall not be canceled or altered without at least thirty (30) days prior written notice to NCTD. Said policies shall be with insurance companies with an A.M. Best rating of AVII or better. Each policy limit herein shall be increased by Lessee, upon request by NCTD, to the amount NCTD increases its policy limits for other contracts at Lessee's sole cost.

NCTD takes no responsibility for the protection of Lessee's property from acts of vandalism by third parties. The insurance requirements may be changed by NCTD upon giving of notice to Lessee; provided that the requirements set forth in Exhibit B shall be the minimum insurance requirements during the term.

ARTICLE 8 – DAMAGE OR DESTRUCTION

8. Damage or Destruction. If at any time during the term of this Lease the Property is damaged or destroyed then, unless the damage is caused by the negligent or willful act of Lessee (in which event Lessee shall make the repairs at Lessee's expense), NCTD may at NCTD's option either: (i) repair such damage as soon as reasonably possible at NCTD's expense, in which event this Lease shall continue in full force and effect, or (ii) give written notice to Lessee within thirty (30) days after the date of the occurrence of such damage of NCTD's intention to cancel and terminate this Lease as of the date of the occurrence of such damage, in which event this Lease shall terminate as of the date of the occurrence of such damage. In the event NCTD elects to repair or restore the Property, and any part of the Property is not usable for the period during which such damage, repair, or restoration continues, then Annual Rent shall be abated, provided: (1) the damage was not the result of the negligence of Lessee, and (2) such abatement shall only be to the extent the operation and profitability of Lessee's business as operated from the Property is adversely affected. Except for the abatement of Annual Rent, if any, Lessee shall have no claim against NCTD for any damage suffered by reason of any such damage, repair or restoration. NCTD and Lessee waive the provisions of any statutes which relate to termination of leases when leased property is destroyed and agree that such event shall be governed by the terms of this Lease.

ARTICLE 9 – TAXES AND ASSESSMENTS

9. Taxes and Assessments. Lessee shall pay before delinquency any and all real and personal property taxes, general and special assessments, license fees, and other charges of any description including, without limitation, any possessory interest tax,

that are levied and assessed from the commencement of this Lease until the expiration or termination of this Lease against the Property, Lessee's possessory interest in the Property, Lessee's leasehold estate, any subleasehold estate, Improvements located on the Property, or personal property installed or located in or on the Property or Improvements (collectively, "Taxes and Assessments"), to the full extent of the installments of the Taxes and Assessments falling due during the term of this Lease. All payments of Taxes and Assessments shall be made directly to the taxing or charging authority. Lessee shall provide receipts or other proof of payment of the Taxes and Assessments to NCTD prior to the date that the Taxes and Assessments become delinquent.

- 9.1. **Lessee's Right to Contest Taxes and Assessments.** Lessee at its sole cost shall have the right, at any time, to seek a reduction in the assessed valuation of the Property or to contest any Taxes and Assessments that are to be paid by Lessee. If Lessee seeks a reduction of or contests the Taxes and Assessments, the failure on Lessee's part to pay the Taxes and Assessments shall not constitute a default as long as Lessee, before the delinquency date, furnishes to NCTD a surety bond issued by an insurance company qualified to do business in California in an amount equal to one hundred twenty-five percent (125%) of the total amount of Taxes and Assessments in dispute. The bond shall hold NCTD and the Property harmless from any damage arising out of the proceeding or contest and shall insure the payment of any judgment that may be rendered. NCTD shall not be required to join in any proceeding or contest brought by Lessee unless the provisions of any law require that the proceeding or contest be brought by or in the name of NCTD. In that case NCTD shall join in the proceeding or contest or permit it to be brought in NCTD's name as long as NCTD is not required to bear any cost. Lessee, on final determination of the proceeding or contest, shall immediately pay or discharge any decision or judgment rendered, together with all costs, charges, interest, and penalties incidental to the decision or judgment.
- 9.2. **Transfer Taxes.** If a transfer tax is payable to any governmental agency or agencies as a result of this Lease, Lessee shall pay such transfer tax directly to the taxing authority or authorities when it is due.
- 9.3. **Possessory Interest Tax Notice.** Lessee acknowledges that NCTD has given notice to Lessee that the property interest created by this Lease may be subject to property taxation pursuant to Revenue and Taxation Code § 107.6 or other statutes, and that Lessee may be subject to the payment of property taxes levied on the possessory interest created by this Lease.
- 9.4. **Indemnification.** NCTD shall not be liable for, and Lessee shall indemnify, defend and hold NCTD and its Board of Directors, officers, employees, consultants, contractors and agents and the Property and any Improvements now or hereafter located on the Property free and harmless from any claims, demands, liabilities, judgments, fines, losses, damages, expenses, charges or

costs of any kind or character, including attorneys' fees and court costs, resulting from any Taxes and Assessments required by this Article to be paid by Lessee, and from all interest, penalties, and other sums imposed thereon, and from any sale or other proceeding to enforce collection of any Taxes and Assessments.

- 9.5. **Payment by NCTD.** Should Lessee fail to pay within the time specified in this Article any Taxes and Assessments required by this Article to be paid by Lessee, NCTD may, without notice to or demand on Lessee, pay, discharge, or adjust said Taxes and Assessments for the benefit of Lessee. In such event, Lessee shall reimburse NCTD pursuant to Article 4.2.

ARTICLE 10 – UTILITIES AND SERVICES

10. **Utilities and Services.** Except as set forth in Article 1.9 of the Basic Lease Provisions, Lessee shall arrange for and pay before delinquency all charges for utilities, including water, sewer, gas, electric, heat, air conditioning, light, telephone, and communications, and all garbage, landscaping, janitorial, security, and other services that are necessary or convenient for Lessee's use of the Property. Lessee hereby acknowledges that NCTD shall have no obligation whatsoever to provide guard service or other security measures for the benefit of the Property. Lessee assumes all responsibility for the protection of Lessee, its agents, and invitees and the property of Lessee and of Lessee's agents and invitees from acts of third parties.

ARTICLE 11 – ASSIGNMENT AND SUBLETTING

11. Assignment and Subletting.

- 11.1. **NCTD's Consent Required.** Lessee shall not voluntarily or by operation of law assign, transfer, mortgage, sublet or otherwise transfer or encumber all or any part of Lessee's interest in the Lease or in the Property, without NCTD's prior written consent. Any attempted assignment, transfer, mortgage, encumbrance or subletting without such consent shall be void, and shall constitute a material default and breach of this Lease without the need for notice to Lessee under Article 13.1. "Transfer" within the meaning of this Article 12 shall include the transfer or transfers aggregating: (a) if Lessee is a corporation, more than twenty-five percent (25%) of the voting stock of such corporation, or (b) if Lessee is a partnership, more than twenty-five percent (25%) of the profit and loss participation in such partnership.

- 11.2. **Lessee Affiliate.** Notwithstanding the provisions of Article 12.1 hereof, Lessee may assign or sublet the Property, or any portion thereof, without NCTD's consent, to any corporation which controls, is controlled by or is under common control with Lessee, or to any corporation resulting from the merger or consolidation with Lessee, or to any person or entity which acquires all the assets of Lessee as a going concern of the business that is being conducted on the Property, all of which are referred to as "Lessee Affiliate," provided that before

such assignment shall be effective, (a) the proposed assignee shall assume, in full, the obligations of Lessee under this Lease and (b) NCTD shall be given written notice of such assignment and assumption. Any such assignment shall not, in any way, affect or limit the liability of Lessee under the terms of this Lease even if after such assignment or subletting the terms of this Lease are materially changed or altered without the consent of Lessee, the consent of whom shall not be necessary.

11.3. Terms and Conditions Applicable to Assignment and Subletting.

11.3.1. NCTD reserves the right to condition any approval to assign or sublet upon NCTD's determination that (a) the proposed assignee or sub-lessee will conduct a business on the Property of a quality substantially equal to that of Lessee, and (b) the proposed assignee or sub-lessee is at least as financially responsible as Lessee was at the time of the execution of this Lease or is of the date of such assignment or subletting, whichever is greater.

11.3.2. Regardless of NCTD's consent, no assignment or subletting shall release Lessee or Lessee's obligations hereunder or alter the primary liability of Lessee to pay the Rent, Shared Parking Revenue, and other sums due NCTD hereunder and to perform all other obligations to be performed by Lessee hereunder.

11.3.3. NCTD may accept Rent from any person other than Lessee pending approval or disapproval of such assignment.

11.3.4. Neither a delay in the approval or disapproval of such assignment or subletting, nor the acceptance of Rent, shall constitute a waiver or estoppel of NCTD's right to exercise its remedies for the breach of any of the terms of conditions of this Article 12 of this Lease.

11.3.5. If Lessee's obligations under this Lease have been guaranteed by third parties, then an assignment or sublease, and NCTD's consent thereto, shall not be effective unless the guarantors give their written consent to such assignment or sublease and the terms thereof.

11.3.6. The consent by NCTD to any assignment or subletting shall not constitute consent to any subsequent assignment or subletting by Lessee or to any subsequent or successive assignment or subletting by the sub-lessee. However, NCTD may consent to subsequent sublettings and assignments of the sublease or any amendments or modifications thereto without notifying Lessee or anyone else liable on the Lease or sublease and without obtaining their consent and such action shall not relieve such persons from liability under the this Lease or the sublease; however, such persons shall not be responsible to the extent any such amendment or

modification enlarges or increases the obligations of the Lessee or sub-lessee under this Lease or such sublease.

11.3.7. In the event of any default under this Lease, NCTD may proceed directly against Lessee, any guarantors, or anyone else responsible for the performance of this Lease, including the sub-lessee, without first exhausting NCTD's remedies against any other person or entity responsible therefor to NCTD, or any security held by NCTD or Lessee.

11.3.8. NCTD's written consent to any assignment or subletting of the Property by Lessee shall not constitute an acknowledgment that no default then exists under this Lease of the obligations to be performed by Lessee nor shall such consent be deemed a waiver of any then existing default, except as may be otherwise stated by NCTD at the time.

11.3.9. The discovery of the fact that any financial statement relied upon by NCTD in giving its consent to an assignment or subletting was materially false shall, at NCTD's election, render NCTD's consent null and void.

11.4. Additional Terms and Conditions Applicable to Subletting. Regardless of NCTD's consent, the following terms and conditions shall apply to any subletting by Lessee of all or any part of the Property and shall be deemed included in all subleases under this Lease whether or not expressly incorporated therein.

11.4.1. Lessee hereby assigns and transfers to NCTD all of Lessee's interest in all rentals and income arising from any sublease heretofore or hereafter made by Lessee, and NCTD may collect such Rent and income and apply same toward Lessee's obligations under this Lease; provided, however, that until a default shall occur in the performance of Lessee's obligations under this Lease, Lessee may receive, collect and enjoy the Rents accruing under such sublease. NCTD shall not, by reason of this or any other assignment of such sublease to NCTD nor by reason of the collection of the Rents from a sub-lessee, be deemed liable to the sub-lessee for any failure of Lessee to perform and comply with any of Lessee's obligations such sublessee under such sublease. Lessee hereby irrevocably authorizes and directs any such sub-lessee, upon receipt of a written notice from NCTD stating that a default exists in the performance of Lessee's obligations under this Lease, to pay to NCTD the Rents due and to become due under the sublease. Lessee agrees that such sub-lessee shall have the right to rely upon any such statement and request from NCTD, and that such sub-lessee shall pay such Rents to NCTD without any obligation or right to inquire as to whether such default exists and notwithstanding any notice from or claim from Lessee to the contrary. Lessee shall have no right or claim against the sub-lessee or NCTD for any such Rents so paid by the sub-lessee to NCTD.

11.4.2. No sublease entered into by Lessee shall be effective unless and until it has been approved in writing by NCTD. In entering into any sublease, Lessee shall use only such form of sublease as is satisfactory to NCTD, and once approved by NCTD, such sublease shall not be changed or modified without NCTD's prior written consent. Any sublease shall, by reason of entering into a sublease under this Lease, be deemed, for the benefit of NCTD, to have assumed and agreed to conform and comply with each and every obligation herein to be performed by Lessee other than such obligations as are contrary to and or inconsistent with provisions contained in a sublease to which NCTD has expressly consented in writing.

11.4.3. In the event Lessee shall default in the performance of its obligations under this Lease, NCTD at its option and without any obligations to do so, may require any sub-lessee to attorn to NCTD, in which event NCTD shall undertake the obligations of Lessee under such sublease from the time of the exercise of said option to the termination of such sublease; provided, however, NCTD shall not be liable for any prepaid Rents paid by such sub-lessee to Lessee or for any other prior defaults of Lessee under such sublease.

11.4.4. No sub-lessee shall further assign or sublet all or any part of the Property without NCTD's prior written consent.

11.5.NCTD's Expenses. In the event Lessee shall assign or sublet the Property or request the consent of NCTD to any assignment or subletting or if Lessee shall request the consent of NCTD for any act Lessee proposes to do then Lessee shall pay NCTD's processing fee and all reasonable or actual costs and expenses incurred in connection therewith, including attorneys', architects', engineers' or other consultants' fees.

ARTICLE 12 – DEFAULT AND REMEDIES

12. Default; Remedies.

12.1.Lessee's Default. The occurrence of any of the following shall constitute a default by Lessee:

12.1.1. The failure of Lessee to pay Annual Rent when or any other amounts due to NCTD hereunder, and said default shall continue for ten (10) days after the same becomes due.

12.1.2. The abandonment and vacation of the Property.

12.1.3. The bankruptcy or insolvency of Lessee, Lessee's making of an assignment for the benefit of creditors or institution of a proceeding under

the Bankruptcy Act in which Lessee is the bankrupt; or, if Lessee is a partnership or consists of more than one person or entity, the occurrence of any of the foregoing with respect to any partner of the partnership or other person or entity.

- 12.1.4. The levy of a writ of attachment or execution on this Lease.
- 12.1.5. The appointment of a receiver with authority to take possession of the Property in any proceeding or action to which Lessee is a party.
- 12.1.6. Any assignment or subletting by Lessee in violation of the provisions of Article 12 of this Lease.
- 12.1.7. The failure by Lessee to perform any other provision of this Lease if the failure to perform is not cured within thirty (30) days after notice has been given to Lessee, or, if the default cannot reasonably be cured within thirty (30) days, then within such additional time period, not to exceed one hundred twenty (120) days, as is reasonably necessary to cure such default provided that Lessee commences to cure the default within the thirty (30) day period and diligently and in good faith continues to cure the default.

12.2. NCTD's Remedies. NCTD shall have the following remedies if Lessee commits a default. These remedies are not exclusive; they are cumulative in addition to any remedies now or later allowed by law.

- 12.2.1. NCTD may continue this Lease in full force and effect, and the Lease will continue in effect until the Expiration Date as long as NCTD does not terminate Lessee's right to possession, and NCTD shall have the right to collect Rent when due. During the period Lessee is in default, NCTD can enter the Property and relet them, or any part of them, to third parties for Lessee's account. Lessee shall be liable immediately to NCTD for all costs NCTD incurs in reletting the Property, including, without limitation, brokers' commissions, expenses of remodeling the Property required by the reletting, and like costs. Reletting can be for a period shorter or longer than the remaining term of this Lease. Lessee shall pay to NCTD the Rent due under this Lease on the dates the Rent is due, less the rent NCTD receives from any reletting. No act by NCTD allowed by this Article shall terminate this Lease unless NCTD notifies Lessee that NCTD elects to terminate this Lease. After Lessee's default and for as long as NCTD does not terminate Lessee's right to possession of the Property, if Lessee obtains NCTD's consent Lessee shall have the right to assign or sublet its interest in this Lease, but Lessee shall not be released from liability. NCTD's consent to a proposed assignment or subletting shall not be unreasonably withheld. If NCTD elects to relet the Property as provided in this Article, Rent that NCTD receives from reletting shall be applied to

the payment of: (1) any indebtedness from Lessee to NCTD other than Rent due from Lessee; (2) all costs, including for maintenance, incurred by NCTD in reletting; and (3) Rent due and unpaid under this Lease. After deducting the payments referred to in this Article, any sum remaining from the Rent NCTD receives from reletting shall be held by NCTD and applied in payment of future Rent as rent becomes due under this Lease. In no event shall Lessee be entitled to any excess Rent received by NCTD. If, on the date Rent is due under this Lease, the Rent received from the reletting is less than the Rent due on that date, Lessee shall pay to NCTD, in addition to the remaining Rent due, all costs, including for maintenance, NCTD incurred in reletting that remain after applying the Rent received from the reletting as provided in this Article.

12.2.2. NCTD may terminate Lessee's right to possession of the Property at any time. No act by NCTD other than giving notice to Lessee shall terminate this Lease. Acts of maintenance, efforts to relet the Property, or the appointment of a receiver on NCTD's initiative to protect NCTD's interest under this Lease shall not constitute a termination of Lessee's right to possession. On termination, NCTD has the right to recover from Lessee:

- (a) The worth, at the time of termination, of the unpaid Rent that had been earned at the time of termination of this Lease;
- (b) The worth, at the time of termination, of the amount by which the unpaid Rent that would have been earned after the date of termination of this Lease until the time of award exceeds the amount of the loss of Rent that Lessee proves could have been reasonably avoided;
- (c) The worth, at the time of the termination, of the amount by which the unpaid Rent for the balance of the Lease term after the time of award exceeds the amount of the loss of Rent that Lessee proves could have been reasonably avoided;
- (d) Any other amount, and court costs, necessary to compensate NCTD for all detriment proximately caused by Lessee's default; and
- (e) "The worth, at the time of the termination," as used in (a) and (b) of this Article 13.2.2, is to be computed by allowing interest at the maximum rate an individual is permitted by law to charge. "The worth, at the time of the termination," as referred to in (c) of this Article 13.2.2, is to be computed by discounting the amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of the award, plus one percent (1%).

12.2.3. NCTD, at any time after Lessee commits a default, may, but shall have no obligation to cure the default at Lessee's cost. If NCTD at any

time, by reason of Lessee's default, pays any sum or does any act that requires the payment of any sum, the sum paid by NCTD shall be due immediately from Lessee to NCTD at the time the sum is paid, and if paid at a later date shall bear interest at the maximum rate an individual is permitted by law to charge from the date the sum is paid by NCTD until NCTD is reimbursed by Lessee. The sum, together with interest on it, shall be Additional Rent.

12.3.NCTD's Default. NCTD shall be in default under this Lease if NCTD fails or refuses to perform any provision of this Lease that NCTD is obligated to perform if the failure to perform is not cured within thirty (30) days after notice of the default has been given by Lessee to NCTD. If the default cannot reasonably be cured within thirty (30) days, NCTD shall not be in default under this Lease if NCTD commences to cure the default within the thirty (30) day period and diligently and in good faith continues to cure the default. If NCTD is in default under this Lease and, as a consequence, Lessee recovers a monetary judgment against NCTD, the judgment shall be limited to the Annual Rent , Additional Rent (if applicable), and Shared Parking Revenue at the time of judgement or termination.

12.4.Delays in Performance; Force Majeure. The time within which the Parties hereto shall be required to perform any act under this Lease, other than the payment of money, shall be extended by a period of time equal to the number of days during which performance of such act is delayed due to an act of God, fire, earthquake, flood, explosion, war, invasion, insurrection, riot, mob violence, or any other cause similar to the foregoing.

ARTICLE 13 - CONDEMNATION

13. Condemnation. If the whole of the Property is acquired or condemned by eminent domain, inversely condemned, or sold in lieu of condemnation, for any public or quasi-public use or purpose ("Eminent Domain"), then this Lease shall terminate as of the date of title vesting in such proceeding and the Rent shall be adjusted to the date of termination. If any part of the Property is acquired or condemned by Eminent Domain and such partial condemnation renders the Property unusable for the business of the Lessee, then this Lease shall terminate as of the date of title vesting in such proceeding and Rent shall be adjusted to the date of termination. If such condemnation is not extensive enough to render the Property unusable for the business of Lessee, then this Lease shall continue in full force and effect, except that after the date of such title vesting the Annual Rent shall be reduced to the extent that the area of the Property is reduced.

13.1.Division of Condemnation Award. If the Property and improvements on the Property are acquired or condemned in whole or in part by Eminent Domain, then the award paid for such condemnation shall be the property of NCTD, whether

such award shall be made as compensation for diminution in value of the leasehold or for the taking of the fee, or as severance damages.

13.2. Lessee's Award. Lessee shall have the right to claim and recover from the condemning authority, but not from NCTD, such compensation as may be separately awarded or recoverable by Lessee's own right on account of any and all costs or loss (including loss of business) to which Lessee might be put in removing Lessee's merchandise, furniture, fixtures, leasehold improvements, and equipment and moving Lessee's business to a new location, provided that Lessee's award shall in no event reduce the amount of the award paid to NCTD.

13.3. Waiver of CCP § 1265.130. Each party waives the provisions of Code of Civil Procedure § 1265.130 allowing either party to petition the superior court to terminate this Lease in the event of a partial taking of the Property.

ARTICLE 14 – BROKERS' FEES

14. Brokers' Fees. Lessee and NCTD each represent and warrant to the other that neither has had any dealings with any person, firm, broker or finder in connection with the negotiation of this Lease and/or the consummation of the transaction contemplated hereby, and no broker or other person, firm or entity is entitled to any commission or finder's fee in connection with this Lease or transaction. Lessee and NCTD do each hereby indemnify and hold the other harmless from and against any costs, expenses, attorneys' fees or liability for compensation or charges which may be claimed by any broker, finder or other similar party by reason of any dealings or actions of the indemnifying party.

ARTICLE 15 – SURRENDER OF PROPERTY

15. Surrender of Property. On the last day of the term of this Lease, or on any sooner termination, Lessee shall surrender the Property to NCTD in the same condition as received, ordinary wear and tear excepted, clean and free of debris. Any damage or deterioration of the Property shall not be deemed ordinary wear and tear if the same could have been prevented by good maintenance practices by Lessee. Lessee shall also remove all of Lessee's trade fixtures, alterations, furnishings, equipment, and personal property from the Property and shall repair any damage to the Property occasioned by the installation or removal of Lessee's trade fixtures, alterations, furnishings, equipment, and personal property. On the expiration of this Lease, Lessee shall surrender to NCTD the Property and all improvements on the Property in good condition within the time periods stated in this Article.

ARTICLE 16 – SALE, TRANSFER OR ENCUMBRANCE OF PROPERTY

16. Sale, Transfer, or Encumbrance of Property.

- 16.1. **Sale or Transfer.** If NCTD sells or transfers all or any portion of the Property, NCTD, on consummation of the sale or transfer, shall be released from any liability thereafter accruing under this Lease. If any prepaid Rent has been paid by Lessee, NCTD can transfer the prepaid Rent to NCTD's successor and on such transfer NCTD shall be discharged from any further liability in reference to the prepaid Rent.
- 16.2. **Encumbrance of Property by NCTD.** This Lease is and shall be prior to any encumbrance recorded after the date of this Lease affecting NCTD's interest in the Property. If, however, a lender requires that this Lease be subordinate to any such encumbrance, this Lease shall be subordinate to that encumbrance if NCTD first obtains from the lender a written agreement that provides that, as long as Lessee performs Lessee's obligations under this Lease, no foreclosure of, deed given in lieu of foreclosure of, or sale under the encumbrance, and no steps or procedures taken under the encumbrance, shall affect Lessee's rights under this Lease. Lessee shall attorn to any purchaser at any foreclosure sale, or to any grantee or transferee designated in any deed given in lieu of foreclosure. Lessee shall execute the written agreement and any other documents required by the lender to accomplish the purposes of this Article.
- 16.3. **Estoppel Certificate.** Lessee, within ten (10) days after notice from NCTD, shall execute and deliver to NCTD or NCTD's designee a certificate stating that this Lease is unmodified and in full force and effect, or in full force and effect as modified, stating the modifications. The certificate also shall state the amount of Annual Rent, the dates to which the Rent has been paid in advance, and the amount of any prepaid Rent. If Lessee fails to deliver the certificate within the ten (10) days, Lessee irrevocably constitutes and appoints NCTD as Lessee's special attorney-in-fact to execute and deliver the certificate to any third party, and such third party shall be entitled to rely upon the certificate executed by NCTD.
- 16.4. **Relocation Assistance Benefits.** Lessee is informed and acknowledges the following:
- 16.4.1. By entering into this Lease and becoming a tenant of NCTD, Lessee may become entitled to receipt of "relocation assistance benefits" ("Relocation Benefits") pursuant to the Federal Uniform Relocation Assistance Act (42 U.S.C. § 4601 et seq.) and/or the California Relocation Assistance Law (Cal. Gov. Code § 7270 et seq.) (collectively, the "Relocation Statutes"), should NCTD at some time make use of the Property in such a way as to "displace" Lessee from the Property. Pursuant to the Relocation Statutes, NCTD may then become obligated to make payments to Lessee even where the displacement of Lessee does not otherwise constitute a breach or default by NCTD of its obligations pursuant to this Lease.

Under the Relocation Statutes in effect as of the Effective Date of this Lease, Relocation Benefits may include payment to a “displaced person” of (i) the actual and reasonable expense of moving himself or herself and a family, business, or farm operation, including personal property, (ii) the actual direct loss of reestablishing a business or farm operation, but not to exceed twenty-five thousand dollars (\$25,000), or (iii) payment in lieu of moving expenses of not less than one thousand dollars (\$1,000) or more than forty thousand dollars (\$40,000).

16.4.2. Lessee’s Waiver and Release of Relocation Benefits. In consideration of NCTD’s agreement to enter into this Lease, Lessee waives any and all rights it may now have, or may subsequently obtain, to Relocation Benefits arising out of NCTD’s assertion or exercise of its contractual rights to terminate this Lease pursuant to its terms, whether or not the rights are contested by Lessee or any other entity, and releases NCTD from any liability for payment of Relocation Benefits. Lessee does not waive its rights to Relocation Benefits to the extent that Lessee’s entitlement to Relocation Benefits may arise out of any condemnation or pre-condemnation actions taken by NCTD or any other public agency with respect to the Property. Lessee shall in the future execute any further documentation of the release and waiver provided by this Article as reasonably required by NCTD.

ARTICLE 17 - NOTICE

17. **Notices.** Any notice required or permitted to be given hereunder shall be in writing and may be given by personal delivery or by certified or registered mail, and shall be deemed sufficiently given if delivered or addressed to Lessee at the address in Article 1.1 of the Basic Lease Provisions or to NCTD at 810 Mission Avenue, Oceanside, CA 92054, Attention: Real Estate Department. Mailed notices shall be deemed given upon actual receipt at the address required, or forty-eight (48) hours following deposit in the mail, postage prepaid, whichever first occurs. Either party may by notice to the other specify a different address for notice purposes. A copy of all notices required or permitted to be given to NCTD hereunder shall be concurrently transmitted to such party or parties at such addresses as NCTD may from time to time hereafter designate by notice to Lessee.

ARTICLE 18 - NONDISCRIMINATION

18. **Nondiscrimination.** Lessee herein covenants by and for itself, its successors and assigns, and all persons claiming under and through Lessee, and this Lease is made and accepted and subject to the following conditions: There shall be no discrimination against or segregation of any person or group of persons, on account of sex, marital status, race, color, religion, creed, ancestry, disability, medical condition, genetic information, sexual orientation, gender identity or national origin in the leasing, subleasing, renting, transferring, use, occupancy, tenure, or enjoyment of Property

nor shall Lessee itself, or any person claiming under or through Lessee, establish or permit such practice or practices of discrimination or segregation with reference to the selection, location, number, or occupancy of Lessees, lessees, or vendees in the Property.

ARTICLE 19 – GENERAL PROVISIONS

19. General Provisions.

- 19.1. **Waiver.** No delay or omission in the exercise of any right or remedy of NCTD on any default by Lessee shall impair such a right or remedy or be construed as a waiver. The receipt and acceptance by NCTD of delinquent Rent shall not constitute a waiver of any other default; it shall constitute only a waiver of timely payment for the particular Rent payment involved. NCTD's consent to or approval of any act by Lessee requiring NCTD's consent or approval shall not be deemed to waive or render unnecessary NCTD's consent to or approval of any subsequent act by Lessee. Any waiver by NCTD of any default must be in writing and shall not be a waiver of any other default concerning the same or an' other provision of this Lease.
- 19.2. **Continuing Control.** Lessee acknowledges that the Property is used in connection with NCTD's public purpose and other services to the public, and agrees that such uses by NCTD are superior in all respects to all uses by Lessee. Lessee's use of the Property must not in any way interfere with NCTD's continuing control over the Property or NCTD's expressed continued ability to carry out its functions. NCTD shall have the right without further liability to Lessee to terminate this Lease upon six-months written notice from NCTD (or less if six (6)-months' notice cannot be reasonably given) in order to maintain continuing control over the Property or NCTD's expressed continued ability to carry out its functions.
- 19.3. **Time of Essence.** Time is of the essence for each and every provision of this Lease.
- 19.4. **Successors.** This Lease shall be binding on and inure to the benefit of the Parties and their successors and assigns, except as may otherwise be provided in this Lease.
- 19.5. **Modification.** This Lease cannot be amended or modified except by a written agreement signed by both Parties.
- 19.6. **Singular and Plural.** When required by the context of this Lease, the singular shall include the plural.
- 19.7. **Joint and Several Obligations.** If NCTD or Lessee is more than one person or entity, the obligations imposed on that party shall be joint and several.

- 19.8. **Severability.** The unenforceability, invalidity, or illegality of any provision shall not render the other provisions unenforceable, invalid, or illegal.
- 19.9. **Captions.** The captions, headings and index appearing in this Lease are inserted for convenience only and in no way define, limit, construe, or describe the scope or intent of the provisions of this lease.
- 19.10. **Lease Administration.** This Lease shall be administered on behalf of NCTD by the Chief Development Services Officer or a designee (collectively, the “NCTD Lease Administrator”), and on behalf of Lessee by the City Manager or by another person designated in writing by Lessee (collective the “Lessee’s Lease Administrator”).
- 19.11. **NCTD Approval.** Except where stated in this Lease to the contrary, the phrases “NCTD approval”, and “NCTD written approval” or similar phrases shall mean approval of the NCTD Lease Administrator.
- 19.12. **Lessee’s Lease Administrator.** Lessee confirms that Lessee’s Lease Administrator has been given full operational responsibility for compliance with the terms of this Lease. Lessee shall provide NCTD with written schedule of its normal hours of business operations on the Property, and Lessee’s Lease Administrator or a representative designated by Lessee shall be (i) available to NCTD on a twenty-four (24) hour a day, seven (7) days a week, basis, and (ii) present on the Property during Lessee’s normal business hours, to resolve problems or answer questions pertaining to this Lease and Lessee’s operations on the Property.
- 19.13. **Business Days.** The term “business days” as used in this Lease means any calendar day other than a Saturday, Sunday, or official NCTD holiday.
- 19.14. **Cumulative Remedies.** If a default under this Lease occurs, each party’s remedies shall be limited to those remedies set forth in this Lease. The remedies under this Lease are cumulative and not exclusive of any other remedies under this Lease to which the non-defaulting party may be entitled.
- 19.15. **Entire Agreement.** This Lease, together with all attached addenda, exhibits and riders attached to this Lease, constitutes the entire agreement between NCTD and Lessee with respect to the subject matter of this Lease, and all prior or contemporaneous agreements, understandings and representations, oral or written, are superseded.
- 19.16. **Governing Law and Venue.** This Lease shall be governed, construed and enforced in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Lease, the action shall be brought

in a State or Federal court situated in the County of San Diego, State of California.

- 19.17. **Public Document.** Lessee acknowledges that this Lease and all documents relating hereto are “public records” (as defined in section 6252(e) of the California Government Code), except for any documents relating to Tenant’s financial condition or otherwise exempt from such status pursuant to law, and that public records, with limited exemptions, are subject to public disclosure pursuant to the provisions of California Government Code, commencing with section 6250.
- 19.18. **Interpretation.** The language of this Lease shall be construed simply according to its plain meaning and shall not be construed for or against either party.
- 19.19. **Authority.** If Lessee is a corporation, trust, or general or limited partnership, Lessee, and each individual executing this Lease on behalf of such entity represent and warrant that such individual is duly authorized to execute and deliver this Lease on behalf of said entity. If Lessee is a corporation, trust or partnership, Lessee shall, deliver to NCTD evidence of such authority satisfactory to NCTD.
- 19.20. **Counterparts.** This instrument may be executed in any number of counterpart copies, each of which counterpart copy shall be deemed an original for all purposes.

LESSOR:
North County Transit District

LESSEE:
City of Del Mar

By: _____
Tracey Foster, Chief Development
Services Officer

By: _____
Ashley Jones, City Manager

Date: _____

Date: _____

Approved as to Form and Legality

By: _____
Lori A. Winfree, General Counsel

EXHIBIT A – PROPERTY DESCRIPTION



EXHIBIT A
NCTD LEASE AGREEMENT
AUGUST 26, 2013

LEGEND
LEASE AGREEMENT AREA

\\PDATA\35106629\CADD\LAND\EXHIBITS\0629-NCTD TRAIL EXHIBIT 08-26-13.DWG ESAMPSON 8/26/13 4:24 pm

EXHIBIT B – INSURANCE REQUIREMENTS

Without limiting Lessee's indemnification of NCTD as provided herein, Lessee shall provide and maintain at its own expense during the term of this Lease the below listed and described policies of insurance covering its operations hereunder. Evidence of such insurance satisfactory to NCTD along with required endorsements will be delivered to NCTD concurrent with execution of this Lease. Such evidence shall include certificate of insurance (Acord Form 25-S or equivalent). All evidence of insurance shall be issued by a properly authorized officer, agent or qualified representative of the insurer and shall certify the names of the insured, any additional primary insureds, where appropriate, the type and amount of the insurance coverage, the location and operations to which the insurance applies and the expiration date.

1. **General Liability:** Lessee shall provide and maintain the following commercial and general liability insurance:
 - A. Lessee shall maintain limits of no less than one million dollars (\$1,000,000) per occurrence for bodily injury, personal injury and property damage, including injury or damage. The general liability policies are to be endorsed to contain the following provisions:
 - a. NCTD, its Board of Directors, officers, employees, consultants, contractors and agents are to be covered as additional insureds as respects liability arising out of the Property/Right-of-Way Leased by Lessee. The coverage shall contain no special limitations on the scope of protection afforded to NCTD, its Board of Directors, officers, employees, consultants, contractors and agents.
 - b. For any claims related to this Lease, Lessee's insurance shall be primary insurance as respects to NCTD, its Board of Directors, officers, employees, consultants, contractors and agents. Any insurance, pooled coverage or self-insurance maintained by NCTD, its Board of Directors, officers, employees, consultants, contractors and agents shall not be contributory.
 - c. Lessee's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
 - d. The liability insurance shall indemnify the Lessee and its contractors against loss from liability imposed by law upon, or assumed under contract by the Lessee or its contractors for damages on account of such bodily injury

(including death), property damage, personal injury and completed operations and products liability.

- e. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to NCTD, its Board of Directors, officers, employees, consultants, contractors or agents.
 - f. The insurance shall be provided on a policy form written by underwriters through an agency satisfactory to NCTD, which includes a cross-suit clause, and covers bodily injury and property damage liability, owned and non-owned vehicles and equipment, blanket contractual liability and completed operations liability.
3. All policies required shall be issued by insurance companies who are rated not less than "A VII" by the latest A. M. Best Company Key Rating Guide, who are authorized to transact business in California.
 4. NCTD makes no representation that the limits or forms of coverage of insurance specified in this section are adequate to cover Lessee's property or obligations under this Lease. NCTD reserves the right to raise or lower limit requirements at the time of request, based upon the scope of work.
 5. Prior to execution of this Lease, Lessee shall file with NCTD a certificate of insurance signed by the insurer's representative. Such evidence shall also include confirmation that coverage includes or has been modified to include required provisions as set forth herein. Lessee shall upon the reasonable demand of NCTD, deliver to NCTD such policy or policies of insurance. Each insurance policy required by this clause shall state or be endorsed to state that coverage shall not be amended or cancelled, except after thirty (30) days prior notice by U.S. mail has been given to NCTD.
 6. If any insurance coverage is canceled or reduced, Lessee shall, within ten (10) days after receipt of written notice of such cancellation or reduction of coverage, file with NCTD a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies, and said policy shall be submitted for approval as herein provided. At least fifteen (15) days prior to the expiration of any such policy, a certificate, showing that the insurance coverage has been renewed or extended, shall be filed with NCTD.
 7. Every contractor or subcontractor of Lessee entering upon, using or performing any work upon the Right-of-Way/Property by or on behalf of Lessee shall provide evidence of insurance required herein prior to entering upon the Right-of-Way/Property.

8. NCTD reserves the right to increase the limits for the insurance required herein to amounts recommended by NCTD's insurance risk manager or insurance representative.

EXHIBIT C

ANNUAL REVENUE CALCULATION EXAMPLE

Annual Rent

Annual Rent Payment	<u>\$41,040</u>
Total Rent due by July 31 (annually)	\$41,040

Gross Parking Revenue – NCTD Lot ONLY

Gross Revenue Collection	\$120,000
Gross Citation Revenue Collection	<u>\$80,000</u>
Total Gross Parking Revenue	\$200,000

Revenue Share with NCTD

Gross Parking Revenue Share (50% of total Gross Parking Revenue)	\$100,000
Less Lessee Administration Fee (20% of total Gross Parking Revenue)	\$(40,000)
Less Annual Rent Payment	<u>\$(41,040)</u>
Total Net Shared Parking Revenue Due to NCTD	\$18,960

ATTACHMENT B – KEY DEAL POINTS**LEASE AGREEMENT FOR PARCEL 299-100-33-00 (TRAILHEAD PARKING LOT)**

NEW OR RENEWAL	New Lease
LANDLORD/OWNER	North County Transit District (NCTD)
LOCATION	Parcel 299-100-3300
SIZE	Approximately 29,280 square feet (29 Parking Spaces)
PURPOSE	Parking lot for San Dieguito Lagoon and Coast to Crest Trail
TERM	9 years, 7 months beginning December 1, 2023, expires June 30, 2033
TOTAL COSTS/REVENUES	<p><u>Rent</u>: Initial term \$41,040 annual rent. Annual increase 3.0% or Consumer Price Index, whichever is greater.</p> <p>The entire ten-year term will result in approximate rental cost totaling \$470,500, which will be entirely offset by revenue in the form of a rent credit.</p> <p><u>Shared Parking Revenue</u>: Fifty-percent (50%) of the gross revenue earned from parking operations less administrative costs and rent expense, for each fiscal year.</p>
DETERMINATION OF LEASE VALUE	The base rental rate is within market, based on a survey of similar use types within the area.



Board Policy No. 11 Real Estate

Summary

This policy establishes real property management goals, objectives, and procedures for NCTD real estate assets.

Purpose

Real estate shall be developed and managed to increase ridership and revenue and to enhance the transit rider's experience.

Use of District Property

Use of District property by third parties shall not interfere with current or future transit use by the District.

District staff and consultants shall adhere to recognized industry standards of conduct and federally-required procedures, where applicable, when negotiating leases, licenses, easements, right to use, acquisitions, dispositions, and relocations.

District Property with Federal Transit Administration (FTA) Interest

Certain NCTD real property has a FTA interest that has resulted from NCTD receiving FTA funding for the purchase of the real property. For purposes of this policy this real property is referenced as "real property with an FTA interest."

1. Real property with an FTA interest shall be managed and used in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (Uniform Act or URA) (PL 91-646), FTA Circular 5010.1D, and 49 CFR part 24, the implementing regulation.
2. Real property with an FTA interest shall be used for the originally authorized purposes as long as needed for those purposes, and NCTD shall not dispose of or encumber its title or other interests unless approval has been obtained from the FTA.
3. Disposition of real property having an FTA interest that is no longer needed for the originally authorized purpose shall be in accordance with the NCTD Excess Real Property Inventory and Utilization Plan as further described in NCTD Board Policy No. 12 Excess Real Property Utilization Plan.

Real Property Inventory

NCTD shall prepare and keep up to date a real property inventory.

1. The inventory list shall include such elements as:
 - a. Property location, Assessor's Parcel Number (APN), and size;
 - b. The inventory shall identify whether each real property is excess;

Board Policy No. 11 – Real Estate

- c. Brief description of improvements;
 - d. Current use and condition of the property;
 - e. Summary of any conditions on the title, original acquisition cost, and the FTA participation ratio, as applicable; and
 - f. FTA grant number, appraised value, appraised date and date placed into service, as applicable.
2. The inventory shall identify whether each real property is excess:
- a. An NCTD excess property inventory prepared in accordance with California Government Code § 50569; and
 - b. The District shall prepare and keep up to date an excess property inventory with an FTA interest in accordance with the NCTD Excess Real Property Inventory and Utilization Plan.

Acquisition of Real Property

Acquisition of real property requires Board approval and shall be in accordance with federal and state requirements and applicable federal and state statutory and regulatory requirements, including, but not limited to, the payment of just compensation, which is also just and fair to the public.

Disposal of Real Property

It is the general policy of the Board not to dispose of real property.

1. Disposal of real property requires Board approval.
2. Prior to disposing of excess real property without an FTA interest, a written offer to sell or lease the property shall be sent to entities described in California Government Code § 54222 and otherwise comply with the requirements of California Government Code § 54220, et seq. Guidelines provided by the California Department of Housing and Community Development, particularly as it relates to the Surplus Land Act, shall be followed.
3. All excess real property without an FTA interest shall be sold at fair market value, unless the Board determines that the sale of specific excess real property at less than fair market value serves a public purpose.
4. Excess real property with an FTA interest that is no longer needed for the originally authorized purpose shall be disposed of in accordance with the NCTD Excess Real Property Inventory and Utilization Plan.

Real Property Management

Real Property Management of the District's real estate assets shall be directed by the Executive Director or his/her designee in accordance with this Policy.

Board Policy No. 11 – Real Estate

1. All income and expense from real property shall be subject to a separate annual accounting that shall be summarily reported to the Board.
2. Unless there are restrictions on the use of proceeds from real property, all such proceeds shall be accounted for separately from other NCTD revenues and proceeds.
3. Revenue generated from the District's real estate assets will be used to fund the District's activities.
4. The District shall inspect annually all real property under contract to a third party in accordance with Administrative Policy and Procedure DSD-4000: Incidental Use of Real Property
5. Joint development opportunities shall be pursued in accordance with NCTD Board Policy No. 33.

Stormwater

1. NCTD real estate assets shall be maintained, monitored and/or developed in compliance with the applicable NCTD Construction General Permit and NCTD MS4 Program requirements, as well as any other applicable local, state, or federal ordinances, law, rule and/or regulation.
2. For purposes of this Policy, "Construction General Permit" shall mean the State Water Resources Control Board ("SWRCB") National Pollutant Discharge Elimination System ("NPDES") General Permit for Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction and Land Disturbance Activities, as it may be amended or superseded, (currently Order No. 2012-0006-DWQ); and MS4 Program shall mean the RWQCB issued Phase II Small Municipal Separate Storm Sewer System ("MS4") Program (currently Order No. 2013-0001-DWQ) as it may be amended or superseded.

Incidental Use of Real Property


Incidental use of real property shall be directed by the Executive Director or his/her designee in accordance with this policy and Administrative Policy and Procedure DSD-4000: Incidental Use of Real Property.

1. Incidental use of real property, including Right-of-Way permitting, shall be at fair market value and/or charged the appropriate fees as approved by the Board through the District fee schedule established annually with the budget. Monetary fair market values and Board-approved fees for a city or other public agency can be waived without Board approval as long as an equivalent reciprocal benefit is provided to NCTD. An exception to fair market value or any variance from the District fee schedule established annually with the budget requires Board approval.
2. Real Property Lease Terms more than ten (10) years, shall require Board approval.
3. Use of District property by outside parties shall not interfere with current or future transit use or activities by the District. Cost to relocate any facility installed as an incidental use to accommodate the District's activities shall be the responsibility of the entity owning the facility.

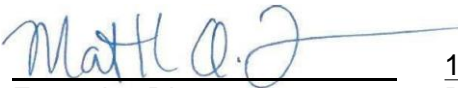
Board Policy No. 11 – Real Estate

- 4. Any entity requesting incidental use of real property, including public agencies, shall reimburse the District for all costs involved in processing such request, including, but not limited to, NCTD staff time, engineering review costs, appraisal, survey, consultant fees, legal fees, and construction related costs (submittal review, construction inspection, and Right-of-Way support services).
- 5. Incidental use of real property with an FTA interest, excluding Right-of-Way permitting, requires approval of the FTA.
- 6. Incidental use of real property with an FTA interest will not exceed that permitted under applicable federal laws, regulations, and directives.
- 7. All incidental use of real property, with the exception of Right-of-Way permitting, real estate agreements with a fee established by the Board approved Cost Recovery Fee Schedule, such as pipelines or wirelines, and other uses of property that are sole-source justified, will be facilitated by a competitive process and be consistent with Board Policies.

Approvals



Board Chair 10/21/2021
Date



Executive Director 10/21/2021
Date



General Counsel 10/21/2021
Date

Board Policy No. 11 – Real Estate

DATE	REVISION NO.	RESOLUTION NO.	COMMENTS
10/18/2012	Adopted	12-10	
10/17/2013	1	13-07	2013 REVISION
10/16/2014	2	14-04	2014 REVISION
11/19/2015	3	15-08	2015 REVISION
10/20/2016	4	16-10	2016 REVISION
10/18/2018	5	18-09	2018 REVISION
10/17/2019	6	19-06	2019 REVISION
10/21/2021	7	21-05	2021 REVISION



City of Del Mar Agenda Report

TO: Honorable Mayor and City Council Members

FROM: Mayor Tracy Martinez and Council Member Dwight Worden, Council Liaisons to the Sustainability Advisory Committee

DATE: November 13, 2023

SUBJECT: Resolution Re-affirming the Declaration of a Climate Emergency for the City of Del Mar

REQUESTED ACTION/RECOMMENDATION:

Mayor Martinez and Council Member Worden recommend the City Council adopt a resolution (Attachment A) re-affirming the declaration of a climate emergency for the City of Del Mar and the need for accelerated action to address the climate crisis.

DISCUSSION/ANALYSIS:

On June 2, 2016, the City Council adopted a Climate Action Plan for the City of Del Mar (Resolution 2016-35) and directed staff to proceed with implementing the specified reduction measures to assist the City in reaching its long-range greenhouse gas (GHG) emission reduction's goals.

On June 15, 2020, the City Council adopted Resolution 2020-33 declaring a climate emergency and the need for accelerated action to address the climate crisis.

The Sustainability Advisory Committee (SAC), as part of their Council-approved Fiscal Year 2023-2024 work plan, developed an updated resolution re-affirming the declaration of a climate emergency in the City of Del Mar. At its meeting of October 23, 2023, the SAC unanimously recommended the Resolution be adopted by the City Council. The updated resolution provides additional context on climate related concerns and re-affirms that that long-term consequences for Del Mar due to climate change remain a high priority for the City.

Del Mar, like the rest of California, already suffers from the impacts of climate change such as drought, extreme heat, wildfires, species stress, dying Torrey Pines, shrinking kelp forest and coastal erosion, sea level rise, and flooding. These impacts will become more severe as global GHG emissions continue to increase.

City Council Action:

Del Mar has the continued ability to impact change as well as the moral obligation to do so. Efforts to control climate change will have many benefits, such as cleaner air and water, local employment, cost savings for households and businesses, and the creation of a stronger and more resilient community.

For these reasons, the Council liaisons to SAC, Mayor Martinez and Council Member Worden, recommend the City Council adopt a resolution re-affirming the declaration of a climate emergency for the City of Del Mar, and the need for accelerated action to address the climate crisis (Attachment A).

FISCAL IMPACT:

There is no fiscal impact or action to be taken by the City Council related to this agenda item.

ENVIRONMENTAL IMPACT:

The proposed ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15308 of the CEQA Guidelines because it is an activity undertaken to assure the maintenance, restoration, enhancement and protection of the environment and pursuant to Section 15061(b)(3) because there is no possibility that the activity in question may have a significant effect on the environment.

NEXUS TO CITY COUNCIL GOALS AND PRIORITIES:

This is an operational item and is not a special project on the City Council's list of goals and priorities.

ATTACHMENTS:

Attachment A – Resolution Re-affirming the Declaration of a Climate Emergency for the City of Del Mar

RESOLUTION NO. 2023-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, REAFFIRMING A DECLARATION OF A CLIMATE EMERGENCY AND THE NEED FOR ACCELERATED ACTION TO ADDRESS THE CLIMATE CRISIS

WHEREAS, climate change is an urgent unfolding crisis that presents a serious long-term threat to human existence; and

WHEREAS, in 2018, the United Nations Intergovernmental Panel on Climate Change (IPCC) issued its special report on *Global Warming of 1.5°C*, a report on the impact of global warming and the need to reduce global greenhouse gas (GHG) emissions by approximately forty-five percent by 2030, achieve 'net-zero' emissions by 2050, and achieve and maintain net-negative emissions after that to hold atmospheric warming to 1.5 degrees Celsius and avoid the most catastrophic impacts of climate change; and

WHEREAS, in recognition of the commitments necessary to address the scale and scope of the climate crisis, Governor Jerry Brown issued Executive Order B-55-18 ordering the State of California to achieve net-zero emissions as soon as possible, and no later than 2045, and achieve and maintain net-negative emissions thereafter; and

WHEREAS, in 2018, the United States' Fourth National Climate Assessment made it clear that climate change will wreak havoc across the United States of America, and that the current pace and scale of climate action is not sufficient to avoid substantial damage to the economy, the environment, and to human health over the coming decades; and

WHEREAS, the United Nations November 2019 Emissions Gap Report found that countries have collectively failed to stop the growth in emissions, and in order to stay on track to meeting the Paris Agreement goals established in 2016, the UN called for immediate and aggressive action to achieve carbon neutrality by 2030; and

WHEREAS, as of 2023, more than 15,000 scientists from 163 countries have signed the *World Scientist's Warning of a Climate Emergency 2020* declaring "clearly and unequivocally that planet Earth is facing a climate emergency" that is accelerating faster than many scientists expected, is more severe than anticipated, and is threatening natural ecosystems and the fate of humanity; and

WHEREAS, according to the National Interagency Fire Center data, of the 10 years with the largest acreage burned since 1983, all have occurred since 2004, including the peak years in 2015 and 2020; and

WHEREAS, according to the Gordon & Betty Moore Foundation, the total economic value of wildfires' costs to the State of California (including labor market

disruptions, property damage and losses of life) is estimated to total over \$117.4 billion annually over the period 2017-2021, with an estimated \$5.0 billion annually attributable to reduced tax revenues and increased wildfire response costs; and

WHEREAS, June, July and August 2023 were the hottest June, July, and August, respectively, worldwide, since global records began in 1880 at NASA's Goddard Institute of Space Studies; and

WHEREAS, according to the National Centers for Environmental Information, in 2023 (as of October 10), there have been 24 confirmed weather/climate disaster events with losses exceeding \$1 billion each to affect United States, up significantly from the 1980–2022 annual average of 8.1 events and the annual average for the most recent 5 years (2018–2022) of 18 events; and

WHEREAS, according to a peer reviewed article in Nature Climate Change, new research findings published in 2023 project that rapid ocean warming, at approximately triple the historical rate, is likely committed over the twenty-first century, with widespread increases in ice-shelf melting, likely leading to the collapse of the West Antarctic Ice Sheet, suggesting that adaptation should now be considered more seriously as a priority in the world's response to sea-level rise; and

WHEREAS, scientists released a peer reviewed article in Nature Climate Change in October 2023 showing that the world's "carbon budget" — the amount of greenhouse gas emissions the world can still emit without boosting global temperatures more than 1.5 degrees Celsius — has shrunk by a third, and the world only has 6 years left at current emissions levels before racing past that temperature limit; and

WHEREAS, Del Mar, like the rest of California, already suffers from the impacts of climate change such as drought, extreme heat, risk of wildfires, species stress, dying Torrey Pines, shrinking kelp forest and coastal erosion, sea level rise, and flooding, and these impacts will become more severe as global GHG emissions continue to increase; and

WHEREAS, the City of Del Mar is particularly vulnerable to sea-level rise, saltwater intrusion, wildfire, and coastal erosion, all exacerbated by extreme weather events with increased flooding and increased temperatures causing evaporation on land; and

WHEREAS, in the City of Del Mar, emissions from gas-powered cars contributes over half of the City's carbon emissions according to the City's Climate Action Plan; and

WHEREAS, it is an act of unspeakable injustice and cruelty to knowingly subject fellow humans now and in the future to societal disintegration, food and clean water shortages, economic collapse, and early death on an increasingly uninhabitable planet; and

WHEREAS, cities have a particular role to play in dealing with climate change as a result of being both a significant cause of climate change and among the most affected; and

WHEREAS cities are centers of innovations and creativity and have the ability to plan and act locally, and also have a significant role to accelerate action in climate change solutions; and

WHEREAS, cities' efforts to control climate change will have many benefits, such as cleaner air and water, local employment, cost savings for households and businesses, and the creation of a stronger and more resilient community; and

WHEREAS, the City of Del Mar took a decisive role in 2016 with the adoption of a Climate Action Plan (www.delmar.ca.us/699/Climate-Action-Plan) detailing how the City will meet its GHG reduction targets by using a number of goals, measures and strategies; and

WHEREAS, the City's Climate Action Plan provides a starting point for Del Mar to become an engaged community that promotes environmental stewardship and economic vitality to create a sustainable and thriving future for all; and

WHEREAS, in 2019 the City of Del Mar joined with Solana Beach and Carlsbad to form a Community Choice Energy program (the Clean Energy Alliance) that has since been joined by the cities of Escondido, San Marcos, Vista, and Oceanside, to further Del Mar's goal of achieving 100 percent renewable electricity citywide by 2035; and

WHEREAS, the City of Del Mar committed to purchase 100% green energy from the Clean Energy Alliance for all city electricity needs as an example for the community; and

WHEREAS, the City Council first adopted Resolution No. 2020-33 in 2020, declaring a climate emergency for the City of Del Mar and the need for accelerated action to address the climate crisis; and

WHEREAS, the City of Del Mar acknowledges that more work will be needed to achieve net-zero emissions and address the magnitude of the climate emergency; and

WHEREAS, the City of Del Mar identifies addressing the adverse consequences of climate change as a matter of the highest priority.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Del Mar, California, that:

1. A state of climate emergency is hereby confirmed, and it is acknowledged that the global climate crisis poses a serious, urgent, and existential threat to the well-being of Del Mar, its residents, economy, and environment; and

2. The City of Del Mar aspires to swiftly transition to an ecologically, socially just, and economically sustainable economy and to reduce community-wide carbon emissions as much as possible; and
3. The City of Del Mar calls for regional emergency climate action mobilization, and will work quickly and collaboratively with surrounding cities and the region to take advantage of economy of scale and for united engagement against the common threat of our climate crisis; and
4. The City of Del Mar further commits to advance strategies to attain the goal of net-zero emissions as soon as possible; and
5. The City of Del Mar commits to recognize the emergency climate situation such that climate impacts are considered in all decision making; and
6. The City of Del Mar commits to increased attention on implementing the strategies in its Climate Action Plan, adding new strategies and goals to the City's Council-adopted workplan when appropriate; and prioritizing implementation of all strategies as resources allow; and
7. The City of Del Mar commits to ensuring that the City's actions remain in alignment with the most current scientific findings regarding climate change and that it will continue to rely on and solicit the advice and guidance of scientific experts; and
8. The City of Del Mar commits to reducing dependency upon automobiles by promoting more telecommuting, and by working with regional, state, and federal organizations such as San Diego Association of Governments (SANDAG), North County Transit District (NCTD), San Diego Metropolitan Transit System (MTS), Amtrak, California Air Resources Board (CARB) and bike and pedestrian groups to increase the viability of alternative transportation options; and
9. The City of Del Mar commits to support the North County Sub-Regional Climate Equity Index grant proposal developed by the San Diego Regional Climate Collaborative (SDRCC) and the Energy Policy Initiatives Center (EPIC) which will create an improved understanding of climate burdens and support multi-jurisdictional collaboration of projects; and investments; and
10. The City of Del Mar commits to implement a Recycled-content Paper Procurement Policy requirements as described in Senate Bill 1383 regulations; and
11. The City of Del Mar commits to implement an environmentally preferable purchasing policy; and

12. The City of Del Mar commits to supporting SANDAG's development of a Regional Priority Climate Action Plan (PCAP) to allow access to EPA Climate Pollution Reduction Grants (CPRG) funding for reducing greenhouse gas emissions and other harmful air pollution; and
13. The City of Del Mar commits to work and partner with residents, businesses, and community groups to educate our community about the climate crisis, and to work to catalyze a just transition and a climate emergency mobilization effort at the local, state, national and global levels, to protect our residents and future generations; and
14. The City of Del Mar calls upon its community to accelerate the climate emergency mobilization effort and contribute to the reduction of the effects of global warming for future generations by restoring near pre-industrial greenhouse gas concentrations, by accelerating the transition to sustainable green energy sources, by encouraging those with the regulatory authority to do so to halt the development of new fossil fuel infrastructure, by rapidly phasing out fossil fuels and the technologies which rely upon them, by and restoring ecosystems and habitats, by vastly reducing waste and simultaneously creating high-quality, well-paying jobs with comprehensive local benefits, and mitigating the potentially adverse impacts to those who will be most impacted by this transition, to result in an equitable, inclusive and resilient community for all.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Del Mar, California, at a Regular Meeting held this 13th day of November, 2023.

Tracy Martinez, 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 Resolution No. 2023-XX, adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the 13th day of November, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sarah Krietor, Administrative Services
Manager/City Clerk
City of Del Mar



City of Del Mar Agenda Report

TO: Honorable Mayor and City Council Members

FROM: Michael Luna, Special Projects & Programs Manager
Via Ashley Jones, City Manager

DATE: November 13, 2023

SUBJECT: Scope of Work with the Solana Center for Environmental Innovation for
Organics Recycling Compliance Support Services

REQUESTED ACTION/RECOMMENDATION:

Staff recommends that the City Council approve a scope of work totaling \$38,000 with Solana Center for Environmental Innovation (Solana Center) (Attachment A) for Organics Recycling Compliance Support Services under an existing agreement between the Solana Center and the Regional Solid Waste Association (RSWA) Joint Powers Authority, of which the City is a member agency and authorize the City Manager to execute the required documents.

DISCUSSION/ANALYSIS:

In August 2020, the City of Encinitas issued a Request for Proposals (RFP) on behalf of the RSWA member agencies (cities of Encinitas, Solana Beach, Del Mar, National City, Poway, Escondido, and Vista) for organics recycling compliance support services to assist the member agencies with complying with Senate Bill (SB 1383), Short-Lived Climate Pollutants.

On March 25, 2021, RSWA entered into an agreement for consultant services with the Solana Center to provide specific SB 1383 compliance services for its member agencies. The agreement allowed for the Solana Center to perform certain “core compliance tasks” on behalf of the member agencies and paid for by RSWA, but also included “optional tasks” that the member agencies could utilize and pay for through December 31, 2021.

After the Solana Center completed all the core compliance tasks under the original agreement, the RSWA Board has approved a number of amendments to the original agreement, including Amendment No. 6, which was approved at RSWA’s meeting on July 13, 2023. Amendment No. 6 extended the contract term through June 30, 2025, the scope of services was refined based on requests by the member agencies and the experience gleaned from prior years, and the pricing was updated (Attachment B). Member agencies will continue to have access and use the negotiated pricing and scope of work established through the RSWA contract with the Solana Center.

City Council Action:

The City of Del Mar along with the other member agencies are highly satisfied with the work done by the Solana Center and benefit from the collective negotiating completed by RSWA. During 2022, the Solana Center provided extensive education, outreach, and technical assistance on organics diversion with commercial account holders and edible food generators. In addition, they have led inspections of all edible food generators in the City required under SB 1383. Moving forward, in FY 2023-2024 & FY2024-2025, the City will be utilizing the Solana Center for additional services related to SB 1383 as further described in Attachment A, for a total cost of \$38,000 (of which, \$2,600 will be paid by RSWA).

Staff recommends that the City Council approval the attached scope of work with the Solana Center for Organics Recycling Compliance Support Services available under the existing agreement with the RSWA through June 30, 2025. The City of Del Mar Municipal Code (DMMC) Chapter 7.04.090 (G), Exemption from Bidding, allows the City to procure goods, services and/or professional services obtained from or 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 in Section 7.04.100.

FISCAL IMPACT:

There is no fiscal action to be taken by the City Council related to this agenda item. The total cost of services to be provided to the City by the Solana Center is \$38,000, of which \$2,600 will be paid by RSWA. Sufficient funds have been included in the approved Fiscal Years 2023-2024 and 2024-2025 Operating and Capital Budget to cover Organics Recycling Compliance Support Services through June 30, 2025.

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:

This is an operational item and is not related to the City Council Goals and Priorities.

ATTACHMENTS:

- Attachment A – Scope of Work with the Solana Center for SB 1383 Compliance Services
- Attachment B – Regional Solid Waste Association (RSWA) Solana Center Fee Schedule



AMENDMENT #6 Described Services

RSWA Scope of Work for SB 1383 Support Services (August 1, 2023 – June 30, 2024)

Background

Solana Center for Environmental Innovation will continue inspections and technical assistance for Tier 1 and Tier 2 entities and inspections on Food Recovery Organizations (FROs) toward SB 1383 compliance. In addition to commercial businesses, entities may include schools, multifamily dwellings, and any others included under the state mandate. Through this contract, Solana Center also offers further tasks to support cities and businesses including the following areas – how-to and informational webinars, generator list updates, capacity planning, procurement advice, inspection training, and as-needed city assistance.

Del Mar requires assistance from Solana Center for SB1383 support services which can be provided under Amendment 6, also known as “Amended and Restated RSWA Contract,” (attached). The billing rate is \$105/hour. RSWA will be providing Del Mar funding of \$2,600, earmarked for SB 1383 work¹. The tasks that Del Mar has requested from Amendment 6 are listed below.

Following are two tables with corresponding tasks that Del Mar has shown interest in. Table 1 lists each Solana Center task with a description and the relation to SB 1383 requirements. Table 2 provides pricing, quoted per unit. Additional tasks offered through Amendment 6 can be found in the attached contract.

Table 1: SB 1383 Overview of Tasks for Cities (FY 2023-2024)

#	Task	Description	SB 1383 requirements
Education and Outreach			
1.2	Develop & Deliver Annual Education/Outreach	Examples include updating resources and reviewing websites, which are mandatory	- annual education to all Tier 1 and Tier 2 businesses (18985.1) - website listing of food recovery organizations (FROs) updated (18985.2)
Edible Food Recovery Programming			
2.1-2.3	Provide Technical Assistance to Businesses	Offer consulting services to Tier 1 and Tier 2 food businesses	- enforcement begins 1/1/2024 so those who need assistance to comply can receive help
2.4	Inspect Businesses & Food Recovery Organizations (FROs)	Conduct annual inspections to food generators and FROs covered by SB 1383 on food donation to ensure compliance	- inspections were required of Tier 1 businesses beginning 1/1/2022

¹ RSWA funding may be used for any SB 1383 work. It is not restricted to Solana Center’s services.

#	Task	Description	SB 1383 requirements
		Cities determine the number and frequency of inspections needed to ensure compliance	<ul style="list-style-type: none"> - inspections are required of Tier 2 businesses beginning 1/1/2024 - inspections were required of FROs beginning 1/1/2022 - includes schools, multifamily residences, and others under SB 1383 (Article 14 18995.1)
2.5	Offer Individualized Business Support	Provide individual guidance to businesses on any SB1383 requirement	- support SB1383 compliance for businesses
Capacity Planning			
3.1	Update Tier Lists & Capacity Planning	Review and update list of businesses categorized by tier. Quantify edible food generation and recovery for the County according to (1) edible food disposal by businesses and (2) food recovery capacity of FROs	<ul style="list-style-type: none"> - updated capacity planning due to CalRecycle 8/1/2024 - due to County 3-4 months prior (Article 11 18992.2)
Organic Waste Recycling			
4.1	Train Businesses to Recycle Organics Properly	Organic waste sorting and recycling setup guidance. Training can be varied from onsite visits, webinars, multimedia videos etc. Creation of resources (print or multi-media) and signage to help with training.	<ul style="list-style-type: none"> -properly separate materials in appropriate containers pursuant to SB1383 compliance. (Article 4 18985.1) -educate business owners about their organic recycling commercial business owner responsibilities (Article 3 18984.10)
4.2	Guide Multi-Family Properties to Recycle Organics Properly	Organic waste sorting training to multi-family businesses. Guidance can take a variety of forms - webinar, workshop, print or electronic resources. Additional hotline services to guide as needed.	-properly separate materials in appropriate containers pursuant to SB1383 compliance. (Article 4 18985.1)
Implementation Services			
5.1	Compile Food Recovery Data for City	Compile the required food recovery program and education data to support EAR reporting and ensure	- records must be maintained and available to CalRecycle about the food recovery

		implementation record keeping compliance	program in place and education provided (Article 13 18994.2, Article 14 18995.2)
5.2	Advise on Procurement	Support cities in developing procurement processes for recycled products procurement including recycled content paper.	- cities must purchase a specific quantity of recycled organic waste products (ROWP) eg. compost, mulch, RNG, and recycled content paper. Reference AB1985 for ROWP compliance and beginning 1/1/2022 for recycled content paper. (Articles 12 18993.1, 18993.3)
5.3	Support City Enforcement	Support cities with development of enforcement processes, notices of violation, investigation of complaints, site inspections to verify corrections, and associated recordkeeping	- enforcement for all regulated businesses (T1/T2) and FROs must begin 1/1/2024 (Article 14 18995.1)
6.1	Offer As-Needed Consulting	Provide guidance on SB1383 regulation, best practices implemented, EAR support (Edible Food Recovery related sections), support for meetings with CalRecycle, etc. Confer with other entities (eg, CalRecycle, EDCO, DEH, foodbanks, corporate headquarters, other cities in the state) on client-City's behalf	- general support of SB1383 compliance to jurisdictions - necessary to get guidance from CalRecycle on City-specific issues This is proving essential as all cities are still getting up to speed on SB1383 and unexpected needs continually surface
6.2	Invoice & Report Monthly	Deliver monthly invoicing and reporting to City	- n/a
6.3	Drive Time & Mileage Expense	A set rate per trip for each city	- n/a

Table 2: SB 1383 Amendment 6 Pricing

SB 1383 AMENDMENT 6 PRICING - SOLANA CENTER FOR ENVIRONMENTAL INNOVATION

Task	Units	FY24 Cost/Unit
Edible Food Recovery Programming		
1.2 Develop & Deliver Annual Education/Outreach	hourly	\$105
Edible Food Recovery Programming		
2.1 Provide Abbreviated Technical Assistance	business	\$ 603.75
2.2 Provide Comprehensive Tier 1 Technical Assistance	business	\$ 1,260.00
2.3 Provide Comprehensive Tier 2 Technical Assistance	business	\$ 840.00
2.4 Inspect Businesses & Food Recovery Organizations	business	\$ 603.75
2.5 Offer Individualized Business Support	hourly	\$ 105.00
Capacity Planning		
3.1 Update Tier Lists & Capacity Planning	hourly	\$ 105.00
Organic Waste Recycling		
4.1 Train Businesses to Recycle Organics Properly	hourly	\$ 105.00
4.2 Guide Multi-Family Properties to Recycle Organics Properly	hourly	\$ 105.00
Implementation Services		
5.1 Compile Food Recovery Data for City	hourly	\$ 105.00
5.2 Advise on Procurement	hourly	\$ 105.00
5.3 Support City Enforcement	hourly	\$ 105.00
Program Management		
6.1 Offer As-Needed Consulting	hourly	\$ 105.00
6.2 Invoice & Report Monthly	monthly	\$ 500.00
6.3 Drive Time & Mileage Expense**	trip	\$ 69.54

** A set rate per city will be established, based on the reduced hourly rate + federal mileage rate



Total contract amount: NTE \$38,000.00

Points of Contact

Solana Center for Environmental Innovation

Program Lead: Mallika Sen, Mallika@solanacenter.org, 760.436.4986 x724

Contracts Manager: Kayleigh Dearstyne-Hulin, kayleigh@solanacenter.org, 760.436.4986 x716

City of Del Mar

Assistant City Manager: Clement Brown, cbrown@delmar.ca.us, 858.375.9524

Special Projects & Programs Manager: Michael Luna, mluna@delmar.ca.us, 858.704.3632

This work will be executed and delivered in the manner prescribed by this Agreement.

Jessica Toth
Executive Director
Solana Center for Environmental Innovation

Ashley Jones
City Manager
City of Del Mar

Date Signed

Date Signed

Table 2
Not-To-Exceed Unit Costs for SB 1383 Compliance Support Services Available to Cities

SB 1383 AMENDMENT 6 PRICING - SOLANA CENTER FOR ENVIRONMENTAL INNOVATION

Task	Units	FY24 Cost/Unit	FY25 Cost/Unit
Education & Outreach			
1.1.a Offer Webinars*	webinar	\$2,100.00	\$2,205.00
1.1.b Develop Customized Webinar Content	new topic	\$5,250.00	\$5,512.50
1.2 Develop & Deliver Annual Education/Outreach	hourly	\$105.00	\$110.25
1.3 Deliver School Food Management Programs	hourly	\$105.00	\$110.25
1.4 Deliver School District Food Recovery Programs	hourly	\$105.00	\$110.25
Edible Food Recovery Programming			
2.1 Provide Abbreviated Technical Assistance	business	\$603.75	\$633.94
2.2 Provide Tier 1 Comprehensive Technical Assistance	business	\$1,260.00	\$1,323.00
2.3 Provide Comprehensive Tier 2 Technical Assistance	business	\$840.00	\$882.00
2.4 Inspect Businesses & Food Recovery Organizations	business	\$603.75	\$633.94
2.5 Offer Individualized Business Support	hourly	\$105.00	\$110.25
2.6.a Offer Inspector Training - Part 1*	training session	\$3,750.00	\$3,937.50
2.6.b Offer Inspector Training - Part 2*	training session	\$2,500.00	\$2,625.00
Capacity Planning			
3.1 Update Tier Lists & Capacity Planning	hourly	\$105.00	\$110.25
3.2 Plan Food Rescue Additional Capacity	hourly	\$105.00	\$110.25
Organic Waste Recycling			
4.1 Train Businesses to Recycle Organics Properly	hourly	\$105.00	\$110.25
4.2 Guide Multi-Family Properties to Recycle Organics Properly	hourly	\$105.00	\$110.25
Implementation Services			
5.1 Compile Food Recovery Data for City	hourly	\$105.00	\$110.25
5.2 Advise on Procurement	hourly	\$105.00	\$110.25
5.3 Support City Enforcement	hourly	\$105.00	\$110.25
Program Management			
6.1 Offer As-Needed Consulting	hourly	\$105.00	\$110.25
6.2 Invoice & Report Monthly	monthly	\$500.00	\$525.00
6.3 Drive Time & Mileage Expense**	trip	\$78.75/hr + standard mileage rate	\$82.69/hr + standard mileage rate

* The cost of these tasks can be shared across cities

** A set rate per city will be established, based on the reduced hourly rate + federal mileage rate



City of Del Mar Agenda Report

TO: Honorable Mayor and City Council Members

FROM: Karen Falk, Principal Engineer
Joe Bride, Public Works Director
Mariel Cairns, Associate Management Analyst
Via Ashley Jones, City Manager

DATE: November 13, 2023

SUBJECT: Award of Construction Contract to Bali Construction, Inc. for the 2023 Water, Wastewater, Pavement, and Storm Drain Project

REQUESTED ACTION/RECOMMENDATION:

Staff recommends that the City Council: 1) Award a \$1,675,555 construction contract to Bali Construction, Inc (Attachment A) for the 2023 Water, Wastewater, Pavement, and Storm Drain Project; 2) Award a \$136,340 Task Order to Dudek for Construction Management and Inspection Services (Attachment B); 3) Approve a 10% project contingency of \$167,525; 4) Authorize the City Manager to execute the required documents and any contract changes necessary to complete the work; and 5) Amend the Fiscal Year 2023-2024 Operating and Capital Budget as described in the Fiscal Impact Section of this report.

DISCUSSION/ANALYSIS:

The 2023 Water, Wastewater, Pavement, and Storm Drain Project (Project) addresses essential high priority infrastructure repairs throughout the City. This project combines multiple Capital Improvement Program projects into a single bid package, including Annual Water System Priority Improvements, Annual Wastewater System Priority Improvements, Category 1 Storm Drain Repairs, Major Arterial Bike Route Repairs, and Annual Pavement Management Program.

Water improvements include the extension of 40 linear feet (LF) of pipeline on Christy Lane and replacement of 780 LF of pipeline on Bellaire Street. Sewer improvements will occur on Nob Avenue and Ocean View Avenue. Storm Drain replacements will occur at two locations: the intersection of Luneta Drive/Zuni Drive, and Van Dyke Avenue near the intersection with Rimini Road. Pavement repairs include full curb-to-curb roadway repairs on Camino del Mar between Coast Boulevard and Jimmy Durante Boulevard, and on Nob Avenue/Ocean View Avenue between the City boundary and Pine Needles Drive.

In accordance with the City's Municipal Code and Public Contract Code, a notice inviting sealed bids was published on October 6, 2023. This was posted to the City's website, the contractor's notification web platform Bidnet.com, and published twice in the newspaper.

City Council Action:

Following the bid solicitation process, two (2) bids were received and opened on November 1, 2023. The verified bid amounts are listed below:

Bidder	Bid Amount
Bali Construction, Inc.	\$1,675,555
Burtech Pipeline, Inc.	\$1,899,772
<i>For Reference: Engineer's Estimate</i>	<i>\$1,602,322</i>

Public Contract Code Section 20162 requires that the City award the contract to the lowest responsive and responsible bidder based on the Base Bid alone. Staff evaluated Bali Construction's Bid of \$1,675,555 (Attachment C) and determined them to be the lowest responsive and responsible bidder.

The City has an agreement in place with Dudek for as-needed general engineering services. Staff recommends issuing Dudek a \$136,340 Task Order (Attachment B) to provide construction management and inspection services for this project.

The total estimated project expenditures through project completion is \$2,009,000 as listed in Table A below. This amount includes the construction contract with Bali Construction, construction management and inspection services provided by Dudek, engineering services during construction provided by Psomas on the water, wastewater, and pavement design and Michael Baker International on the storm drain design, and a 10% project contingency for change orders due to unforeseen field conditions, need for specialty inspections, or any other unanticipated costs during construction.

Table A: Project Expenditures

	AMOUNT
Construction Management (Dudek)	\$ 136,340
Engineering Services (Psomas & MBI)	29,580
Construction (Bali Construction)	1,675,555
Project Contingency (10%)	167,525
Total Project Cost	\$2,009,000

Based on the construction bid, the following funding sources will be used for this project and are listed in Table B below.

Table B: Project Funding Sources

Fund	AMOUNT
Water Fund	\$ 924,120
Wastewater Fund	293,720
Clean Water Fund	373,930

Measure Q Fund (Required annual contribution toward the City’s Maintenance of Effort (MOE))	75,000
TransNet Fund	40,000
Road Maintenance and Rehabilitation Account Fund (SB-1)	90,380
General Fund	211,850
Total Project Cost	\$2,009,000

Pending City Council approval, the project will begin in December 2023 after the contract is executed and a Notice to Proceed is issued. The project duration is estimated to be 140 calendar days and completion is expected in April 2024.

FISCAL IMPACT:

Table C are the various Capital Improvement Project budgets used to fund this project. Approval of this item will require the City Council to amend the Fiscal Year 2023-2024 Operating and Capital Budget by: 1) approving the carry-over of unspent Fiscal Year 2022-2023 capital budgets; and 2) approving the re-appropriation of Fiscal Year 2024-2025 Water capital project budget to Fiscal Year 2023-2024.

Table C: Project Budget

PROGRAM	FUND	ACCOUNT	AMOUNT
Water Improvements (FY23 Carryover)	Water	51.7000.7017	\$ 410,222
Water Improvements (FY24 Budget)	Water	51.7000.7017	184,128
Water Improvements (FY25 Budget)	Water	51.7000.7017	269,770
Citywide Water Pressure Imprv (FY24)	Water	51.7000.7054	60,000
Wastewater Improv (FY23 Carryover)	Wastewater	57.7000.7024	254,902
Wastewater Improv (FY24 Budget)	Wastewater	57.7000.7024	38,818
Storm Drain Imprv (FY23 Carryover)	Clean Water	55.7000.7045	373,930
Pavement Rehab (FY23 Carryover)	Measure Q	02.7000.7009	75,000
Pavement Rehab (FY23 Carryover)	General	40.7000.7009	126,576
Pavement Rehab (FY24 Budget)	SB1	40.7000.7009	90,380
Pavement Rehab (FY23 Carryover)	TransNet	44.7000.7009	40,000
Major Arterial Bike Route Repairs (FY23 Carryover)	General	40.7000.7041	55,000
Major Arterial Bike Route Repairs (FY24 Budget)	General	40.7000.7041	30,274
Total Budget			\$2,009,000

ENVIRONMENTAL IMPACT:

Pursuant to the California Environmental Quality Act (CEQA), the proposed project has been analyzed and determined to be Categorical Exempt pursuant to: CEQA Guidelines Section 15301(d) – Class 1 (Existing Facilities), as the project involves repair, maintenance, and minor alterations of existing water pipeline within the public right-of-way; Section 15302(c) – Class 2 (Replacement or Reconstruction) as the project involves

replacement of 780 LF of an existing water pipeline in the public right-of-way; and Section 15303(d) – Class 3 (New Construction), as the project proposes a 40 LF expansion of an existing water pipeline in the public right-of-way. Further, it has been determined that none of the six exceptions to the use of a Categorical Exemption are applicable (CEQA Guidelines Section 15300.2).

NEXUS TO CITY COUNCIL GOALS AND PRIORITIES:

This project combines four Tier 1 essential capital improvement program projects on the City Council's list of goals and priorities for FY 2023-2024: Annual Water System Priority Improvements, Annual Wastewater System Priority Improvements, Category 1 Storm Drain Repairs, and Annual Pavement Management Program.

ATTACHMENTS:

Attachment A – Contract with Bali Construction for 2023 Water, Wastewater, Pavement, and Storm Drain Project

Attachment B – Task Order for Dudek for Construction Management

Exhibit A to Attachment B – Dudek proposal

Attachment C – Bali Construction's Bid

**CONSTRUCTION CONTRACT BETWEEN THE CITY OF DEL MAR
AND BALI CONSTRUCTION, INC.
FOR 2023 WATER, WASTEWATER, PAVEMENT, AND STORM DRAIN PROJECT**

This Construction Contract (“Contract”) is made and entered into by and between the **City of Del Mar**, a municipal corporation, hereinafter referred to as the "City," and **Bali Construction, Inc.** hereinafter referred to as the “Contractor” (collectively “Parties”).

RECITALS

WHEREAS, the City requires a general contractor to construct a Public Works project generally described as the **2023 WATER, WASTEWATER, PAVEMENT, AND STORM DRAIN PROJECT** hereinafter referred to as the “Project.”

WHEREAS, the Contractor represents itself as possessing the necessary skills and qualifications to construct the Project required by the City and possesses the required contractor’s license of the appropriate classifications.

NOW THEREFORE, in consideration of these recitals and the mutual covenants contained herein, and in consideration of the payments and agreements hereinafter mentioned, the Parties agree as follows:

1. CONTRACTOR'S OBLIGATIONS.

- 1.1 Contractor shall perform the scope of work shown in the **Attachment A** hereinafter referred to as the “Work”, as such term is defined by the Standard Specifications for Public Works Construction, latest version (GREENBOOK).
- 1.2 The Contractor agrees, at the Contractor's own proper cost and expense, to do all the Work and furnish all the materials, except such as are mentioned in the specifications to be furnished by the City, necessary to construct and complete the Work in a good, workmanlike and substantial manner and to the satisfaction of the City.
- 1.3 Said Work shall be performed in accordance with the Contract Specifications, Drawings, and Provisions annexed hereto; and in connection with the Reference Standards below:

Standard	Edition
Standard Specifications for Public Works Construction (“The GREENBOOK”)	2021
San Diego Regional Standard Drawings	2022

- 1.4 The Contractor shall maintain throughout the full term of this Contract all professional certifications and licenses required in order to comply with all City, State, and Federal laws in the performance of this Contract.
- 1.5 The Contractor shall pay wages to the Contractor's employees according to the current "General Prevailing Wage Rates" issued by the Department of Industrial Relations of the State of California. Pursuant to provisions of Section 1773 of the Labor Code of the State of California, the City Council has obtained the general prevailing rate of per diem wages and the general rate for holiday and overtime work in this locality for each craft, classification, or type of workman needed to execute this Contractor, from Director of the Department of Industrial Relations. These rates are available online with the California Department of Industrial Relations (www.dir.ca.gov). The Contractor shall post a copy of such rates at the job site and shall pay the adopted prevailing wage rates as a minimum.

**CONSTRUCTION CONTRACT BETWEEN THE CITY OF DEL MAR
AND BALI CONSTRUCTION, INC.
FOR 2023 WATER, WASTEWATER, PAVEMENT, AND STORM DRAIN PROJECT**

The Contractor shall comply with the provisions of Sections 1725.5, 1771, 1773.8, 1774, 1775, 1776, 1777.5, 1777.6, 1813, and 1815 of the Labor Code.

- 1.6 The Contractor shall register with the Department of Industrial Relations (DIR) in accordance with California Labor Code sections 1771.1 and 1725.5 and the Contractor shall be subject to compliance monitoring and enforcement by DIR in accordance with California Labor Code section 1771.4.
- 1.7 Pursuant to and subject to the provisions of Section 1775 of the Labor Code, Contractor shall forfeit to City, as a penalty, the sum of up to two-hundred dollars (\$200) for each calendar day, or portion thereof, for each laborer, worker, or mechanic employed, paid less than the stipulated prevailing rates for any Work done under this Contract, by it or by any subcontractor under it, in violation of the provisions of the Contract.

2. SECURITY FOR CONTRACTOR'S PROMISE TO PERFORM.

- 2.1 For contracts above \$25,000, the Contractor shall post and maintain during the full term of this Contract security for Contractor's promise to perform this Contract in the following forms and amounts:
 - A. The amount of the performance security shall be 100% of bid amount.
 - B. The form of the security shall be one of the following:
 1. Cash;
 2. Cashier's check made payable to the City;
 3. A certified check made payable to the City;
 4. A bond, executed by an approved surety insurer using the Performance Bond form found herein or a substitute form acceptable to and approved by the City, made payable to the City; or
 5. The Contractor may elect to deposit securities of a value equivalent to the amount of the performance security in accordance with the provisions of section 22300 of the Public Contract Code. The City will make the final determination as to the value of the posted securities.
- 2.2 The City shall retain five percent (5%) of each payment due the Contractor under this Contract until completion and acceptance of the Project. The Contractor may elect to deposit securities of a value equivalent to the retention in accordance with the provisions of Section 22300 of the Public Contract Code and thereby become entitled to receive one hundred percent (100%) of the payments, without retention. The City will make the final determination as to the value of the posted securities. The amount of retention withheld may be reduced, or a portion of withheld retention may be returned, at the sole discretion of the City.
- 2.3 For contract amounts above \$25,000, the Contractor shall file a payment bond using the Payment Bond form found herein or a substitute form acceptable to and approved by the City, in the amount of 100% of bid amount, with and subject to the approval of the Director of Public Works in accordance with Civil Code section 3247.

**CONSTRUCTION CONTRACT BETWEEN THE CITY OF DEL MAR
AND BALI CONSTRUCTION, INC.
FOR 2023 WATER, WASTEWATER, PAVEMENT, AND STORM DRAIN PROJECT**

3. CONTRACT AMOUNT AND SCHEDULE.

- 3.1 The City agrees to pay and the Contractor agrees to receive and accept the prices set forth in the Bid Schedule attached hereto as **Attachment B** and incorporated by reference as full compensation for furnishing all materials, performing all work, and fulfilling all obligations hereunder. Said compensation shall cover all expenses, losses, damages, and consequences arising out of the nature of the work during its progress or prior to its acceptance, including those for well and faithfully completing the work and the whole thereof in the manner and time specified in the aforesaid contract documents and also including those arising from actions of the elements, unforeseen difficulties or obstructions encountered in the prosecution of the work, suspension or discontinuance of the work, and all other unknowns or risks of any description connected with the work.
- 3.2 Contractor agrees to complete the Work on 2023 WATER, WASTEWATER, PAVEMENT, AND STORM DRAIN PROJECT in a time period not to exceed **ONE HUNDRED AND FORTY (140)** calendar days per Section 6-3 of the Standard Specifications for Public Works Construction (GREENBOOK), commencing upon the date stated in the Notice To Proceed issued by the City. Construction shall not commence until the City has approved bonds and insurance.

4. TERMINATION OF CONTRACT.

In the event of the Contractor's failure to prosecute, deliver, or perform the Work as provided for in this Contract, the City may terminate this Contract by notifying the Contractor by certified mail of said termination.

5. STATUS OF THE CONTRACTOR.

The Contractor shall perform the services provided for herein in a manner of Contractor's own choice, as an independent Contractor and in pursuit of Contractor's independent calling, and not as an employee of the City. Contractor shall be under control of the City only as to the result to be accomplished and the personnel assigned to the project. However, Contractor shall confer with the City as required to perform this Contract.

6. SUBCONTRACTING.

The Contractor's ability to subcontract is limited by and must comply with the Subletting and Subcontracting Fair Practices Act, California Public Contract Code sections 4100 *et seq.* If the Contractor subcontracts any of the Work to be performed under this Contract, the Contractor shall be as fully responsible to the City for the acts and omissions of the Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in the Contract shall create any contractual relations between any subcontractor of Contractor and the City. The Contractor shall bind every subcontractor by the terms of the Contract applicable to Contractor's Work unless specifically noted to the contrary in the subcontract in question approved in writing by the City.

**CONSTRUCTION CONTRACT BETWEEN THE CITY OF DEL MAR
AND BALI CONSTRUCTION, INC.
FOR 2023 WATER, WASTEWATER, PAVEMENT, AND STORM DRAIN PROJECT**

7. ASSIGNMENT OF CONTRACT.

The Contractor has no authority or right to assign this Contract or any part thereof or any monies due thereunder to any other party without first obtaining the prior written consent of the City.

8. VERBAL AGREEMENT OR CONVERSATION.

No verbal agreement or conversation with any officer, agent or employee of the City, either before, during or after the execution of this Contract, shall affect or modify any of the terms or obligations herein contained nor shall such verbal agreement or conversation entitle the Contractor to any additional payment whatsoever under the terms of this Contract.

9. DISPUTES.

- 9.1 If a dispute should arise regarding the performance of this Contract, the following procedures shall be used to address any question of fact or interpretation not otherwise settled by agreement between the parties. Such questions, if they become identified as part of a dispute between persons operating under the provisions of the Contract, shall be reduced to writing by the complaining party. A copy of such documented dispute shall be forwarded to the other party involved along with recommended methods of resolution which would be of benefit to both parties. The party receiving the letter shall reply to the letter along with a recommended method of resolution within ten (10) days of receipt of the letter.
- 9.2 If the dispute is not resolved, the aggrieved party shall send a letter outlining the dispute to the City to be resolved.
- 9.3 If the dispute remains unresolved and the parties have exhausted the procedures of this section, the parties may then seek remedies available to them at law.
- 9.4 Pursuant to Public Contract Code Sections 20104 and 9204, a claim by the Contractor for a time extension; payment of money or damages arising from Work done by or on behalf of the Contractor pursuant to the Contract which is not otherwise expressly provided for or the claimant is not otherwise entitled to; or an amount the payment of which is disputed by the City, shall be dealt with as follows:
- A. The claim shall be in writing and include the documents necessary to substantiate the claim. Claims must be filed on or before the date of final payment. Nothing in this subdivision is intended to extend the time limit or supersede notice requirements otherwise provided by the Contract for the filing of claims.
 - B. For all claims, pursuant to Public Contract Code Sections 20104 and 9204:
 - 1. City shall respond in writing to any written claim within forty-five (45) days of receipt of the claim, or may request, in writing, within thirty (30) days of receipt of the claim, any additional documentation supporting the claim or relating to defenses or claims the City may have against the claimant. City shall identify the disputed and undisputed portion(s) of the claim in the written response. If City fails to issue a written statement, the claim is rejected in its entirety.

**CONSTRUCTION CONTRACT BETWEEN THE CITY OF DEL MAR
AND BALI CONSTRUCTION, INC.
FOR 2023 WATER, WASTEWATER, PAVEMENT, AND STORM DRAIN PROJECT**

2. If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the City and the claimant.
 3. The City's written response to the claim, as further documented, shall be submitted to the claimant within fifteen (15) days after receipt of the further documentation or within a period of time no greater than that taken by the claimant in producing the additional information, whichever is greater.
 4. Pursuant to Public Contract Code section 9204, any payment on any undisputed portion of the claim shall be processed and made within sixty (60) days after the public entity issues its written statement.
- C. If the claimant disputes the City's written response, or the City fails to respond within the time prescribed, the claimant may so notify the City, in writing, either within fifteen (15) days of receipt of the City's response or within fifteen (15) days of the City's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon a demand sent by registered or certified mail, the City shall schedule a meet and confer conference within thirty (30) days for settlement of the dispute. Within ten (10) business days after the meet and confer conference, City shall prepare a written statement describing portions of the claim in dispute and the portions of the claim that are disputed. Mediation Prerequisite: If following the meet and conference the claim or any portion remains in dispute, the parties agree that as a condition precedent to the initiation of litigation, the parties shall submit to non-binding mediation. The parties shall mutually agree to a mediator within ten (10) business days after the City's response following the meet and confer conference. The parties shall make reasonable attempts to mediate within thirty (30) days of the meet and confer conference. Mediation shall be subject to the following rules:
1. The mediation process shall be administered by a neutral organization agreed to by the parties and shall be confidential subject to Evidence Code Sections 1115 –1128 and 1152.
 2. The costs for mediation will be shared equally by all parties. The expenses of witnesses shall be paid by the party producing such witnesses.
 3. A single mediator shall be selected to mediate the dispute. At least ten (10) days before a scheduled session, each party shall provide the mediator a brief memorandum setting forth its position about the issues that need to be resolved. The brief shall be mutually exchanged between the parties. At the mediation session, the parties will be expected to produce required information for the mediator to understand and evaluate the issues presented.
 4. The mediation process shall be considered terminated when: (1) in the mediator's judgment, further efforts at mediation would not contribute to a resolution of the dispute between the parties; or, (2) by the execution of Settlement Agreement, which may be used as the basis for change order or other directive as appropriate; or, (3) written declaration of a party that it will no longer participate in further mediation proceedings.

**CONSTRUCTION CONTRACT BETWEEN THE CITY OF DEL MAR
AND BALI CONSTRUCTION, INC.
FOR 2023 WATER, WASTEWATER, PAVEMENT, AND STORM DRAIN PROJECT**

- D. If mediation is unsuccessful, as a prerequisite to filing suit, the Contractor must file a claim pursuant to Chapter 1 (commencing with section 900) and Chapter 2 (commencing with section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code. For purposes of those provisions, the period of time within which a claim must be filed shall begin from the time the claimant submits his or her written claim pursuant to subsection A until the time the claim is denied, including any period of time utilized by the meet and confer conference.

A civil action filed to resolve a claim subject to Section 9.4 of this Contract shall be subject to the provisions of Public Contract Code Sections 20104.4 and 20104.6.

10. HOLD HARMLESS.

- 10.1 The Contractor agrees to indemnify and hold the City; the City's officers, officials, employees and agents; the Engineer; and the Engineer's officers, officials, employees and agents (together, the "City Indemnified Parties"), harmless from, and against any and all liabilities, claims, demands, causes of action, losses, suit damage, expenses and costs, including all costs of defense, expense costs and investigation expenses thereof, arising out of, or in any manner connected directly or indirectly to the acts, omissions or performance of Work by the Contractor or Contractor's agents, employees, subcontractors, officials, officers or representatives. Upon demand, Contractor shall, at its own expense, defend the City Indemnified Parties from and against any and all such liabilities, claims, demands, causes of action, losses, damages and costs, regardless of whether or not such a claim, loss or liability is caused in part by a party indemnified hereunder.
- 10.2 By inspecting, approving or accepting the improvements, City shall not have waived the protections afforded herein to the City Indemnified Parties or diminished the obligation of Contractor, who shall remain obligated in the same degree to indemnify and hold the City Indemnified Parties harmless as provided above.
- 10.3 Contractor's obligation herein does not extend to liabilities, claims, demands, causes of action, losses, damages or costs that arise out of the City Indemnified Parties' sole active negligence or willful misconduct.

11. RESPONSIBILITY FOR DAMAGE.

- 11.1 The Contractor shall obtain and maintain in full force and effect during the life of the Contract, contractual liability insurance for bodily injury liability and property damage liability assumed by the Contractor of all claims and lawsuits against the Contractor and his/her subcontractors arising out of or in connection with the Work to be performed. Such insurance as is afforded by the policy to the Contractor for Contractual Property Damage Liability Insurance shall include coverage for property damage caused by blasting, collapse, structural injuries or damage to underground utilities. The policy shall not contain the so-called "x" "c" "u" exclusions.
- 11.2 The Contractor shall maintain vehicle liability, and property damage insurance in the amount of not less than \$2,000,000 for one person injured in one accident, and not less than \$2,000,000 for two or more persons injured in any one accident, and not less than

**CONSTRUCTION CONTRACT BETWEEN THE CITY OF DEL MAR
AND BALI CONSTRUCTION, INC.
FOR 2023 WATER, WASTEWATER, PAVEMENT, AND STORM DRAIN PROJECT**

- \$2,000,000 with respect to any property damage involved and public general liability insurance in the amount of not less than \$2,000,000 each occurrence or in the aggregate.
- 11.3 Evidence of insurance including Commercial General Liability, Workers' Compensation, and Automobile Liability in compliance with the above requirements shall be furnished to the City by Certificate of Insurance. Such Certificate of Insurance shall be furnished prior to the commencement of Work under the Contract. The insurance policy shall provide that the policy shall remain in force during the life of this Contract and shall not be canceled, terminated, or allowed to expire without thirty (30) days prior written notice to City from the insurance company.
 - 11.4 Such insurance shall be issued by a company or companies approved by the City, licensed and listed with "Insurance Organizations Authorized by the Insurance Commissioner to Transact the Business of Insurance in the State of California," and shall have a rating of A- or better.
 - 11.5 Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve the Contractor for liability in excess of such coverage, nor shall it preclude the City from taking such other actions as is available to it under any other provision of this Contract or otherwise in law.
 - 11.6 The Contractor shall arrange for the policies to be so conditioned as to cover the performance of any changes or extra Work which may be required under the Contract.
 - 11.7 The costs of this insurance shall be considered as included in the prices paid for the various Contract items of Work and no additional compensation will be allowed, therefore.
 - 11.8 The Contractor shall either: (1) require each of its subcontractors to procure and to maintain Subcontractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance of the type and in the amounts specified, or (2) insure the activities of its subcontractors in its own policy in like amount.
 - 11.9 The Contractor's policies shall contain an Additional Insured Endorsement naming as additional insured the City and its officers, consultants, agents, and employees while on the Project and acting within the scope of their duties. For any claims related to the Project, Contractor's insurance coverage shall be primary insurance as respects City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by City, its officers, officials, employees, or volunteers shall be in excess of Contractor's insurance and shall not contribute with it.
 - 11.10 Prior to commencement of Work under this Contract, the Contractor shall furnish endorsements from each of the insurance companies.
 - 11.11 The Contractor shall reimburse the City and the Engineer for all costs and expenses, including attorney's fees, incurred by said City and the Engineer, in enforcing the provisions of Section 11.0 of this Contract.

12. NOTICES.

Any notices to be given under this Contract, or otherwise, shall be served by certified mail and addressed and delivered as listed below:

**CONSTRUCTION CONTRACT BETWEEN THE CITY OF DEL MAR
AND BALI CONSTRUCTION, INC.
FOR 2023 WATER, WASTEWATER, PAVEMENT, AND STORM DRAIN PROJECT**

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

Bali Construction, Inc.
Attn: Matthew Metoyer
9852 E. Joe Vargas Way
South El Monte, CA 91733
mmetoyer@baliconstruction.com

13. LIQUIDATED DAMAGES; EXTENSION OF TIME.

In accordance with Government Code Section 53069.85, CONTRACTOR agrees to forfeit and pay to CITY the sum of **two hundred fifty dollars (\$250)** per day for each calendar day completion is delayed beyond the time allowed pursuant to paragraph 3 of this Contract. Such sum shall be deducted from any payments due to or to become due to CONTRACTOR. CONTRACTOR will be granted an extension of time and will not be assessed liquidated damages for unforeseeable delays beyond the control of and without the fault or negligence of CONTRACTOR, including delays caused by CITY. CONTRACTOR is required to promptly notify CITY of any such delay.

14. PERFORMANCE.

The City hereby promises and agrees with the Contractor to employ, and does hereby employ the Contractor to provide the materials and to do the Work according to the terms and conditions herein contained and referred to, for the prices aforesaid, and hereby contracts to pay the same at the time, and in the manner and upon the conditions hereinafter set forth, and the City and the Contractor for themselves, their heirs, executors, administrators, successors, and assigns, do hereby agree to the full performance of the covenants herein contained.

15. CONTRACT AUTHORITY OVER PROPOSAL.

It is further expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument and the Bid or Proposal of the Contractor, then this instrument shall control, and nothing herein shall be considered as an acceptance of the said terms of said Proposal conflicting herewith.

16. CONTRACT DOCUMENTS.

The Contract consists of the following documents, all of which are component parts of the Contract as if herein set out in full, or attached hereto:

1. Notice Inviting Bid(s)
2. Information and Instructions for Bidders
3. Proposal
4. Contract
5. Worker's Compensation Certificate
6. Performance Bond
7. Payment Bond
8. Modifications to the Standard Specifications: General Provisions, Special Provisions, Construction Methods
9. Plans & Standard Drawings, Approved Submittals, Exhibits, and Site Photos
10. Addenda and approved Change Orders

**CONSTRUCTION CONTRACT BETWEEN THE CITY OF DEL MAR
AND BALI CONSTRUCTION, INC.
FOR 2023 WATER, WASTEWATER, PAVEMENT, AND STORM DRAIN PROJECT**

All the above-named Contract Documents are intended to be complementary. The Work required by one of the above-named documents and not by others shall be performed as if required by all. Any conflicts in terms or requirements of any of the Contract Documents shall be determined by the order of precedence set forth in the GREENBOOK.

17. ATTACHMENTS.

The following Contract Documents are attached hereto:

- A. Scope of Work
- B. Proposal/Bid Schedule/Schedule of Values
- C. Worker's Compensation Certificate
- D. Performance Bond
- E. Payment Bond

18. NON-DISCRIMINATION.

Contractor 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. Contractor shall take affirmative action to ensure 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.

19. CALIFORNIA LAW; VENUE/MISCELLANEOUS.

This Contract 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 Contract shall be brought in the County of San Diego, California. Contractor hereby waives any and all rights it might have pursuant to California Code of Civil Procedure section 394.

20. CONSULTANT'S CERTIFICATION OF AWARENESS OF IMMIGRATION AND CONTROL ACT OF 1986.

Contractor certifies that Contractor 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 Contract.

21. NO WAIVER.

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

**CONSTRUCTION CONTRACT BETWEEN THE CITY OF DEL MAR
AND BALI CONSTRUCTION, INC.
FOR 2023 WATER, WASTEWATER, PAVEMENT, AND STORM DRAIN PROJECT**

22. SEVERABILITY.

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

23. CONFLICTS BETWEEN TERMS.

If an apparent conflict or inconsistency exists between the main body of this Contract and the Exhibits, the main body of this Contract shall control. If a conflict exists between an applicable federal, state, or local law, rule, regulation, order, or code and this Contract, the law, rule, regulation, order, or code shall control. Varying degrees of stringency among the main body of this Contracts, 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 Contract.

24. 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]

**CONSTRUCTION CONTRACT BETWEEN THE CITY OF DEL MAR
AND BALI CONSTRUCTION, INC.
FOR 2023 WATER, WASTEWATER, PAVEMENT, AND STORM DRAIN PROJECT**

IN WITNESS WHEREOF, the Parties hereto have executed this Contract, which will be effective as of the date of the City's execution of the Contract listed below.

CITY OF DEL MAR,
a municipal corporation

BALI CONSTRUCTION, INC.
a California Corporation

By: _____
Ashley Jones, City Manager

By: _____
Matthew Metoyer, Officer/Chief Estimator

Date: _____

Date: _____

APPROVED AS TO FORM:

Leslie E. Devaney, City Attorney

ATTEST:

Sarah Krietor, Administrative Services
Manager/City Clerk

**CONSTRUCTION CONTRACT BETWEEN THE CITY OF DEL MAR
AND BALI CONSTRUCTION, INC.
FOR 2023 WATER, WASTEWATER, PAVEMENT, AND STORM DRAIN PROJECT**

ATTACHMENT A – SCOPE OF WORK

Contractor shall refer to [**2023 WATER, WASTEWATER, PAVEMENT, AND STORM DRAIN PROJECT Specifications and Drawings**](https://www.delmar.ca.us/DocumentCenter/View/8866/2023-Water-Wastewater-Pavement-Storm-Drain-Project-Specifications?bidId=108) for the description of the scope of work to be performed. (<https://www.delmar.ca.us/DocumentCenter/View/8866/2023-Water-Wastewater-Pavement-Storm-Drain-Project-Specifications?bidId=108>)

**CONSTRUCTION CONTRACT BETWEEN THE CITY OF DEL MAR
AND BALI CONSTRUCTION, INC.
FOR 2023 WATER, WASTEWATER, PAVEMENT, AND STORM DRAIN PROJECT**

ATTACHMENT B – BID SCHEDULE

Payment will be based on actual quantities furnished, installed, or constructed in accordance with the Base Bid Schedule of Values. **Description of Bid Items included in Modifications to the Standard Specifications “Greenbook” Part 1 – General Provisions, Item 7-6 – Bid Items.**

ITEM NO.	DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE	TOTAL AMOUNT
GENERAL ITEMS					
1	Mobilization and Demobilization	1	LS	\$ 99,000	\$ 99,000
2	Traffic Control	1	LS	\$ 80,000	\$ 80,000
3	Storm Water Pollution Control & Best Management Practices	1	LS	\$ 10,000	\$ 10,000
4	Construction Staking and Potholing	1	LS	\$ 60,000	\$ 60,000
5	As-Built Drawings	1	LS	\$ 700	\$ 700
WATER IMPROVEMENTS					
<i>Christy Lane</i>					
6	Install 6-inch PVC Water Pipeline on Christy Lane	40	LF	\$ 1,000	\$ 40,000
7	Install 2-inch Blow-off Assembly on Christy Lane	1	EA	\$ 5,000	\$ 5,000
8	Install New 1-inch Water Meter Service on Christy Lane	1	EA	\$ 10,200	\$ 10,200
<i>Bellaire Street</i>					
9	Install 6-inch PVC Water Pipeline on Bellaire Street	780	LF	\$ 565	\$440,700
10	Install New 1-inch Water Meter Service on Bellaire Street	15	EA	\$ 9,500	\$142,500
11	Install 2-inch Blow-off Assembly on Bellaire Street	2	EA	\$ 5,500	\$ 11,000
12	Install 2-inch Air Release Valve on Bellaire Street	1	EA	\$ 7,500	\$ 7,500
13	Install Valves and Make Water System Tie-ins on Bellaire Street at Sta 40+00 and Sta 47+80.73	1	LS	\$ 83,007.50	\$ 83,007.50

**CONSTRUCTION CONTRACT BETWEEN THE CITY OF DEL MAR
AND BALI CONSTRUCTION, INC.
FOR 2023 WATER, WASTEWATER, PAVEMENT, AND STORM DRAIN PROJECT**

ITEM NO.	DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE	TOTAL AMOUNT
WASTEWATER IMPROVEMENTS					
<i>Nob Avenue/Ocean View Avenue</i>					
14	Temporary Sewer Bypassing on Nob Avenue and Ocean View Avenue	1	LS	\$ 7,500	\$ 7,500
15	Install 6-inch CIPP Lining on Nob Avenue and Ocean View Avenue	1,200	LF	\$ 81.00	\$ 97,200
16	Manhole Rehabilitation on Nob Avenue & Ocean View Avenue	4	EA	\$ 8,000	\$ 32,000
17	Sewer Later Reconnection on Nob Avenue & Ocean View Avenue	19	EA	\$ 300	\$ 5,700
<i>Jimmy Durante Blvd</i>					
18	Manhole Replacement at 2120 Jimmy Durante Boulevard	1	LS	\$ 22,500	\$ 22,500
STORM DRAIN IMPROVEMENTS					
19	Install 18-inch RCP Storm Drain (Class 5) Pipeline	43	LF	\$ 810.00	\$ 34,830
20	Install 24-inch RCP Storm Drain (Class 5) Pipeline	29	LF	\$ 1,200	\$ 34,800
21	Install 18-inch RCP Storm Drain with Slurry Backfill (Class 5)	44	LF	\$ 950	\$ 41,800
22	Slurry Fill and Plug Existing Storm Drain Pipe	25	LF	\$ 400	\$ 10,000
23	Install Modified Winged Headwall	1	LS	\$ 6,500	\$ 6,500
24	Install Straight Headwall per SDRSD D-30, Type A	1	LS	\$ 6,500	\$ 6,500
25	Install Curb Inlet per SDRSD D-2, Type B	1	EA	\$ 15,000	\$ 15,000
26	Install Modified Storm Drain Curb Inlet per SDRSD D-3, Type C	2	EA	\$ 19,000	\$ 38,000
27	Storm Drain Improvements as directed by the Public Works Director/City Engineer	1	Allowance	\$ 50,000	\$ 50,000
PAVEMENT IMPROVEMENTS					
<i>Nob Avenue/Ocean View Avenue</i>					
28	Cold Plane AC Pavement 2-inch and Install 2-inch AC Overlay on Nob Avenue and Ocean View Avenue	35,302	SF	\$ 2.75	\$ 97,080.50
29	Replace Pavement Striping & Markings	1	LS	\$ 7,500	\$ 7,500
<i>Camino del Mar</i>					
30	Cold Plane AC Pavement 2" and Install 2" AC Overlay on Camino del Mar from Court Street to Jimmy Durante Blvd	58,310	SF	\$ 2.70	\$157,437

**CONSTRUCTION CONTRACT BETWEEN THE CITY OF DEL MAR
AND BALI CONSTRUCTION, INC.
FOR 2023 WATER, WASTEWATER, PAVEMENT, AND STORM DRAIN PROJECT**

ITEM NO.	DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE	TOTAL AMOUNT
31	Replace Pavement Striping & Markings	1	LS	\$ 18,000	\$ 18,000
<i>Nob Avenue/La Amatista Road</i>					
32	Install asphalt curb on western side of Nob Avenue, south of La Amatista Road	40	LF	\$ 90	\$ 3,600
TOTAL:					\$1,675,555

Total Base Bid (Items 1 through 32) of Project, in Numbers: \$1,675,555

Total Base Bid (Items 1 through 32) of Project, in Words: One million, six hundred seventy five thousand, five hundred fifty five Dollars and zero Cents.

**CONSTRUCTION CONTRACT BETWEEN THE CITY OF DEL MAR
AND BALI CONSTRUCTION, INC.
FOR 2023 WATER, WASTEWATER, PAVEMENT, AND STORM DRAIN PROJECT**

ATTACHMENT C - WORKER'S COMPENSATION CERTIFICATE

Section 3700 of the Labor Code provides in part as follows:

"Every employer except the state shall secure the payment of compensation in one or more of the following ways:

- (a) By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this state.

- (b) By securing from the Director of Industrial Relations a certificate of consent to self-insure either as an individual employer, or as one employer in a group of employers, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his or her employees."

I hereby certify that I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work of this Contract.

CONTRACTOR'S NAME: _____

ADDRESS: _____

BOND NO.: _____

SIGNATURE: _____

PRINT NAME/TITLE OF SIGNER: _____

DATE: _____

**CONSTRUCTION CONTRACT BETWEEN THE CITY OF DEL MAR
AND BALI CONSTRUCTION, INC.
FOR 2023 WATER, WASTEWATER, PAVEMENT, AND STORM DRAIN PROJECT**

BOND NO. _____

ATTACHMENT D - PERFORMANCE BOND

WHEREAS, the City of Del Mar, a Charter City and municipal Corporation (“City”) on the 13th day of November, 2023, awarded to **Bali Construction, Inc.** (“Principal”) a contract for the work described as **2023 WATER, WASTEWATER, PAVEMENT, AND STORM DRAIN PROJECT**; and

WHEREAS, said Principal is required under the terms of said contract to furnish a bond for the faithful performance of said contract.

NOW THEREFORE, We, the Principal and _____
duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the City in the penal sum of _____ Dollars (\$.....) lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if Principal, his, her or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and agreements, in the said contract and any alteration thereof made as therein provided, on his, her or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the City, its officers and agents, as therein stipulated, then this obligation shall become null and void; otherwise, it shall be and remain in full force and virtue.

Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed thereunder or the specifications accompanying the same shall in any wise affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or additions to the terms of the contract or to the work or to the specifications.

In the event suit is brought upon this bond by the City and judgment is recovered, the Surety shall pay all litigation costs and expenses incurred by City in such suit, including attorney's fees, court costs, expert witness fees and investigation expenses.

IN WITNESS WHEREOF, _____ identical counterparts of this instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety above named, on the ____ day of _____, 20__.

SURETY

PRINCIPAL

By: _____

By: _____

(Name)

(Name)

(Title)

(Title)

By: _____

(Name)

(Title)

Signature of Attorney-in-Fact

NOTE: (a) Signature of those executing for Surety must be properly acknowledged.

(b) The Attorney-in-fact must attach a certified copy of the Power of Attorney.

**CONSTRUCTION CONTRACT BETWEEN THE CITY OF DEL MAR
AND BALI CONSTRUCTION, INC.
FOR 2023 WATER, WASTEWATER, PAVEMENT, AND STORM DRAIN PROJECT**

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF _____)

On, _____ before me _____, a notary public in and for said County and State, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to within this instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on this instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

**CONSTRUCTION CONTRACT BETWEEN THE CITY OF DEL MAR
AND BALI CONSTRUCTION, INC.
FOR 2023 WATER, WASTEWATER, PAVEMENT, AND STORM DRAIN PROJECT**

BOND NO. _____

ATTACHMENT E - PAYMENT BOND

WHEREAS, the City of Del Mar, a Charter City and municipal Corporation (hereinafter designated as City), on the 13th day of November, 2023, awarded to Bali Construction, Inc. (hereinafter designated as the Principal) a contract for the work described as follows:

2023 WATER, WASTEWATER, PAVEMENT, AND STORM DRAIN PROJECT

WHEREAS, said Principal is required by Chapter 5, Title 3, Part 6, Division 4 (including, specifically, Section 9550) of the California Civil Code to furnish a bond in connection with said contract.

NOW THEREFORE, We, the Principal and _____ duly authorized to transact business under the laws of the State of California, as Surety, are held and firmly bound unto the City in the penal sum of _____ Dollars (\$ _____) lawful money of the United States, said sum being not less than one hundred percent (100%) of the estimated amount payable by City under the terms of the above-referenced contract, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, pursuant to Section 9554 of the California Civil Code, if said principal, hers/his/its subcontractors, heirs, executors, administrators, successors, or assigns, shall fail to pay any of the persons named in Section 9100 of the California Civil Code, or amounts due under the Unemployment Insurance Code with respect to work or labor performed under the contract, or for any amounts required to be deducted, withheld, and paid over to the Franchise Tax Board from the wages of employees of the contractor and his subcontractors pursuant to Section 18663 of the California Revenue and Taxation Code, with respect to such work and labor, the surety or sureties will pay for the same in an amount not exceeding the sum hereinabove specified, and also, in case suit is brought upon this bond, a reasonable attorney's fee, to be fixed by the court.

This Bond shall inure to the benefit of any of the persons named in Section 9100 of the California Civil Code, so as to give a right of action to such persons or their assigns in any suit brought upon this bond.

It is further stipulated and agreed that the Surety on this bond shall not be exonerated or released from the obligation of this bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement hereinabove described or pertaining or relating to the furnishing of labor, materials, or equipment therefore, nor by any change or modification of any terms of payment or extension of the time for any payment pertaining or relating to any scheme or work of improvement hereinabove described, nor by any rescission or attempted rescission of the

**CONSTRUCTION CONTRACT BETWEEN THE CITY OF DEL MAR
AND BALI CONSTRUCTION, INC.
FOR 2023 WATER, WASTEWATER, PAVEMENT, AND STORM DRAIN PROJECT**

contract, agreement or bond, nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such contract or agreement or under the bond, nor by any fraud practiced by any person other than the claimant seeking to recover on the bond, and that his bond be construed most strongly against the surety and in favor of all persons for whose benefit such bond is given, by reason of any breach of contract between the City and Principal or on the part of any obligee named in such bond, but the sole conditions of recovery shall be that claimant is a person described in Section 9100 of the California Civil Code, and has not been paid the full amount of his claim. Surety hereby waives notice of any such change, extension of time, addition, alteration or modification herein mentioned.

This bond is executed by Surety to and shall comply with the provisions of Chapter 5, Title 3, Part 6, Division 4 of the Civil Code and of Chapter 2, Title 14, Part 2 of the Code of Civil Procedure and said bond shall be subject to all of the terms and provisions thereof.

IN WITNESS WHEREOF this instrument has been duly executed by the Principal and Surety above named, on the _____ day of _____, 20____.

SURETY

PRINCIPAL

By: _____

By: _____

(Name)

(Name)

(Title)

(Title)

By: _____

(Name)

(Title)

Signature of Attorney-In-Fact

(Attach required acknowledgements)

**CONSTRUCTION CONTRACT BETWEEN THE CITY OF DEL MAR
AND BALI CONSTRUCTION, INC.
FOR 2023 WATER, WASTEWATER, PAVEMENT, AND STORM DRAIN PROJECT**

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA
COUNTY OF _____)

On, _____ before me _____, a notary public in and for said County and State, personally appeared _____ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to within this instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on this instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

City of Del Mar

Construction Management and Inspection Services for 2023 Water, Wastewater, Pavement and Storm Drain Project

DUDEK - FEE ESTIMATE

10/10/2023

Task	Description	LABOR HOURS	LABOR HOURS	LABOR SUBTOTAL	DIRECT COSTS	TOTAL BUDGET
		Dudek Construction Manager	Dudek Construction Engineer			
	Team Member					
	Billable Rate	\$180.00	\$140.00			
1.0	Preconstruction Services					
1.1	Preconstruction Meeting	4	2	\$ 1,000	\$ -	\$ 1,000
	Task 1 Subtotal:	4	2	\$ 1,000	\$ -	\$ 1,000
2.0	Construction Services (140 Calendar Days)					
2.1	Project Management	105	0	\$ 18,900	\$ -	\$ 18,900
2.2	Daily Inspection	0	650	\$ 91,000	\$ -	\$ 91,000
2.3	Progress Meetings	12	0	\$ 2,160	\$ -	\$ 2,160
2.4	RFI Processing	5	0	\$ 900	\$ -	\$ 900
2.5	Submittal Processing	20	0	\$ 3,600	\$ -	\$ 3,600
2.6	Progress Payments	12	0	\$ 2,160	\$ -	\$ 2,160
2.7	Change Orders	30	0	\$ 5,400	\$ -	\$ 5,400
	Task 2 Subtotal:	184	650	\$ 124,120	\$ -	\$124,120
3.0	Project Completion and Closeout (1 month)					
3.1	Punch list and Record Drawings	15	30	\$ 6,900	\$ -	\$ 6,900
3.2	Prepare Final Change Order and Payment	20	0	\$ 3,600	\$ -	\$ 3,600
3.3	Prepare Closeout Documents and Turnover Project Files on Thumb Drive	4	0	\$ 720	\$ -	\$ 720
	Task 3 Subtotal:	39	30	\$ 11,220	\$ -	\$ 11,220
				NOT-TO-EXCEED GRAND TOTAL:		\$ 136,340
	Hours Total	227	682			
	Hours per week Avg.	11	34			

Our proposed fee is based on a 5 month total project duration for services based with 4 months of construction. Dudek will bill only actual hours worked per day on a time and material basis.

PROPOSAL
TO THE CITY OF DEL MAR
FOR CONSTRUCTION OF
2023 WATER, WASTEWATER, PAVEMENT, AND STORM DRAIN PROJECT

PROPOSAL SUBMITTED BY:

Name of Bidder Bali Construction, Inc.
Business Address 9852 E. Joe Vargas Way, South El Monte CA 91733
Email Address estimating@baliconstruction.com

The undersigned Bidder proposes and agrees, if this Bid is accepted by the OWNER, to enter into a contract with the OWNER in the form of agreement included in the Contract Documents to complete all WORK as specified or indicated under the Contract including Addenda Nos. N/A, and ___; and in accordance with all other Contract Documents.

The undersigned Bidder accepts all of the terms and conditions of the Notice Inviting Bids and Instructions to Bidders, including without limitation those dealing with the disposition of the Bid Security. Bidder will enter into a contract within 10 calendar days after receipt of the agreement forms from the OWNER, and will furnish the insurance certificates, Payment Bond, and Performance Bond required by the Contract Documents.

The undersigned Bidder agrees that if this Proposal shall be accepted and the undersigned shall fail to contract as aforesaid and to give both, in sums as stated in the Notice Inviting Bids, a faithful Performance Bond and a Payment Bond as required by California State law and by the specifications with surety satisfactory to the OWNER within ten (10) days after the undersigned has received notice of the award of the Contract from the OWNER and that the Contract is ready for signature, the OWNER may, at its option, determine that the bidder has abandoned the Contract, and thereupon this Proposal and the acceptance thereof shall be null and void, and the forfeiture of the security accompanying this Proposal shall operate and the same shall be the property of the OWNER.

By signing this proposal on the signature portion hereof, the undersigned, as bidder, under penalty of perjury deposes and says: that the CONTRACTOR listed herein is licensed to perform WORK in the State of California according to the CONTRACTOR's License Law and that the license number and expiration date specified herein are true and in accordance with Business and Profession Code Amendment 7028.15 (e). Any bid not containing this information, or bid containing information which is subsequently proven false, shall be considered non responsive and shall be rejected.

By signing this proposal on the signature portion hereof, the undersigned, as bidder, under penalty of perjury deposes and says: that the only persons or parties interested in this Proposal as Principals are those named herein; that the bidder has not, either directly or indirectly, entered into any agreement, participated in any collusion or otherwise taken any action in restraint of free competitive bidding in connection with said proposal; that the undersigned Bidder has examined the site and locality where the WORK is to be performed, the legal requirements (federal, state, and local laws, ordinances, rules, and regulations), and the conditions affecting cost, progress or performance of the WORK and has made such independent investigations as Bidder deems necessary.

The bidder's execution of the signature portion of this proposal shall also constitute an endorsement and execution of those certificates and attachments which are a part of this proposal.

In addition, the undersigned bidder has examined the annexed proposed form of contract, and the Drawings, Special Provisions and Specifications therein referred to; and the undersigned proposes, and agrees if this Proposal is accepted, that the undersigned will furnish the required Bonds and Contract with the OWNER, in the form and copy of the Contract annexed hereto, to provide all necessary machinery, tools, apparatus and other means of construction, and to do all the WORK and furnish all the materials specified in the Contract, in the manner and time therein set forth, and that the undersigned will take in full payment therefore the unit and/or lump sum prices named in the following bid schedule(s).

**PROPOSAL
TO THE CITY OF DEL MAR
FOR CONSTRUCTION OF
2023 WATER, WASTEWATER, PAVEMENT, AND STORM DRAIN PROJECT**

I/We agree to construct the City of Del Mar 2023 WATER, WASTEWATER, PAVEMENT, AND STORM DRAIN PROJECT, for the price listed on this proposal sheet.

Payment will be based on actual quantities furnished, installed, or constructed in accordance with the Base Bid Schedule of Values. **Description of Bid Items included in Modifications to the Standard Specifications “Greenbook” Part 1 – General Provisions, Item 7-6 – Bid Items.**

BASE BID SCHEDULE

ITEM NO.	DESCRIPTION	ESTIMATED QUANTITY	UNIT	UNIT PRICE	TOTAL AMOUNT
GENERAL ITEMS					
1	Mobilization and Demobilization	1	LS	\$ 99,000	\$ 99,000
2	Traffic Control	1	LS	\$ 80,000	\$ 80,000
3	Storm Water Pollution Control & Best Management Practices	1	LS	\$ 10,000	\$ 10,000
4	Construction Staking and Potholing	1	LS	\$ 60,000	\$ 60,000
5	As-Built Drawings	1	LS	\$ 700	\$ 700
WATER IMPROVEMENTS					
<i>Christy Lane</i>					
6	Install 6-inch PVC Water Pipeline on Christy Lane	40	LF	\$ 1,000	\$ 40,000
7	Install 2-inch Blow-off Assembly on Christy Lane	1	EA	\$ 5,000	\$ 5,000
8	Install New 1-inch Water Meter Service on Christy Lane	1	EA	\$ 10,200	\$ 10,200
<i>Bellaire Street</i>					
9	Install 6-inch PVC Water Pipeline on Bellaire Street	780	LF	\$ 565	\$ 440,700
10	Install New 1-inch Water Meter Service on Bellaire Street	15	EA	\$ 9,500	\$ 142,500
11	Install 2-inch Blow-off Assembly on Bellaire Street	2	EA	\$ 5,500	\$ 11,000
12	Install 2-inch Air Release Valve on Bellaire Street	1	EA	\$ 7,500	\$ 7,500
13	Install Valves and Make Water System Ties on Bellaire Street at Sta 40+00 and Sta 47+80.73	1	LS	\$ 83,007.50	\$ 83,007.50

BI-7

**PROPOSAL
TO THE CITY OF DEL MAR
FOR CONSTRUCTION OF
2023 WATER, WASTEWATER, PAVEMENT, AND STORM DRAIN PROJECT**

WASTEWATER IMPROVEMENTS					
<i>Nob Avenue/Ocean View Avenue</i>					
14	Temporary Sewer Bypassing on Nob Avenue and Ocean View Avenue	1	LS	\$ 7,500	\$ 7,500
15	Install 6-inch CIPP Lining on Nob Avenue and Ocean View Avenue	1,200	LF	\$ 81.00	\$ 97,200
16	Manhole Rehabilitation on Nob Avenue & Ocean View Avenue	4	EA	\$ 8,000	\$ 32,000
17	Sewer Later Reconnection on Nob Avenue & Ocean View Avenue	19	EA	\$ 300	\$ 5,700
<i>Jimmy Durante Blvd</i>					
18	Manhole Replacement at 2120 Jimmy Durante Boulevard	1	LS	\$ 22,500	\$ 22,500
STORM DRAIN IMPROVEMENTS					
19	Install 18-inch RCP Storm Drain (Class 5) Pipeline	43	LF	\$ 810.00	\$ 34,830
20	Install 24-inch RCP Storm Drain (Class 5) Pipeline	29	LF	\$ 1,200	\$ 34,800
21	Install 18-inch RCP Storm Drain with Slurry Backfill (Class 5)	44	LF	\$ 950	\$ 41,800
22	Slurry Fill and Plug Existing Storm Drain Pipe	25	LF	\$ 400	\$ 10,000
23	Install Modified Winged Headwall	1	LS	\$ 6,500	\$ 6,500
24	Install Straight Headwall per SDRSD D-30, Type A	1	LS	\$ 6,500	\$ 6,500
25	Install Curb Inlet per SDRSD D-2, Type B	1	EA	\$ 15,000	\$ 15,000
26	Install Modified Storm Drain Curb Inlet per SDRSD D-3, Type C	2	EA	\$ 19,000	\$ 38,000
27	Storm Drain Improvements as directed by the Public Works Director/City Engineer	1	Allowance	\$ 50,000	\$ 50,000
PAVEMENT IMPROVEMENTS					
<i>Nob Avenue/Ocean View Avenue</i>					
28	Cold Plane AC Pavement 2-inch and Install 2-inch AC Overlay on Nob Avenue and Ocean View Avenue	35,302	SF	\$ 2.75	\$ 97,080.50
29	Replace Pavement Striping & Markings	1	LS	\$ 7,500	\$ 7,500
<i>Camino del Mar</i>					
30	Cold Plane AC Pavement 2" and Install 2" AC Overlay on Camino del Mar from Court Street to Jimmy Durante Blvd	58,310	SF	\$ 2.70	\$ 157,437

BI-8

**PROPOSAL
TO THE CITY OF DEL MAR
FOR CONSTRUCTION OF
2023 WATER, WASTEWATER, PAVEMENT, AND STORM DRAIN PROJECT**

31	Replace Pavement Striping & Markings	1	LS	\$ 18,000	\$ 18,000
<i>Nob Avenue/La Amatista Road</i>					
32	Install asphalt curb on western side of Nob Avenue, south of La Amatista Road	40	LF	\$ 90.00	\$ 3,600
TOTAL:					\$ 1,675,555

Total Base Bid (Items 1 through 32) of Project, in Numbers: 1,675,555
 Total Base Bid (Items 1 through 32) of Project, in Words: one million, six hundred seventy five thousand, five hundred fifty five Dollars and zero Cents

BID SCHEDULE NOTES:

Bids are to be submitted for every item on Base Bid Schedule. The amount of the bid for comparison purposes will be the total Base Bid Price. The bidder shall set forth for each unit basis item of WORK a unit price and a total for the item, and for each lump sum item a total for the item, all in clearly legible figures in the respective spaces provided for this purpose. In the case of unit basis items, the amount set forth under the "Total" column shall be the extension of the unit price bid on the basis of the estimated quantity for the item.

The City of Del Mar reserves the right to vary the estimated quantities in accordance with the percentages listed in each section of the Special Provisions – Technical Provisions, Part 4 – Measurement and Payment. If no percentage is given, the quantities shall not vary more than plus or minus 25 percent in accordance with the Standard Specifications.

The CONTRACTOR is required to maintain and guarantee bid prices for a period of 30 days after bid opening.

In case of discrepancy between the unit price and the total set forth for a unit basis item, the unit price shall prevail, provided, however, if the amount set forth as a unit price is ambiguous, unintelligible or uncertain for any cause, or is omitted, or is the same amount as the entry in the "Total" column, then the amount set forth in the "Total" column for the item shall prevail and shall be divided by the estimated quantity for the item and the price thus obtained shall be the unit price. Final payment shall be determined by the ENGINEER from measured quantities of WORK performed based upon the Schedule of Values.

The Contract prices paid for the WORK shall include full compensation for all taxes which the CONTRACTOR is required to pay, whether imposed by federal, state, or local government, including, without being limited to, federal excise tax.

The Bidder shall provide the information requested on the following pages for each subcontractor who will perform WORK under this contract in excess of one-half of one percent of the total bid price. After the opening of proposals, no changes or substitutions will be allowed except as otherwise provided by law. The bidder's attention is directed to the provisions of the General Provisions that require that not less than 50 percent of the WORK shall be performed with the bidder's own forces. Failure to comply with this requirement will render the proposal non-responsive and may cause its rejection.

The Bidder understands that failure to specify a subcontractor for any portion of the WORK to be performed under the contract in excess of one-half of one percent of the bid, shall be deemed that the Bidder has agreed to perform such portion, and that the Bidder shall not be permitted to sublet or subcontract that portion of the WORK except in cases of public emergency or necessity, and then only after a finding, reduced to writing as a public record of the Awarding Authority, setting forth the facts constituting the emergency or necessity in accordance with the provision of the Subletting and Fair Practices Act (Section 4100 et seq. of the California Government Code).

**PROPOSAL
TO THE CITY OF DEL MAR
FOR CONSTRUCTION OF
2023 WATER, WASTEWATER, PAVEMENT, AND STORM DRAIN PROJECT**

DESIGNATION OF SUBCONTRACTORS

If no subcontractors are to be employed for the portions of WORK described, enter the word "None." If Bidder proposes to subcontract any portion of WORK not described below, provide information description labeled "Other." Attach additional sheets if necessary.

Description of Work to be Performed	Percent of Total Contract	Subcontractor's Name and Address	Subcontractor's License Number
striping	1.1 %	Superior pavement Markings - 5312 cypress st. cypress, CA 90630	776306
Grind/overlay	15 %	RAP Engineering, LLC. 505 E. Mission Rd. San Marcos, CA 92069	1100708
Sewer lining	7 %	Jincom Technologies Inc. 5841 Engineer Dr. Huntington Beach, CA 92649	774056
Abatement	5 %	Karcher Environmental inc. 2800 E. Orange wood Ave Anaheim, CA 92806	481416

**PROPOSAL
TO THE CITY OF DEL MAR
FOR CONSTRUCTION OF
2023 WATER, WASTEWATER, PAVEMENT, AND STORM DRAIN PROJECT**

GENERAL INFORMATION REQUIRED OF BIDDER

The Bidder shall furnish the requested information for Items 1 through 4. Failure to comply with this requirement will render the Proposal non-responsive and may cause its rejection. Additional sheets shall be attached as required. Information for Items 5 through 6 shall be furnished by the low bidder within three days of request by the OWNER.

- (1) Contractor's name and address: Bali Construction, Inc.
9852 E. Joe Vargas Way, South El Monte CA 91733
- (2) Contractor's telephone number: 626-838-5848
- (3) Contractor's license: Primary classification: A
State License No.: 524540 Expiration date: 02/29/2024
Supplemental classifications held, if any: C4, C16, C36
- (4) Name of person who inspected site(s) of proposed WORK for your firm:
Name: Alec Dawson Date of Inspection: 10/16/2023
- (5) Upon request, submit the experience resume for the person who will be designated chief construction superintendent.
- (6) Upon request, submit a general description of the plan to accomplish the WORK and a proposed schedule.

**PROPOSAL
TO THE CITY OF DEL MAR
FOR CONSTRUCTION OF
2023 WATER, WASTEWATER, PAVEMENT, AND STORM DRAIN PROJECT**

EQUIPMENT/MATERIAL SOURCE INFORMATION

The bidder shall indicate opposite each item of equipment or material listed below, the name of the manufacturer or supplier of the equipment or material proposed to be furnished under the bid. Failure to comply with this requirement will render the proposal non-responsive and may cause its rejection.

Awarding of a contract under this bid will not imply approval by the OWNER of the manufacturers or suppliers listed by the bidder. Regardless of the listed Manufacturers/Supplier, all products or equipment to be furnished by the CONTRACTOR must conform to all requirements of the Specifications and Drawings. The bidder agrees to provide the listed products under this contract and, after the opening of proposals, no changes or substitutions will be allowed without written approval of the OWNER.

<u>Equipment/Material</u>	<u>Manufacturer/Supplier</u>
1. <u>RCP</u>	<u>Thompson Pipe Group Los Angeles</u>
2. <u>Water materials</u>	<u>orange county Winwater</u>
3. _____	_____
4. _____	_____
5. _____	_____
6. _____	_____
7. _____	_____

**PROPOSAL
TO THE CITY OF DEL MAR
FOR CONSTRUCTION OF
2023 WATER, WASTEWATER, PAVEMENT, AND STORM DRAIN PROJECT**

PUBLIC CONTRACT CODE SECTION 10162 QUESTIONNAIRE

In accordance with Public Contract Code Section 10162, the Bidder shall complete, under penalty of perjury, the following questionnaire:

Has the bidder, any officer of the bidder, or any employee of the bidder who has a proprietary interest in the bidder, ever been disqualified, removed or otherwise prevented from bidding on, or completing a federal state or local government project because of a violation of law or a safety regulation?

YES _____ NO X

If the answer is yes, explain the circumstances on a separate sheet of paper and attach to proposal.

PUBLIC CONTRACT CODE SECTION 10232 STATEMENT

In accordance with Public Contract Code Section 10232, the CONTRACTOR, hereby states under penalty of perjury, that no more than one final unappealable finding of contempt of court by a federal court has been issued against the CONTRACTOR within the immediately preceding two year period because of the CONTRACTOR's failure to comply with an order of a federal court which orders the CONTRACTOR to comply with an order of the National Labor Relations Board.

**CONTRACTOR'S CERTIFICATION OF AWARENESS
OF IMMIGRATION REFORM AND CONTROL ACT OF 1986**

CONTRACTOR certifies that CONTRACTOR is aware of the requirements of the Immigration Reform and Control Act of 1986 (8 USC Sections 1101 - 1525) 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 Contract.

AFFIDAVIT OF NONCOLLUSION

As required by California Public Contracts Code section 7106, the CONTRACTOR has submitted the affidavit of noncollusion, which is attached hereto and incorporated herein as though fully set forth at length.

NOTE: The above Questionnaire, Statement, and Non-Collusion Affidavit are part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Questionnaire, Statement and Noncollusion Affidavit. Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

**PROPOSAL
TO THE CITY OF DEL MAR
FOR CONSTRUCTION OF
2023 WATER, WASTEWATER, PAVEMENT, AND STORM DRAIN PROJECT**

**NONCOLLUSION AFFIDAVIT TO BE EXECUTED BY BIDDER
AND SUBMITTED WITH BID**

State of California)
County of San Diego) ss.
)

Matthew Metoyer (name), being first duly sworn, deposes and says that he or she is Officer/Chief Estimator (title) of Bali Construction, Inc. (name of bidder), the party making the foregoing bid that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.



SIGNATURE

10/26/2023

DATE

**PROPOSAL
TO THE CITY OF DEL MAR
FOR CONSTRUCTION OF
2023 WATER, WASTEWATER, STORMWATER AND PAVING PROJECT**

GUARANTY/BID BOND

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be herein affixed and these presents to be signed by their officers, the day and year first set forth.

Bali Construction, Inc.



*Matthew Metoyer
officer/Chief Estimator*

Travelers Casualty and Surety Company of America

BY:



Kim E. Heredia, Attorney-in-Fact

SEAL

**ATTORNEY-IN-FACT
ACKNOWLEDGMENT OF SURETY**

STATE OF: _____

COUNTY OF: _____

On this _____ day of _____, 20__

before me _____ a Notary Public in and
for said County and State personally appeared _____

_____ known to me to be the person whose name is subscribed to the within instrument as the Attorney-In-Fact of the _____ Corporation named as Surety in said instrument, and acknowledged to me that he subscribed the name of said corporation thereto as Surety, and his own name as Attorney-In-Fact.

NOTE: Signature of those executing for Surety must be properly acknowledged.

NOTE: The Attorney-In-Fact must attach a certified copy of the Power of Attorney.

Notary Public in and for the County of

State of California

BI-16

CALIFORNIA CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)

County of Orange)

On 10/27/2023 before me, KASSANDRA DE LEON, NOTARY PUBLIC,
(here insert name and title of the officer)

personally appeared KIM E. HEREDIA-----

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that ~~he~~/she/~~they~~ executed the same in ~~his~~/her/~~their~~ authorized capacity(~~ies~~), and that by ~~his~~/her/~~their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Signature *[Handwritten Signature]*
KASSANDRA DE LEON, NOTARY PUBLIC

(Seal)

Optional Information

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of _____

containing _____ pages, and dated _____

The signer(s) capacity or authority is/are as:

- Individual(s)
- Attorney-in-Fact
- Corporate Officer(s) _____ Title(s)

- Guardian/Conservator
- Partner - Limited/General
- Trustee(s)
- Other: _____

representing: _____
Name(s) of Person(s) or Entity(ies) Signer is Representing

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:
 form(s) of identification credible witness(es)

Notarial event is detailed in notary journal on:
 Page # _____ Entry # _____

Notary contact: _____

Other

Additional Signer(s) Signer(s) Thumbprint(s)



**Travelers Casualty and Surety Company of America
Travelers Casualty and Surety Company
St. Paul Fire and Marine Insurance Company**

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **Kim E. Heredia** of **IRVINE, California**, their true and lawful Attorney(s)-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this **21st** day of **April**, 2021.



State of Connecticut

City of Hartford ss.

By: 
Robert L. Raney, Senior Vice President

On this the **21st** day of **April**, 2021, before me personally appeared **Robert L. Raney**, who acknowledged himself to be the Senior Vice President of each of the Companies, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of said Companies by himself as a duly authorized officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

My Commission expires the **30th** day of **June**, 2026




Anna P. Nowik, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of each of the Companies, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of each of the Companies, do hereby certify that the above and foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this **27** day of **October**, 2023




Kevin E. Hughes, Assistant Secretary

**To verify the authenticity of this Power of Attorney, please call us at 1-800-421-3880.
Please refer to the above-named Attorney(s)-in-Fact and the details of the bond to which this Power of Attorney is attached.**

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Los Angeles)

On October 30, 2023 before me, Michelle R. Doyle, Notary Public
(insert name and title of the officer)

personally appeared Matthew Metoyer,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

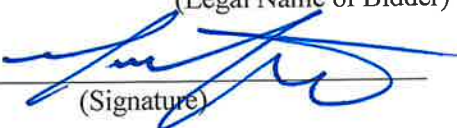
Signature Michelle R. Doyle (Seal)



BIDDER'S SIGNATURE CERTIFICATE

I hereby certify, under penalty of perjury, that the foregoing Proposal is true, correct, and legally submitted.

BIDDER: Bali Construction, Inc.
(Legal Name of Bidder)

by:  Matthew Metoyer
(Signature) Officer/Chief Estimator (Title)

Dated 10/26, 2023, at 9852 E. Joe Vargas Way
South El Monte CA 91733

Business Address: 9852 E. Joe Vargas Way

South El Monte CA 91733

Telephone: 626-838-5848

NOTE: If bidder is a corporation, the legal name of the corporation shall be set forth above together with the signature of the officer or officers authorized to sign contracts on behalf of the corporation; if bidder is a co-partnership, the true name of the firm shall be set forth above together with the signature of the partner or partners authorized to sign contracts in behalf of the co-partnership; and if bidder is an individual, his signature shall be placed above. If signature is by an agent, other than an officer of a corporation or a member of a partnership, a Power of Attorney must be submitted with the bid; otherwise, the bid may be disregarded as irregular and unauthorized.



City of Del Mar Agenda Report

TO: Honorable Mayor and City Council Members

FROM: Amanda Lee, Principal Planner
Karen Brindley, Planning and Community Development Director
Via Ashley Jones, City Manager

DATE: November 13, 2023

SUBJECT: Update on the Housing Element Implementation Work Program

REQUESTED ACTION/RECOMMENDATION:

Staff recommends that the City Council receive the update on the Housing Element Work Program.

SUMMARY:

The City's certified 6th Cycle Housing Element applies to the planning period (2021-2029) and includes 45 action programs with specific milestones that are required to be timely completed. Regular status updates are provided annually to the City Council and the California Housing and Community Development Department (HCD) in accordance with State law. The official Annual Progress Report on Housing Element implementation progress will be provided to the City Council in March 2024 prior to submittal to HCD by April 1. To facilitate timely implementation of the work program, this update is being provided to identify the volume of work and actions that must be completed in overlapping timeframes over the next year.

There are over 20 remaining Housing Element programs that must be completed by December 2024. These projects are in various stages of processing and most require formal actions by the Planning Commission, City Council, and California Coastal Commission (CCC). However, there are only twelve regularly scheduled Planning Commission meetings and twenty-one City Council meetings during this timeframe. Limited staff and consultant resources are other factors that affect the ability to timely process each of these items.

DISCUSSION/ANALYSIS:

Following is a summary of the two housing projects with Local Coastal Program (LCP) amendments that are currently in process with the CCC:

- **Public Facilities (PF) and Public Parkland (PP) Zoning and LCP Amendments** – This is a package of clean-up amendments that are necessary to correct errors on the City's LCP Land Use Designation Map and Zoning Map and implement one milestone identified in the Housing Element as required for **Program 1H** (Public Facilities). The

City Council Action:

Ordinance/LCPA was adopted by the City Council January 9, 2023. Action by the CCC is anticipated to occur by June 2024. Timeline: Present to June 2024.

- **Senate Bill 9 Implementation Ordinance/LCPA** – This Ordinance/LCPA was adopted by the City Council on June 19, 2023. It is necessary to implement State housing law and is identified in the Housing Element as one milestone required for implementation of **Program 6B** (Affirmatively Furthering Fair Housing) as a strategy to create housing opportunities for moderate income, lower income, and special needs households. Action by the CCC is anticipated to occur by August 2024. Timeline: Present to August 2024.

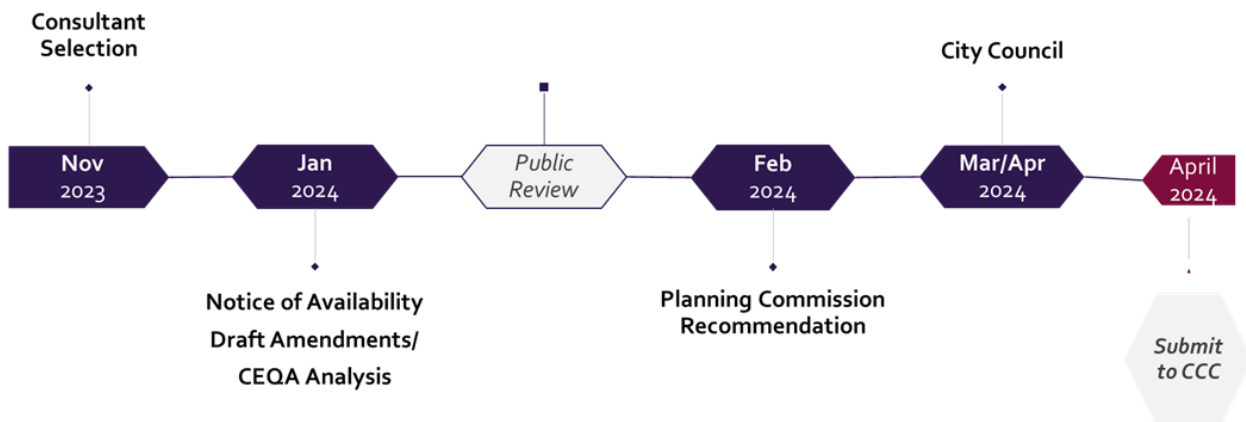
Following is a summary of three housing special projects currently in process for City Council approval prior to January 1, 2024:

- **Accessory Dwelling Unit (ADU) Regulations Ordinance/LCPA** – This Ordinance/LCPA was presented to the City Council on October 16, 2023, and was continued after Council discussion and requests for additional revisions. The revised Ordinance/LCPA will be presented to the City Council on December 4, 2023, for introduction of the Ordinance and followed by a second reading/adoption hearing on December 18, 2023. The Housing Element requires City Council action to be completed by December 2023 in order to implement various Housing Element programs including the following programs focused on creating affordable housing options: **Program 2F** Tiny Homes, **Program 2A** ADU Incentive Program, **Program 2B** ADU Amnesty Program, **Program 5A** Expansion of Existing Multi-Unit Development, and **Program 6B** Affirmatively Furthering Fair Housing. Following City Council adoption, the Ordinance/LCPA must be submitted to HCD within 60 days for review and comment. Once HCD's response is provided to the City in writing, the City will have 30 days to provide a written response back to HCD. The Ordinance/LCPA must also be submitted to CCC for review and final certification in order for the Ordinance/LCPA to take effect. Timeline: Present to June 2025 (estimate for final completion of CCC actions).
- **ADU Incentive Program Ordinance** – This Ordinance was scheduled for City Council consideration on October 16, 2023, and was continued to a future date with the ADU Regulations Ordinance/LCPA and ADU Amnesty Program. The ADU Incentive Program Ordinance will be presented to the City Council on December 4, 2023, for an introduction of the Ordinance and followed by a second reading/adoption hearing on December 18, 2023. The Housing Element requires City Council action to be completed by December 2023 in order to implement **Program 2A**. Once adopted, the City will begin work to promote the new incentives available per the Housing Element **Program 2C** commitment. Timeline: Present to June 2024.

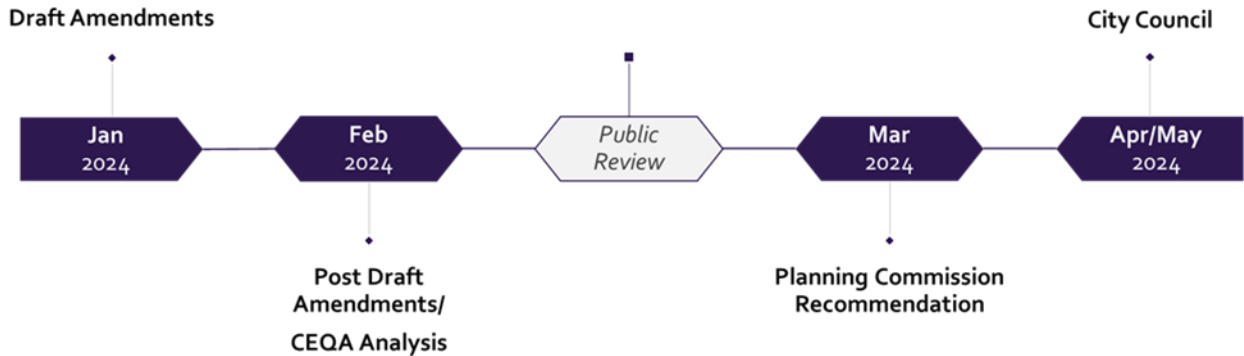
- ADU Amnesty Program** – The proposed ADU Amnesty Program was scheduled to be presented to the City Council on October 16, 2023, and was continued to a future date with the ADU Regulations Ordinance/LCPA and ADU Incentive Program. The ADU Amnesty Program will be presented to the City Council on December 4, 2023 for adoption of a Resolution and City Council Policy. The Housing Element requires City Council action to be completed by December 2023 in order to implement **Program 2B**. Once adopted, the City will begin work to promote the new Amnesty Program and incentives available per Housing Element **Program 2C**. Timeline: Present to June 2024.

Following is a summary of four housing-related special projects in process for City Council approvals prior to June 30, 2024:

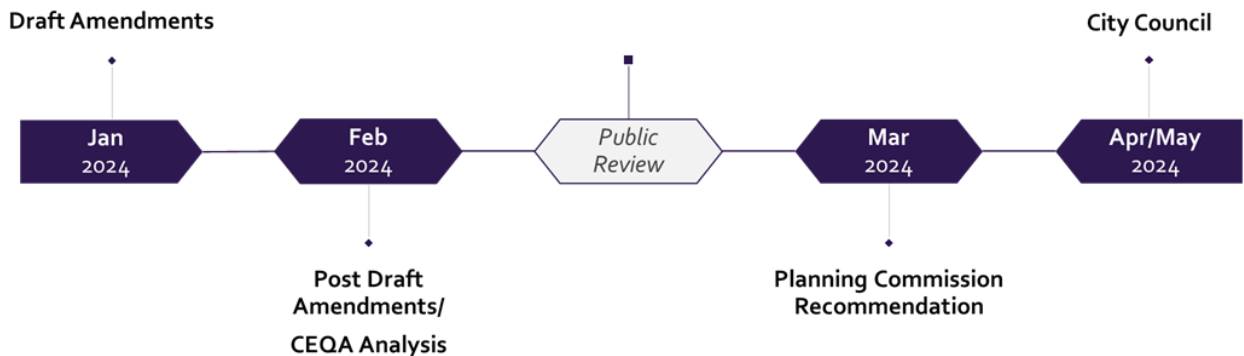
- Amendments to Facilitate Affordable Housing in the Central Commercial (CC) Zone and PF Zone** – The City is required to take actions to amend the Community Plan, Del Mar Municipal Code, and LCP to allow mixed use development with an affordable housing component up to a density of at least 20 dwelling units per acre as a permitted use. This is required to implement actions including a Community Plan amendment, Zoning Code amendment, and LCP amendment as identified in the Housing Element for **Program 1C** and **Program 1H**. The City is seeking environmental consulting services for preparation of an environmental document and processing of amendments to facilitate affordable housing in the Central Commercial (CC) Zone and the Public Facilities (PF) Zone. The Housing Element requires the City Council decisions to be completed by April 2024. This project is required to create housing capacity per the certified Housing Element plan and must be timely completed or there are potential penalties that can be imposed by the State. City staff anticipates a Planning Commission public hearing in February 2024 prior to City Council public hearings in March/April 2024. Following City Council adoption, the Ordinance/LCPA must be submitted to CCC for review and final certification for the Ordinance/LCPA to take effect. See graphic below for planned timing through Council adoption. Timeline: Present to October 2025 (estimate for final completion of CCC actions).



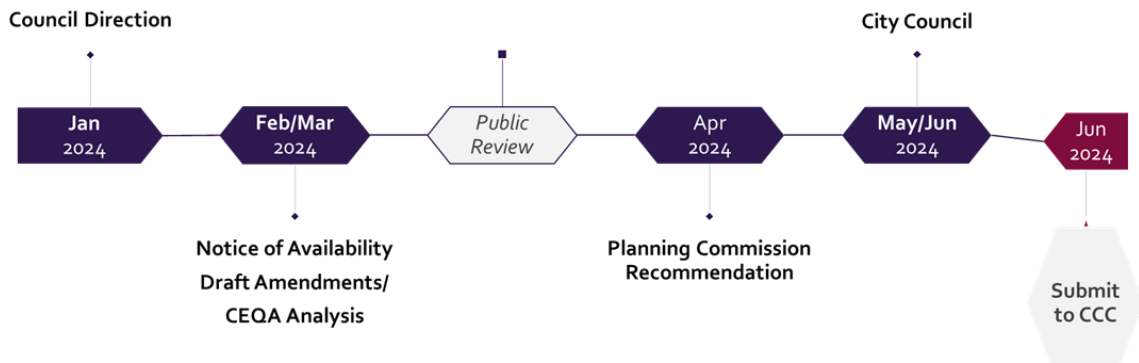
- Update to Density Bonus Regulations for Compliance with State law** – The City is required to repeal and replace its existing density bonus regulations (DMMC Chapter 30.90) in order to comply with State law. **Program 1G** requires this Ordinance to be completed by June 2024. City staff anticipates presentations to the Planning Commission in March 2024 and City Council in April/May 2024. See graphic below for planned timing through Council adoption to align with the Inclusionary Housing and Condominium Conversion Ordinance. Timeline: Present to June 2024.



- Update to Inclusionary Housing and Condominium Conversion Regulations** – The City is required to update its existing inclusionary housing regulations (DMMC Chapter 24.21) to comply with State law. **Program 4D** Inclusionary Housing and **Program 4E** Condominium Conversions are required to be completed by June 2024. This will include a condominium conversion-related item for implementation of the North Commercial (NC) Zoning Ordinance Referendum settlement agreement. City staff anticipates a Planning Commission public hearing in March 2024 and City Council public hearings in April/May 2024. See graphic below. Timeline: Present to June 2024.

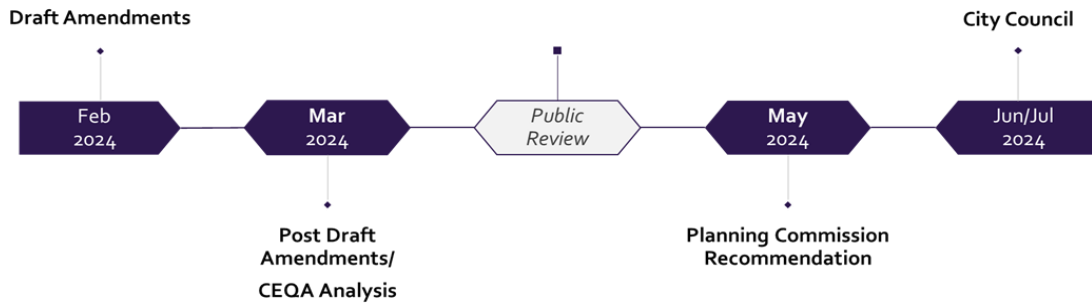


- Short Term Rental (STR) Ordinance/LCPA** - The City held public discussions for this special project in the July, September, and October 2023 City Council meetings where the Council reviewed data on existing STRs, identified Guiding Principles, reviewed past court and CCC decisions, and provided direction. Staff will seek additional policy direction from the City Council on January 22, 2024. The City is required to adopt a STR Ordinance/LCPA by December 2024 per Housing Element **Program 5C**. This will include processing of a related component per the settlement agreement for the North Commercial (NC) Zoning Ordinance Referendum. City staff anticipates a Planning Commission hearing in April 2024 and City Council public hearings in May/June 2024. Once the City Council adopts the Ordinance/LCPA, it must be submitted to the CCC for review and certification to become effective. See graphic below for planned timing through Council adoption. Timeline: Present to December 2025 (estimate for final completion of CCC actions).

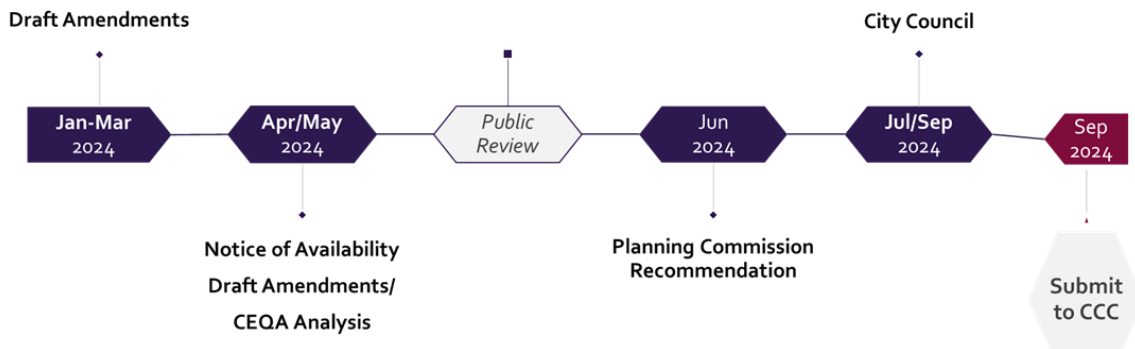


Following is a summary of housing-related special projects in process with pending milestones that have been adjusted in consideration of needs for the overall work program:

- Community Plan Update: Environmental Justice and Safety Elements** – The City is required to amend the Del Mar Community Plan to adopt a new Environmental Justice Element per **Program 6E** and **Program 6B** to Affirmatively Further Fair Housing. The City is also required to update the existing Safety Element per **Program 6H**. This update was required to have been completed by June 2023 per the Housing Element, but has been delayed due to workload constraints. The City will be utilizing 72 hours of free technical assistance available from SANDAG to resume work in January 2024 and supplement the staff work completed to-date. See graphic below. Staff anticipates presenting the item to Planning Commission in May 2024 and City Council in June/July 2024. Timeline: Present to July 2024.

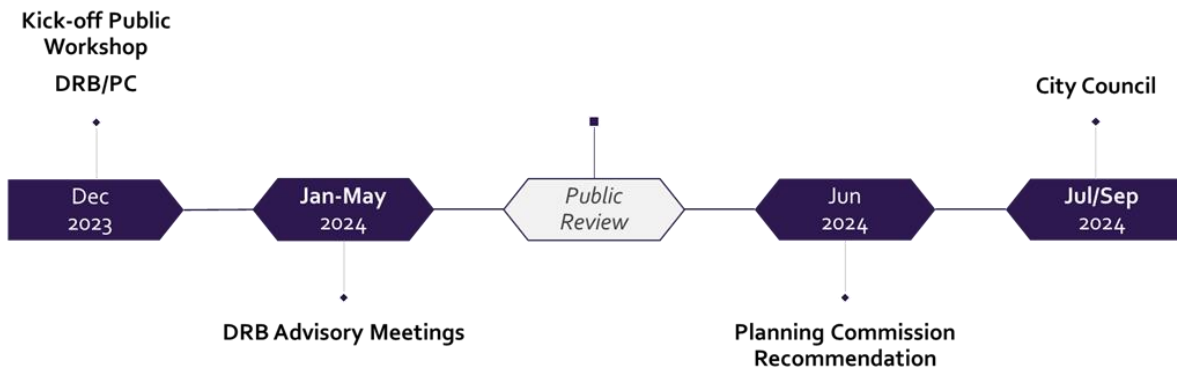


- New Overlay Zone and Incentives to Facilitate Creation of Affordable Housing -**
 The City is required to create new incentives for multi-dwelling unit development with an affordable housing component to satisfy multiple programs in the Housing Element. In January 2023, Stephen Dalton Architects and Keyser Marston Associates presented the findings of affordable housing economic analysis and feasibility studies to the City Council relating to various sites identified in the Housing Element sites inventory. The report included recommendations to create a new Affordable Housing Overlay Zone with site-specific incentives per **Program 1D**. The City is seeking environmental consulting services to facilitate processing of the Zoning Code amendment, LCP amendment, and Rezone actions to implement **Program 1D** and **Program 1I** (Streamlining and Incentives for Affordable Housing). **Program 1I** has a deadline of December 2023 per the Housing Element, which will be partially addressed by a separate Ordinance for the ADU Incentive Program per **Program 2A**. Due to constrained staff resources, the additional streamlining and incentives specific to multi-unit development are being processed separately. City staff will coordinate these efforts with the Objective Design Standards work plan described below. Prior to bringing forward an Ordinance to create the new overlay zone (with site-specific incentives and rezone properties as applicable to apply the new overlay zone), staff anticipates drafts will be available in early 2024 prior to the Planning Commission and City Council public hearings in spring/summer 2024. Following City Council adoption, the Ordinance/LCPA must be submitted to CCC for review and final certification to take effect. See graphic below. Timeline: Present to December 2025 (estimate for final completion of CCC actions).



- Objective Design Standards** – The City is required to adopt Objective Design Standards by June 2024 per **Program 6G**. Objective standards are defined as measurable, verifiable, and involve no personal judgement. The project is intended to facilitate affordable housing development and maintain community character in accordance with the Del Mar Community Plan and the LCP. The City has a consultant contract with Ascent Environmental Inc. to assist staff with creation of these standards. The Design Review Board will serve as the advisory body for development of the standards. The Planning Commission (advisory) and City Council will serve in their typical legislative roles for adoption of the Ordinance. City staff anticipates a “kick off” public workshop in December 2023, followed by public input via a public survey and DRB meetings in early 2024, and Planning Commission and City Council consideration of the Ordinance in spring/summer 2024. The City has Cycle 2 Housing Acceleration Program (HAP) Grant Funds for the project. See grant summary and graphic below. The project may require additional time to accommodate public participation through December 2024, which aligns with the timing per the HAP Grant. Timeline: Present to December 2024.

HAP Grant Cycle 2 Grant #2: \$101,000 Grant (Objective Design Standards)		
Project	Grant Funds	Matching Funds
Program 6G Objective Design Standards	\$101,000	\$5,000 In-Kind staff time: \$30,000 (300 hours)



- Availability of Fair Housing Materials in English and Spanish** – Consistent with Housing Element **Program 6B**, the City is required to make fair housing materials available to the public in English and Spanish by June 2024. Timeline: May-June 2024.

Following is a summary of three special projects in process to facilitate affordable housing on public sites with upcoming milestones that must occur by April, June, and December 2024:

- **Planning and Development of Affordable Housing on State Fairgrounds** - The City is seeking to establish control of a one to two-acre site within the State Fairgrounds property to develop lower income housing consistent with Housing Element **Program 3A**. The City is in process of finalizing a draft Exclusive Negotiating Rights Agreement (ENRA) between the City and 22nd DAA. Staff anticipates the ENRA will be ready for City Council and 22nd DAA Board consideration in early 2024. This agreement is required to be completed by April 2024.

On October 13, 2023, SANDAG allocated \$1.5 million in Cycle 2 HAP Grant Funds to Del Mar to fund studies related to the plan for affordable housing on the Fairgrounds including pre-development studies, environmental assessments, and related affordable housing consulting services.

HAP Grant Cycle 2 Grant #1: \$1.5 million Grant (Fairgrounds Housing)		
Project	Grant Funds	Matching Funds
Program 3A Lower Income Housing - State Fairgrounds Property in Del Mar	\$1.5 million	\$150,000 In-Kind staff time: \$150,000 (1,500 hours)

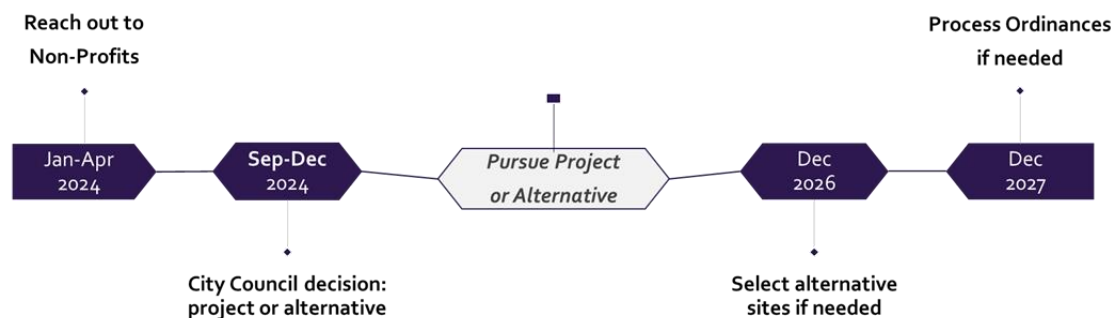
Once an agreement is in place, the City will coordinate with 22nd DAA to conduct pre-development studies to identify more precisely the site location and project description for an affordable housing project and information relating to:

- Site design feasibility
- Supplemental economic studies, financial feasibility analysis, and identification of property encumbrances
- Transportation and traffic studies to assess mobility and access
- Environmental assessment work (i.e., geotechnical/soils analysis, biology report, wetlands delineation, sea level rise resiliency)
- Assessment of infrastructure-related conditions (i.e., water, sewer, stormwater, roadways, access improvements, flood control/SLR resiliency)

During the ENRA period, the City will also be negotiating the terms of a long-term ground lease for the selected project site.

The information collected will facilitate negotiations of the ground lease, selection of a developer, and future agreements for developer construction and management and operation of the affordable housing once complete. Subsequent project phases will be conducted by the selected developer, including the project environmental analysis, design (conceptual, preliminary, final), entitlement approvals, public improvements, and construction by June 2031. Project Timeline: Present to June 2031 (Attachment A).

- Affordable Housing on City-Owned Sites on 10th Street and 28th Street** – In June 2022, the City completed feasibility studies confirming that the two City-owned sites at 10th Street and 28th Street identified in the Housing Element sites inventory have capacity for at least seven lower-income units. **Program 3B** requires the City, by April 2024, to contact Habitat for Humanity and/or similar non-profit organizations to solicit interest in a potential partnership for two small affordable housing developments per the Housing Element. A City Council decision on whether to proceed with such a project or an alternative strategy (i.e., land disposition) is required by January 2025. If building permits for at least seven lower income units are not issued by January 2027, then the City will be required to identify alternative sites with appropriate zoning and development standards by December 2027. See graphic below. Timeline: Present to April 2029.

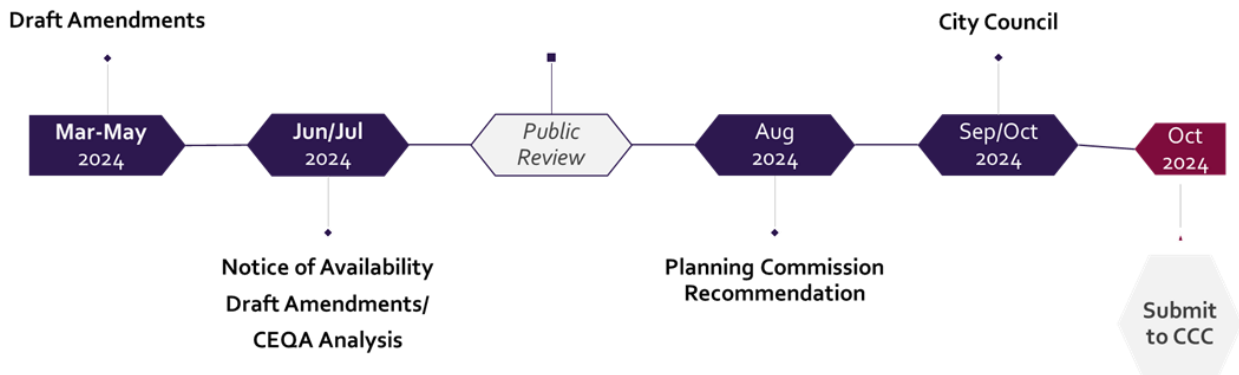


- Conceptual Living Levee Design** – The conceptual design for a living levee along the banks of the San Dieguito River is an adaptation measure and special project in process to implement the City’s adopted plan for climate change and sea level rise. The City Council identified construction of a “living levee” with vegetated berms between the San Dieguito River and existing development as a priority adaptation measure to provide flood risk reduction and minimize the projected effects of rising sea levels in accordance with the City’s Sea Level Rise Adaptation Plan (Environmental Science Associates 2018). The living levee is a type of natural flood adaptation infrastructure that can provide coastal resilience, stabilize the shoreline, and protect adjacent communities from flooding. In June 2024, the City’s consultant (Moffat & Nichol) will present the conceptual design and options for grant funding to develop the project. The living levee is a vegetated berm that can provide flood adaptation to support development of housing in accordance with the Housing Element, including **Program 1D** (Overlay Zone sites in the Floodplain), **Program 3A** (Fairgrounds), and **Program 3B** (28th Street lot). Timeline: Present to June 2024 (preliminary conceptual design phase only).

Following is a summary of two additional housing-related special projects that are required to be completed prior to December 31, 2024:

- Efforts to Address the Needs of Special Needs Households** – This relates to Housing Element **Program 4A** (residential care facilities) and **Program 4B** (supportive housing, transitional housing, and other housing needs for the homeless and at-risk populations). The City must process an Ordinance by December 2024 to amend the Zoning Code and LCP to update land use categories and permitted use allowances for residential care, transitional housing, and supportive housing. The City has HAP grant funds to support consulting services, preparation of informational handouts, public outreach, policy formation and regulations in compliance with State and Federal law, and processing of the Resolution and Ordinance through noticed public hearings of the Planning Commission, City Council, and Coastal Commission. The City is preparing to initiate the consultant selection process by December 2023. City staff anticipates a Planning Commission public hearing in August 2024 and City Council public hearings in September/October 2024. The Ordinance/LCPA must be submitted to CCC for review and final certification to take effect. See grant summary and graphic below. Timeline: Present to December 2025 (estimate for final completion of CCC actions).

HAP Grant Cycle 2 Grant #2: \$80,000 Grant (Programs 4A/4B)		
Project	Grant Funds	Matching Funds
Program 4A/4B Efforts to Address Needs of Special Needs Households	\$80,000	\$5,000 In-Kind staff time: \$20,000 (200 hours)



- Solar Energy Partnership** – The City will partner with Renewable Cities San Diego to create a program to install solar panels on multi-unit, low-income housing units. The intent is to meet City renewable energy goals in the Climate Action Plan and provide cost savings on utilities for low-income households per Housing Element **Program 6D**. City staff will coordinate these efforts with the work plan in process for implementation of the Climate Action Plan. Timeline: June 2024 to December 2024.

HOUSING IMPACT: The City's certified 6th Cycle Housing Element includes 45 action programs with specific milestones that are required to be timely completed. As identified above, there are over 20 remaining Housing Element programs that must be completed by December 2024.

FISCAL IMPACT: There is no fiscal action to be taken by the City Council related to this agenda item. The identified match funds are already available in the respective special project accounts for each of the identified special projects. The HAP grant funding identified for Housing Element Programs 3A, 6G, 4A, and 4B will offset costs for implementation of corresponding special projects included in the work program for Fiscal Years 2023-24 and 2024-25.

ENVIRONMENTAL IMPACT: The requested action is exempt from the California Environmental Quality Act (CEQA) pursuant to the common-sense exemption (CEQA Guidelines Section 15061(b)(3)) because CEQA only applies to projects that have the potential for causing a significant effect on the environment. This status update is administrative in nature and would have no significant effect on the environment.

NEXUS TO CITY COUNCIL GOALS AND PRIORITIES: Implementation of the certified Housing Element is a City Council identified priority. This item relates to multiple City Council priority special projects that are required to be timely implemented.

ATTACHMENTS:

Attachment A – Schedule for Fairgrounds Affordable Housing Project
Attachment B – Housing Element Program Table

Fairgrounds Affordable Housing Project Schedule for Cycle 2 HAP Grant Agreement

The following scope of tasks and timeline (pre-development through construction phases) was prepared based on input from the City's affordable housing consultants and special legal counsel based on their prior experience and expertise with affordable housing development projects. The proposed timing complies with the HAP Grant criteria. However, it should be noted that many variables can affect project timing as it relates to processing steps following the pre-development phase (Task 2).

Task No.	Task Description	Outcome/Output	Deliverables
1	<i>Develop and execute Exclusive Negotiations Rights Agreement with 22nd DAA (Draft agreement and initial discussions between agencies at staff level will have occurred prior to NTP)</i>	<i>Secure signed agreement between the City and the California 22nd DAA</i>	<i>Final Exclusive Negotiation Rights Agreement By April 2024</i>
2	<i>Pre-Development Studies/Due Diligence</i>	<i>Site design feasibility Supplemental economic studies, financial feasibility analysis, and identification of property encumbrances Transportation and traffic studies to assess mobility and access Environmental assessment work (i.e., geotechnical/soils analysis, biology report, wetlands delineation, sea level rise resiliency) Assessment of infrastructure-related conditions (i.e., water, sewer, stormwater, roadways, access improvements, flood control/SLR resiliency)</i>	<i>Consultant studies and reports By Dec 2025</i>
3	<i>Negotiate Purchase and Sale Agreement or Right to Ground Lease</i>	<i>Agreement or Lease to facilitate developer solicitation</i>	<i>Agreement or Lease By Oct 2025</i>

4	<i>Developer solicitation</i>	<i>City to follow local process for preparation of RFP/RFQ and solicitation of proposals for competitive selection process as stated in RFP/RFQ request. The highest ranked firm will be selected considering teams relevant experience in affordable housing development, coastal development experience, familiarity with the City of Del Mar, approach to the work, and cost.</i>	<i>Final RFP/RFQ By July 2026</i>
5	<i>Exclusive Negotiations Rights Agreement with Developer</i>	<i>Negotiate ENRA terms with developer</i>	<i>Agreement By Oct 2026</i>
6	<i>City Land Use Entitlement and CEQA</i>	<i>Developer to process applications for all discretionary approvals.</i>	<i>Draft and Final CEQA Documents By July 2027</i>
7	<i>Disposition and Development Agreement with Developer</i>	<i>Developer due diligence, negotiation of business terms and execution of agreement. Planning Commission review and recommendation and City Council approval of DDA required.</i>	<i>DDA Agreement By Aug 2028</i>
8	<i>Coastal Commission Review and Approval of Coastal Development Permit</i>	<i>Coastal Commission review and approval of Coastal Development Permit is required for approval of affordable housing development on the State Fairgrounds property.</i>	<i>Coastal Development Permit By Aug 2028</i>
9	<i>Secure other Project Financing (i.e., State, County, Tax Credit Awards)</i>	<i>Developer submits applications for State and County funding awards and low income housing tax credit award. (Tax credit process may require multiple rounds of applications.)</i>	<i>Award of Funding By June 2029</i>
10	<i>Purchase and Sale Agreement or Right to Ground Lease Transferred</i>	<i>Agreement or Lease is needed for land transaction closing to facilitate construction. May require City and 22nd DAA action depending on structure of PSA.</i>	<i>Agreement or Lease by June 2029</i>
11	<i>Construction and Lease-Up</i>	<i>Commence and complete construction of affordable housing project. Complete lease-up and permanent loan conversion.</i>	<i>Project Construction By June 2031</i>

Progress on Housing Element Programs

	Program	Objective	Timeframe/Progress	Completeness
1	1A North Commercial	Finalize Coastal Commission certification of local approvals gained during 5 th Cycle to allow 20 du/ac on select North Commercial (NC) Zone parcels (Ordinance/LCPA)	Obtained Coastal Commission final certification in May 2022 prior to the June 2022 Housing Element deadline	Complete
2	1B Professional Commercial	Finalize Coastal Commission certification of local approvals gained during 5 th Cycle to allow 20 du/ac in the Professional Commercial (PC) Zone (Ordinance/LCPA)	Obtained Coastal Commission final certification in May 2022 prior to the June 2022 Housing Element deadline	Complete
3	1C Central Commercial	Amend the Central Commercial (CC) Zone to allow 20 du/ac (Community Plan Amendment and Ordinance/LCPA)	<ul style="list-style-type: none"> • Task order for Environmental consultant - Oct 2023 • Housing Element deadline April 2024 • Process Plan Amendment Resolution/Zoning Ordinance/LCPA to modify CC zone density <ul style="list-style-type: none"> - PC February 2024 - Council March/April 2024 - Submit to CCC 	In Progress
4	1D Affordable Housing Overlay Zone	Conduct Phase II feasibility studies to evaluate whether to create overlay zone. Coordinate with stakeholders (hotels, Plaza, multi-dwelling in RM zones) and present findings to City Council. (economic study; Ordinance/LCPA)	<ul style="list-style-type: none"> • Completed site-specific feasibility studies of small sites, non-vacant sites, vacant parcels on 10th Street (CC zone), RM-South hypothetical non-conforming multi-unit, and Del Mar Plaza • Presented to Council January 23, 2023 • Task order for Environmental consultant - Oct 2023 	In Progress

			<ul style="list-style-type: none"> • Process Ordinance/LCPA to create Affordable Housing Overlay Zone by December 2025 <ul style="list-style-type: none"> - Draft by March 2024 - PC June 2024 - Council July/Sep 2024 - Submit to CCC 	
5	1E Rezone of Vacant Land on North Bluff/South Stratford Properties (contingency program only)	If City is unable to reach agreement with State, then must implement rezone to 20-25 du/ac by right via overlay zone to create capacity for at least 54 lower income units	This contingency program is required by April 2024 only if Program 3A is not completed. If required, City would complete General Plan Amendment and Zoning Ordinance/LCPA	N/A (need for contingency program has not been activated)
6	1F Manufactured Housing	Code update needed per State law (Ordinance)	City Council adopted Ordinance in September 2023; and the Ordinance took effect prior to the December 2023 Housing Element deadline	Complete
7	1G Density Bonus	Update needed per State law (Ordinance/LCPA)	<ul style="list-style-type: none"> • Housing Element deadline June 2024 • Process Ordinance/LCPA for adoption by June 2024 with Programs 4D/4E inclusionary/condos <ul style="list-style-type: none"> - PC March 2024 - Council April/May 2024 	In Progress
8	1H Public Facilities Zone	Process LCPA for 28 th Street lot by December 2022. Amend PF zone by April 2024 to clarify that affordable housing is allowed use in PF zone (with Shores Park excluded). (Ordinance/LCPAs)	<ul style="list-style-type: none"> • Completed Council Adoption of Ordinance/LCPA for 28th Street lot in PF zone - January 2023; CCC certification of LCPA is pending • Housing Element deadline April 2024 • Process Plan Amendment Resolution/Zoning Ordinance LCPA to modify PF zone <ul style="list-style-type: none"> - PC February 2024 - Council March/April 2024 	In Progress

			<ul style="list-style-type: none"> - Submit to CCC • Coordinate with Habitat for Humanity or similar non-profit by April 2024 for development of City-owned sites at 10th Street and 28th Street 	
9	1I Streamlining and Incentives for Affordable Housing	Conduct Phase II economic study and zoning assessment. Evaluate existing regulations and identify potential incentives. Process ordinance to establish incentives available to facilitate creation of affordable housing. (Studies and Ordinance/LCPA)	<ul style="list-style-type: none"> • Completed Phase II feasibility studies and consideration of incentives - January 2023 • Presented to Council January 23, 2023 • In December 2023, City Council will consider adoption of ADU incentives to create low income units in multi-unit development • December 2023 deadline per Housing Element • Process second Ordinance with Program 1D: <ul style="list-style-type: none"> - Draft by March 2024 - PC June 2024 - Council July/Sep 2024 - Submit to CCC 	In Progress
10	1J Establish Program for Coordination with Affordable Housing Developers	Establish program for regular outreach with San Diego Housing Federation and affordable housing developers. Use for mutual benefit to gain insight towards development of realistic strategies to facilitate affordable housing, including strategies that can work at the Fairgrounds. (outreach/meetings)	City staff coordinated with San Diego Housing Federation staff. Additional ongoing outreach and coordination to occur via San Diego Housing Federation subcommittees when new housing opportunities become available	Ongoing
11	1K Infill Affordable Housing on Non-Vacant and Small Sites	Conduct Phase II economic study and zoning assessment of privately-owned sites in sites inventory. Identify potential changes to facilitate affordable housing	Completed Phase II site-specific studies demonstrating feasibility of non-vacant and small sites in NC and PC zones - January 2023	Complete

		via Ordinance/LCPA per Program 11. (Economic study/zoning assessment)		
12	2A Extend and Enhance ADU Pilot Program - Incentive Program	Process an extension of the current incentive program by May 2022. Prepare an economic study and zoning assessment. Process Ordinance to incorporate additional incentives and/or program modifications to increase participation in the program. (Ordinance to add incentives/modify program)	<ul style="list-style-type: none"> • Adopted an Ordinance extending the current incentive program - May 2022 • Completed feasibility study and identified incentives to expand program - January 2023 • Process Ordinance to create new incentives <ul style="list-style-type: none"> - PC July-September 2023 - Council October-December 2023 • In December 2023, City Council will consider adoption of ADU incentives to create low income units in multi-unit development • December 2023 deadline per Housing Element 	In Progress
13	2B ADU Amnesty Program	Establish ADU Amnesty Program to allow owners with unpermitted ADUs to legalize the ADUs so that the City can count them toward its inventory. The intent is to spur production of units for moderate and low-income households. (Resolution/Ordinance)	<ul style="list-style-type: none"> • Obtain determination from HCD as to whether legalized units (made available for rent) via this program can be counted towards RHNA • Data collection started April 2023 <ul style="list-style-type: none"> - PC July-September 2023 - Council October-December 2023 • In December 2023, City Council will consider adoption of Resolution to create program • December 2023 deadline per Housing Element 	In Progress
14	2C Promotion of Deed-Restricted Low Income ADUs	Develop outreach materials to promote deed restricted low income ADUs with goal to reach at least 15 low income ADUs to meet RHNA. (web update/outreach)	<ul style="list-style-type: none"> • Created dedicated web page and newsflash articles as initial outreach effort - May 2022 • Additional outreach and promotion will occur after completion of ADU Programs 2A and 2B 	In Progress

15	2D Tracking of ADU Progress	ADU progress is reported as part of Annual Progress Reports that are presented to the City Council and submitted to HCD on an annual basis in March each year. (spreadsheet tracking & reports to Council)	Annual Progress Reports (APR)to-date show that ADU production in 2021 and 2022 has been the most successful strategy toward local production of new housing units in the moderate and above moderate household income categories	Ongoing
16	2E Mid Cycle ADU Production Evaluation	Conduct a mid-cycle progress evaluation that accounts for the cumulative 2021-2024 production as reported to HCD in April 2025. Process additional amendments to the ADU Incentive Program if needed to spur production of ADUs for low-income households (spreadsheet tracking & potential ordinance)	APR reports identifying ADU production status will continue to be completed on annually. Processing of an ordinance to further amend the ADU Incentive Program (Program 2A) will only be required if, by April 2025, the City has not reached its goal of at least 15 ADUs for low income households.	Not started
17	2F Tiny Houses	Process an ordinance to clarify tiny houses are allowed in accordance with the ADU regulations. Identify additional circumstances where tiny houses can be allowed. The intent is to spur production of units for moderate and low-income households. (Ordinance/LCPA)	<ul style="list-style-type: none"> • Process Ordinance with ADUs <ul style="list-style-type: none"> - PC July-September 2023 - Council October-December 2023 - Submit to CCC • In December 2023, City Council will consider adoption of ADU Ordinance • December 2023 deadline per Housing Element 	In Progress
18	3A Agreement with State to Build Affordable Housing Units on State Fairgrounds property	Initiate process to secure a binding agreement with the State’s 22nd District Agricultural Association (DAA) and General Services Department. The objective is to secure approval of a binding agreement with the State by	<ul style="list-style-type: none"> • Completed Phase I economic study of market conditions, assessment of multi-unit product types, and identification of potential funding sources for affordable housing on State Fairgrounds – June 2022 	In Progress

		April 2024 that will allow development of at least 54 lower income units on the State Fairgrounds property (located within the City of Del Mar) that will allow the units to be counted towards the City's RHNA. (agreement)	<ul style="list-style-type: none"> • Executed agreement with affordable housing consultant - July 2022 • Obtained support letters for housing at Fairgrounds from SANDAG and County Supervisor Lawson-Remer • Supplemental housing concepts for southwest location on Fairgrounds – April 2023 • Awarded Cycle 1 and 2 HAP Grant funds • Ongoing coordination with 22nd DAA is in process to secure binding agreement by April 2024 	
19	3B Feasibility/Suitability of Affordable Housing on Publicly Owned Sites	Conducted Phase I economic study and zoning assessment of three publicly owned sites in the sites inventory including the State Fairgrounds and two City-owned vacant lots on 10 th Street and 28 th Street. Prepared site-specific concepts for multi-unit product types that are eligible for tax credit programs, estimated costs, and identified potential funding sources for development of affordable housing. Site-specific implementation via Programs 1H and 3A. (Economic study/zoning assessment)	<ul style="list-style-type: none"> • Completed Phase I feasibility studies of publicly-owned properties – June 2022 • By April 2024, contact Habitat for Humanity/non-profits to solicit interest in a partnership at 10th Street and/or 28th Street • Seek City Council decision by 2025 whether to pursue project or alternative strategy (i.e., land disposition) and proceed with necessary entitlements and processing • Identify alternative sites to develop within one year if at least 7 building permits have not been issued by 2027 	In Progress
20	4A Residential Care Facilities	Process Ordinance for compliance with State law (Ordinance/LCPA)	<ul style="list-style-type: none"> • Secured funding - Cycle 2 HAP Grant funds awarded Oct 2023 through December 2025 • Initiate consultant selection December 2023 • Housing Element deadline December 2024 • Process Ordinance/LCPA with Program 4B <ul style="list-style-type: none"> - PC August 2024 - Council Sept/Oct 2024 	In Progress

			- Submit to CCC	
21	4B Emergency Shelters, Transitional Housing and Supportive Housing, and Low Barrier Navigation Centers	Process Ordinance for compliance with State law. Develop procedures to connect public with resources. (Ordinance/LCPA and policy/procedures)	<ul style="list-style-type: none"> • Secured funding - Cycle 2 HAP Grant funds awarded Oct 2023 through December 2025 • Initiate consultant selection December 2023 • Housing Element deadline December 2024 • Process Ordinance/LCPA with Program 4A <ul style="list-style-type: none"> - PC August 2024 - Council Sept/Oct 2024 - Submit to CCC 	In Progress
22	4C Shared Housing Program	Continue to offer shared housing program/free roommate referral services via Del Mar Community Connections (outreach)	Existing program offered by Del Mar Community Connections	Ongoing
23	4D Inclusionary Housing Ordinance	Process amendments for compliance with State law (Ordinance)	<ul style="list-style-type: none"> • Select consultant by December 2023 • Housing Element deadline June 2024 • Process Ordinance with Density Bonus and condominium conversion modifications <ul style="list-style-type: none"> - PC March 2024 - Council April/May 2024 	In Progress
24	4E Condominium Conversions	Continue to implement existing processing requirements of Subdivision Map Act and mitigation requirements per DMMC 24.21.025 (publish procedure/amend Ordinance with Program 4D)	<ul style="list-style-type: none"> • Select consultant by December 2023 • Housing Element deadline June 2024 • Process Ordinance with Density Bonus and condo mods <ul style="list-style-type: none"> - PC March 2024 - Council April/May 2024 	In Progress

25	5A Expand Allowance for the Renovation and Improvement of existing Multi-Unit Structures with Non-Conformities	Continue to allow retention of non-conforming structures with three or more units to renovate and make improvements to these existing multiple dwelling unit structures. Expand to incentivize creation of low income units. Monitor the number of projects that utilize this program and identify the number of units conserved or rehabilitated where applicable. (procedure/Ordinance)	<ul style="list-style-type: none"> • Create a policy/procedure to memorialize the existing accommodation for non-conforming multi-unit development. • Process Ordinance with ADUs <ul style="list-style-type: none"> - PC July-September 2023 - Council October-December 2023 - Submit to CCC • In December 2023, City Council will consider adoption of ADU Ordinance • December 2023 deadline per Housing Element • Process second Ordinance/LCPA to create additional incentives with Programs 1D and 1I <ul style="list-style-type: none"> - PC July-September 2023 - Council - Submit to CCC 	In Progress
26	5B Require Housing Impact Statement in Reports	Adopted City Council policy and procedure for inclusion of housing impact statement in Agenda Reports.	Completed City Council adoption of Resolution - February 2022	Complete
27	5C Preserve Existing Housing Stock/Short Term Rental Controls	Continue to establish policies and programs that more effectively address regulations for short term rentals as a means to preserve long term housing stock (Ordinance/LCPA)	<ul style="list-style-type: none"> • Extended Short-Term Rental (STR) Forbearance Council Resolution – Jan 2023 • Executed task order with consultant – Jan 2023 • Council determination of guiding principles and objectives- July 2023 • Reports to Council with baseline conditions – July, Sep, Oct 2023 • Council review of CCC/court decisions – Sep 2023 • Council direction for prep of Ord/LCPA- Oct 2023 and Jan 2024 • Process Ordinance/LCPA 	In Progress

			<ul style="list-style-type: none"> - PC April 2024 - Council May-June 2024 - Submit to CCC • December 2024 deadline per Housing Element 	
28	6A SB 35 Streamlining – Notice of State Law Exemption for Coastal Cities	Provide notice to the public that the City of Del Mar is a coastal city that is exempt from SB 35 (post notice on web page)	Completed by publishing notice on City web page of local exemption from SB 35 because the City of Del Mar is a coastal city in the jurisdiction of the California Coastal Commission – January 2022	Complete
29	6B Affirmatively Furthering Fair Housing per AB 686	<p>Goal to create 100 additional housing opportunities beyond RHNA to improve housing choice and affordability options for moderate income, lower income, and special needs households. Participate in regional efforts, partner with organizations to review and refer discrimination complaints, and implement various actions. Ongoing commitment to review disability complaints and partner in regional efforts; to review discrimination complaints and partner with orgs such as Legal Aid Society of San Diego to address; to help connect seniors and students to available housing opportunities including roommate referral services; annual coordination in regional efforts to partner on strategies to address homelessness (Program 7J)</p> <p>(outreach and funding)</p>	<ul style="list-style-type: none"> • Created new density bonus opportunities in NC and PC zones (Programs 1A and 1B) – June 2022 • Demonstrated feasibility for low income units on Fairgrounds and City-owned sites – June 2022 • Posted community assistance resources on City web page –July 2022 • Demonstrated feasibility for low income units on privately owned sites – January 2023 • City Council adopted SB 9 Ordinance/LCPA June 19, 2023; LCPA is pending CCC certification approval • Legal Aid Society conducted Fair Housing Trainings for City staff - October 2023 • Update to Council on Low Income Beach Parking Pass Program – December 2023 • New Environmental Justice Element in process (Program 6E) • Multiple Ordinances in process to incentivize development of low income units (Program 1D, 1I, 2A, 5A) 	In Progress

			<ul style="list-style-type: none"> • Multiple Ordinances in process to create opportunities beyond RHNA (Program 1D, 1C, 1F, 1H, 2A, 2B, 2F) • Multiple Ordinances to address housing for special needs populations by December 2024 • Publish fair housing materials in English and Spanish by June 2024 	
30	6C Continue Data Collection and Compliance with the Coastal Act and Housing Element-Related Requirements applicable to the Coastal Zone, including State-Mandated Accommodation of Housing Development Capacity	Continue to collect data and maintain records regarding affordability. Work with the Coastal Commission and HCD to “harmonize” the Coastal Act and State Housing laws and identify a strategy to best accommodate future development capacity as assigned to the City for the 6th Cycle. (spreadsheet tracking and annual reports)	<p>The City continues to collect data and maintain records regarding affordability levels of units produced and has effective measures in place to address how proposed development can potentially impact existing households.</p> <p>The City continues to work with the Coastal Commission and HCD to “harmonize” the Coastal Act and State Housing laws.</p>	Ongoing
31	6D Solar Panel Installation Partnership	Partner with Renewable Cities San Diego to install solar on housing for lower income households (resolution)	<p>Process Resolution by December 2024</p> <p>Look into potential crossover with ADU Amnesty Program for solar on legalized units that become income restricted rentals</p>	Not started
32	6E Environmental Justice Element	Process Community Plan Amendment to establish policies to reduce community health risks and address Affirmatively Furthering Fair Housing Issues per Assembly Bill (AB) 686. (General (Community) Plan Amendment)	<ul style="list-style-type: none"> • Draft in progress • Will use free 72 hours of SANDAG Technical Assistance to finalize draft by March 2024 • Process for General Plan Amendment with Program 6J Safety Element: <ul style="list-style-type: none"> - PC – May 2024 - Council – June/July 2024 	In Progress

			(Housing Element indicates by June 2023)	
33	6F Vote Threshold for Housing-Related General Plan Amendment	Explore whether to modify local vote threshold for super majority to apply State’s simple majority (study and potential Ordinance/public vote)	Determined local vote threshold requiring a super majority vote (instead of simple majority) is not an impediment. Will involve ongoing consultation with City Attorney to ensure no actual conflict with State law	Ongoing
34	6G Objective Design Standards	Prepare and process objective design standards for housing that is eligible for by-right processing (Ordinance)	<ul style="list-style-type: none"> • Selected consultant - July 2023 • Housing Element deadline is June 2024 • Process for Ordinance: <ul style="list-style-type: none"> - Community survey - Kickoff DRB/PC workshop - Dec 2023 - DRB advisory meetings - Draft by March 2024 - PC Recommendation - June 2024 - Council - July/Sep 2024 	In Progress
35	6H Safety Element	Process Community Plan Amendment to update the existing Safety Element. Coordinate with CalFire and State Board of Forestry. (General (Community) Plan Amendment)	<ul style="list-style-type: none"> • Draft in progress • Will use free 72 hours of SANDAG Technical Assistance to finalize draft by March 2024 • Process for General Plan Amendment with Program 6E EJ Element: <ul style="list-style-type: none"> - Board of Forestry – April 2024 - PC- May 2024 - Council – June/July 2024 <p>(Housing Element indicates by June 2023)</p>	In Progress
36	7A Housing Funding Resources Including Housing Assistance and Housing Reserve Funds	Continue to make funds accrued in the Housing Assistance Reserve fund available for affordable housing. Ensure that the funds remain available for at least four lower income households via	Reports will be completed on an annual basis demonstrating that the funds remain available for at least four lower income households via rental subsidy and/or for new affordable housing	Ongoing

		rental subsidy and/or for new affordable housing (i.e., for the acquisition of land and construction of affordable units to be made available for individuals or families of extremely low, very low or low-income levels). (annual report to City Council with budget)		
37	7B Interfaith Partnership Opportunities	Continue to encourage inter-faith shelter network rotating shelter and St. Peter's Helping Hands (annual report to City Council with budget)	Reports will be completed on an annual basis demonstrating how various partners, including interfaith partners (i.e., St. Peters), facilitate provision of homeless assistance resources in Del Mar	Ongoing
38	7C Resources for Persons with Disabilities	Publish a resource list of programs and opportunities for persons with disabilities (updated list to be published within 3-6 months of Ordinances processed per Programs 4A and 4B)	Reports will be completed on an annual basis identifying available assistance resources for persons with disabilities	Ongoing
39	7D Housing Choice Voucher Program	Contract with the County of San Diego for Housing Choice Voucher Program (resolution to process contract)	Process Resolution to contract with the Housing Authority for the County of San Diego for housing choice vouchers to facilitate rental assistance in Del Mar using federal funds	Ongoing
40	7E Fee Waiver Program	Continue the fee waiver program (Resolution to extend fee waiver if needed)	Reports will be completed on an annual basis identifying any applications where fee waivers are granted to facilitate production of affordable housing	Ongoing

41	7F Monitor and Respond to Complaints of Constraints to Housing for Lower Income Households and Persons with Disabilities	Monitor and respond to complaints of constraints to housing for lower income households and persons with disabilities such as impediments to maintenance, improvement, or development of such housing. Continue to work with local non-profits to connect people with assistance and resources. (annual report to City Council with budget)	Reports will be completed on an annual basis identifying if any complaints were filed, the status, and the steps taken to resolve complaints	Ongoing
42	7G Senior Housing Resources and Assistance	Continue to partner with Del Mar Community Connections (resolution to extend contract)	Reports will be completed on an annual basis identifying available assistance resources for seniors	Ongoing
43	7H Student Housing Resources and Assistance	Connect students with affordable housing options in Del Mar, including ADUs (outreach/resource list)	Reports will be completed on an annual basis identifying available assistance resources for students	Ongoing
44	7I Database of Community Assistance Programs	Maintain list of community assistance programs (resource list)	On an annual basis the community assistance programs list will be maintained and updated.	Ongoing

45	7J Efforts to Reduce Homelessness	<p>Continue to collaborate with San Diego Regional Task Force on Homelessness (RTFH) including point in time counts and other partnership opportunities. Connect individuals and businesses seeking available services to address homelessness including coordination with the County-sponsored outreach worker for Del Mar, County's Mobile Crisis Response team (MCRT) and the Sheriff's Department Crime Prevention team. Adopt a City Council Resolution in support of Senate Bill 1338.</p>	<p>City Council adopted Resolution in support of Senate Bill 1338 (CARE Court compassionate care strategy) on June 6, 2022.</p> <p>City continues to collaborate with the San Diego Regional Task Force on Homelessness (RTFH) (i.e. point in time counts; partnership opportunities).</p> <p>City coordinates with its assigned County-sponsored outreach worker for Del Mar and the County's Mobile Crisis Response team (MCRT) to connect individuals seeking available services to address homelessness.</p> <p>City also helps connect local businesses with the Sheriff's Department Crime Prevention team for assistance with services to address homelessness.</p>	Ongoing
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City of Del Mar Agenda Report



TO: Honorable Mayor and City Council Members

FROM: Jorge Sanchez, Deputy Fire Chief
Josh Gordon, Fire Chief
Via Ashley Jones, City Manager

DATE: November 13, 2023

SUBJECT: Approval to Purchase Firefighter Self Contained Breathing Apparatus and Rapid Intervention Team Packs

REQUESTED ACTION/RECOMMENDATION:

Staff recommends that the City Council: 1) Authorize the purchase and replacement of critical fire equipment including (10) Self Contained Breathing Apparatus (SCBAs), (1) Rapid Intervention Team Packs, and related accessories totaling \$122,445.77 from Municipal Emergency Services (MES) (Attachment A); 2) Authorize the City Manager to execute the necessary documents; and 3) Amend the Fiscal Year 2023-2024 Operating and Capital Budget as described in the Fiscal Impact section of this report.

BACKGROUND:

Self-Contained Breathing Apparatus (SCBAs) are essential devices worn by firefighters and rescue workers to provide breathable air in hazardous environments that pose an immediate threat to life and health. These critical pieces of personal protective equipment (PPE) include a high-pressure air tank, pressure regulator, and an inhalation connection. They are constructed using lightweight, flame-resistant materials to ensure they do not hinder a firefighter's mobility or ability to rescue individuals from danger. Modern SCBAs are equipped with Personal Alert Safety Systems (PASS) or Automatic Distress Signal Units to aid in locating firefighters in distress.

SCBAs are a firefighter's lifeline in hazardous environments, enabling them to carry out physically demanding tasks such as hose handling, ladder operations, and rescues in burning buildings. Compliance with the National Fire Protection Association (NFPA) 1981 standard is crucial for the operation, maintenance, cleaning, and storage of SCBAs. This standard is revised every five years, with the latest edition effective in 2024.

DISCUSSION/ANALYSIS:

The City of Del Mar's Fire Department is approaching the end of the third NFPA cycle for their SCBA fleet, purchased as refurbished SCBA's in 2017 under the 2007 edition of NFPA 1981, rendering them non-compliant in 2024. The annual testing of these systems,

City Council Action:

required to meet Occupational Safety and Health Administration (OSHA) and NFPA standards, has become increasingly costly due to their rapid deterioration.

The City's Purchasing Policy permits participation in purchases and contracts established by other public agencies, provided a cooperative agreement follows a competitive process (Municipal Code Chapter 7.04.100). On May 5, 2020, Sourcewell, a State of Minnesota local government agency and service cooperative, conducted a competitive request for proposals for firefighting personal protective equipment, apparel, and accessories. Based on criteria including pricing, product selection, customer support, and the ability to meet contract requirements, Municipal Emergency Services (MES) was awarded Contract #032620 (Attachment B) for an initial four-year term with one annual renewal option. The pricing, products, and support under this contract have been evaluated by staff and deemed in the City's best interest for purchasing SCBAs and RIT Packs.

The Del Mar Fire Department's existing SCBAs are reaching the end of their useful life and are no longer under warranty, with some requiring costly repairs and ongoing maintenance. The new SCBA Model Scott Air-Pak X3 Pro offers efficiency and safety features, including a heads-up display and PASS, which enhance protection against equipment failures. Upgraded SCBAs will enable all on-duty firefighters to respond safely and effectively to fires and other hazardous situations, ensuring the protection of life and property in the community. Notable upgrades include:

- Higher-pressure cylinders that provide an additional 15 minutes of breathing air while maintaining the same cylinder size and weight.
- An Emergency Breathing Support System (EBSS) that allows firefighters to assist a downed colleague with an empty or malfunctioning pack.
- A lifetime repair warranty, resulting in maintenance cost savings.

The Del Mar Fire Department has existing automatic aid and boundary drop agreements with surrounding jurisdictions. Compatibility with neighboring departments is critical, especially for sharing resources like air bottles during large fires or hazardous materials incidents.

The new fleet of SCBAs will ensure NFPA compliance, maintain interconnectivity with neighboring jurisdictions, offer a lifetime warranty, incorporate the latest SCBA technology, and provide firefighters with the safest PPE. The total cost for the purchase of (10) Self Contained Breathing Apparatus (SCBAs), (1) Rapid Intervention Team Packs, and related accessories is \$122,445.77 (Attachment A). In December 2021, staff applied for the FY 2021 Assistance to Firefighters Grant (AFG) for SCBA replacements in a regional application with five other fire departments, but unfortunately the grant was denied.

FISCAL IMPACT:

Approval of this item will require a budget amendment to the Fiscal Year 2023-2024 Operating and Capital Budget as listed in the table below. Based on the value of this equipment, the cost of replacing the SCBAs will be paid out of the Equipment Replacement Fund and will have no impact to the General Fund Contingency.

Beginning in Fiscal Year 2024-2025, the City will continue to add a minimum of \$10,000 each fiscal year to the Equipment Replacement Fund to ensure sufficient funding is available when replacement of SCBAs is necessary in Fiscal Year 2038-2039.

Account Name	Account Number	Amount
Equipment Replacement	01.5890.5997	\$122,500
Net Budget Impact		\$122,500

ENVIRONMENTAL IMPACT:

The proposed City Council action does not constitute a “project” under the definition set forth in California Environmental Quality Action (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:

This is an operational item and is not related to the City Council Goals and Priorities.

ATTACHMENTS:

- Attachment A – Municipal Emergency Services Quote for Self-Contained Breathing Apparatus
- Attachment B – Municipal Emergency Services Contract #032620



(877) 637-3473

Quote

Attachment A

Quote # QT1675845
Date 09/05/2023
Expires 01/31/2024
Sales Rep Leightner, Scott
PO # SCBA RFQ 2023
Shipping Method FedEx Ground
Customer DEL MAR FIRE DEPARTMENT (CA)
Customer # C48412

Bill To

BRIAN CRAIN
 DEL MAR FIRE DEPARTMENT
 2200 JIMMY DURANTE BOULEVARD
 Del Mar CA 92014
 United States

Ship To

ROBERT TUCKER
 DEL MAR FIRE DEPARTMENT (CA)
 2200 JIMMY DURANTE BLVD.
 Del Mar CA 92014
 United States

Item	Alt. Item #	Units	Description	QTY	Unit Price	Amount
X8815025305304			Air-Pak X3 Pro SCBA (2018 Edition) with CGA, Parachute Buckles, 5.5, Standard, No Accessory Pouch, E-Z Flo+ Regulator with Quick Disconnect Hose (Rectus-type fittings), Universal EBSS, None, No, Pak-Tracker, No Case, 2 SCBA Per Box SOURCEWELL RFP# 032620 OFFERS 24% OFF LIST PRICE. LIST PRICE: \$10,779.30 - CONTRACT PRICE: \$8192.27	10	\$7,322.60	\$73,226.00
200969-01			CYL&VALV,CGA,CARB,45/5500 ASSY SOURCEWELL RFP# 032620 OFFERS 24% OFF LIST PRICE. LIST PRICE: \$2,005.44 - CONTRACT PRICE: \$1,524.13	25	\$995.00	\$24,875.00
201215-28			SCOTT NEW AV3000HT 4 POINT - KEVLAR - RT BRKT - SIZE MED SOURCEWELL RFP# 032620 OFFERS 9% OFF LIST PRICE. LIST PRICE: \$493.85 - CONTRACT PRICE: \$449.40	9	\$365.81	\$3,292.29
201275-01			EPIC 3 Voice Amplifier (Individually Packaged) SOURCEWELL RFP# 032620 OFFERS 9% OFF LIST PRICE. LIST PRICE: \$862.54 - CONTRACT PRICE: \$784.91	9	\$632.52	\$5,692.68
200954-15			RIT-PAK III,5.5,LG,AV,RECTUS SOURCEWELL RFP# 032620 OFFERS 9% OFF LIST PRICE. LIST PRICE: \$5,133.95 - CONTRACT PRICE: \$4671.89	1	\$3,711.29	\$3,711.29
200975-01			CYL&VALV,CGA,CARB,75/5500 ASSY SOURCEWELL RFP# 032620 OFFERS 24% OFF LIST PRICE. LIST PRICE: \$2,455.29SD - CONTRACT PRICE: \$1,866.02	1	\$1,796.55	\$1,796.55



QT1675845

4

November 13, 2023



(877) 637-3473

Quote

Quote #

QT1675845

Date

09/05/2023

ROB - QUOTE ATTACHED FOR YOUR REVIEW. THIS ORDER QUALIFIES FOR FREE SHIPPING.

Subtotal	\$112,593.81
Shipping Cost	\$0.00
Tax Total	\$9,851.96
Total	\$122,445.77

SCOTT SPECIAL PRICING NOTIFICATION PROVIDES PRICING VALID TO 12/29/2023.

SOURCEWELL CONTRACT RFP #032620. CONTRACT EXPIRES MAY 7, 2024. CONTRACT PROVIDES FOR 24% OFF CURRENT LIST PRICE FOR SCBA SETS AND CYLINDERS & 9% OFF CURRENT LIST FOR COMMUNICATIONS, FACE PIECES, AND RIT-PAKS. MES HAS THE OPTION TO SELL BELOW CONTRACT PRICING.

This Quotation is subject to any applicable sales tax and shipping and handling charges that may apply. Tax and shipping charges are considered estimated and will be recalculated at the time of shipment to ensure they take into account the most current information.

All returns must be processed within 30 days of receipt and require a return authorization number and are subject to a restocking fee.

Custom orders are not returnable. Effective tax rate will be applicable at the time of invoice.



QT1675845

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November 13, 2023

**Solicitation Number: RFP #032620****CONTRACT**

This Contract is between **Sourcewell**, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 (Sourcewell) and **Municipal Emergency Services Inc.**, 12 Turnberry Ln, 2nd Floor, Sandy Hook, CT 06482 (Vendor).

Sourcewell is a State of Minnesota local government agency and service cooperative created under the laws of the State of Minnesota (Minnesota Statutes Section 123A.21) that offers cooperative procurement solutions to its members. Participation is open to all levels of governmental entity, higher education, K-12 education, nonprofit, tribal government, and other public entities located in the United States and Canada.

Vendor desires to contract with Sourcewell to provide equipment, products, or services to Sourcewell and its Members (Members) in the United States only.

1. TERM OF CONTRACT

- A. **EFFECTIVE DATE.** This Contract is effective upon the date of the final signature below.
- B. **EXPIRATION DATE AND EXTENSION.** This Contract expires May 7, 2024, unless it is cancelled sooner pursuant to Article 24. This Contract may be extended up to one additional one-year period upon request of Sourcewell and with written agreement by Vendor.
- C. **SURVIVAL OF TERMS.** Articles 11 through 16 survive the expiration or cancellation of this Contract.

2. EQUIPMENT, PRODUCTS, OR SERVICES

- A. **EQUIPMENT, PRODUCTS, OR SERVICES.** Vendor will provide the Equipment, Products, or Services as stated in its Proposal submitted under the Solicitation Number listed above. Vendor's Equipment, Products, or Services Proposal (Proposal) is attached and incorporated into this Contract.

All Equipment and Products provided under this Contract must be new/current model. Vendor may offer close-out or refurbished Equipment or Products if they are clearly indicated in Vendor's product and pricing list. Unless agreed to by the Member in advance, Equipment or Products must be delivered as operational to the Member's site.

This Contract offers an indefinite quantity of sales, and while substantial volume is anticipated, sales and sales volume are not guaranteed.

B. **WARRANTY.** Vendor warrants that all Equipment, Products, and Services furnished are free from liens and encumbrances, and are free from defects in design, materials, and workmanship. In addition, Vendor warrants the Equipment, Products, and Services are suitable for and will perform in accordance with the ordinary use for which they are intended. Vendor's dealers and distributors must agree to assist the Member in reaching a resolution in any dispute over warranty terms with the manufacturer. Any manufacturer's warranty that is effective past the expiration of the Vendor's warranty will be passed on to the Member.

C. **DEALERS AND DISTRIBUTORS.** Upon Contract execution, Vendor will make available to Sourcewell a means to validate or authenticate Vendor's authorized Distributors/Dealers relative to the Equipment, Products, and Services related to this Contract. This list may be updated from time-to-time and is incorporated into this Contract by reference. It is the Vendor's responsibility to ensure Sourcewell receives the most current version of this list.

3. PRICING

All Equipment, Products, or Services under this Contract will be priced as stated in Vendor's Proposal.

Regardless of the payment method chosen by the Member, the total cost associated with any purchase option of the Equipment, Products, or Services must always be disclosed in the pricing quote to the applicable Member at the time of purchase.

When providing pricing quotes to Members, all pricing quoted must reflect a Member's total cost of acquisition. This means that the quoted cost is for delivered Equipment, Products, and Services that are operational for their intended purpose, and includes all costs to the Member's requested delivery location.

A. **SHIPPING AND SHIPPING COSTS.** All delivered Equipment and Products must be properly packaged. Damaged Equipment and Products may be rejected. If the damage is not readily apparent at the time of delivery, Vendor must permit the Equipment and Products to be returned within a reasonable time at no cost to Sourcewell or its Members. Members reserve the right to inspect the Equipment and Products at a reasonable time after delivery where circumstances or conditions prevent effective inspection of the Equipment and Products at the time of delivery.

Vendor must arrange for and pay for the return shipment on Equipment and Products that arrive in a defective or inoperable condition.

Sourcewell may declare the Vendor in breach of this Contract if the Vendor intentionally delivers substandard or inferior Equipment or Products. In the event of the delivery of nonconforming Equipment and Products, the Member will notify the Vendor as soon as possible and the Vendor will replace nonconforming Equipment and Products with conforming Equipment and Products that are acceptable to the Member.

B. SALES TAX. Each Member is responsible for supplying the Vendor with valid tax-exemption certification(s). When ordering, Members must indicate if it is a tax-exempt entity.

C. HOT LIST PRICING. At any time during this Contract, Vendor may offer a specific selection of Equipment, Products, or Services at discounts greater than those listed in the Contract. When Vendor determines it will offer Hot List Pricing, it must be submitted electronically to Sourcewell in a line-item format. Equipment, Products, or Services may be added or removed from the Hot List at any time through a Sourcewell Price and Product Change Form as defined in Article 4 below.

Hot List program and pricing may also be used to discount and liquidate close-out and discontinued Equipment and Products as long as those close-out and discontinued items are clearly identified as such. Current ordering process and administrative fees apply. Hot List Pricing must be published and made available to all Members.

4. PRODUCT AND PRICING CHANGE REQUESTS

Vendor may request Equipment, Product, or Service changes, additions, or deletions at any time. All requests must be made in writing by submitting a signed Sourcewell Price and Product Change Request Form to the assigned Sourcewell Contract Administrator. This form is available from the assigned Sourcewell Contract Administrator. At a minimum, the request must:

- Identify the applicable Sourcewell contract number
- Clearly specify the requested change
- Provide sufficient detail to justify the requested change
- Individually list all Equipment, Products, or Services affected by the requested change, along with the requested change (e.g., addition, deletion, price change)
- Include a complete restatement of pricing documentation in Microsoft Excel with the effective date of the modified pricing, or product addition or deletion. The new pricing restatement must include all Equipment, Products, and Services offered, even for those items where pricing remains unchanged.

A fully executed Sourcewell Price and Product Request Form will become an amendment to this Contract and be incorporated by reference.

5. MEMBERSHIP, CONTRACT ACCESS, AND MEMBER REQUIREMENTS

A. **MEMBERSHIP.** Membership in Sourcewell is open to public and nonprofit entities across the United States and Canada; such as municipal, state/province, K-12 and higher education, tribal government, and other public entities.

The benefits of this Contract should be available to all Members that can legally access the Equipment, Products, or Services under this Contract within the United States. A Member's authority to access this Contract is determined through its cooperative purchasing, interlocal, or joint powers laws. Any entity accessing benefits of this Contract will be considered a Service Member of Sourcewell during such time of access. Vendor understands that a Member's use of this Contract is at the Member's sole convenience and Members reserve the right to obtain like Equipment, Products, or Services from any other source.

Vendor is responsible for familiarizing its sales and service forces with Sourcewell membership requirements and documentation and will encourage potential members to join Sourcewell. Sourcewell reserves the right to add and remove Members to its roster during the term of this Contract.

B. **PUBLIC FACILITIES.** Vendor's employees may be required to perform work at government-owned facilities, including schools. Vendor's employees and agents must conduct themselves in a professional manner while on the premises, and in accordance with Member policies and procedures, and all applicable laws.

6. MEMBER ORDERING AND PURCHASE ORDERS

A. **PURCHASE ORDERS AND PAYMENT.** To access the contracted Equipment, Products, or Services under this Contract, Member must clearly indicate to Vendor that it intends to access this Contract; however, order flow and procedure will be developed jointly between Sourcewell and Vendor. Typically a Member will issue a purchase order directly to Vendor. Members may use their own forms for purchase orders, but it should clearly note the applicable Sourcewell contract number. Members will be solely responsible for payment and Sourcewell will have no liability for any unpaid invoice of any Member.

B. **ADDITIONAL TERMS AND CONDITIONS.** Additional terms and conditions to a purchase order may be negotiated between a Member and Vendor, such as job or industry-specific requirements, legal requirements (such as affirmative action or immigration status requirements), or specific local policy requirements. Any negotiated additional terms and conditions must never be less favorable to the Member than what is contained in Vendor's Proposal.

C. **PERFORMANCE BOND.** If requested by a Member, Vendor will provide a performance bond that meets the requirements set forth in the Member's purchase order.

D. **SPECIALIZED SERVICE REQUIREMENTS.** In the event that the Member requires service or specialized performance requirements (such as e-commerce specifications, specialized delivery requirements, or other specifications and requirements) not addressed in this Contract, the Member and the Vendor may enter into a separate, standalone agreement, apart from this Contract. Sourcwell, including its agents and employees, will not be made a party to a claim for breach of such agreement.

E. **TERMINATION OF PURCHASE ORDERS.** Members may terminate a purchase order, in whole or in part, immediately upon notice to Vendor in the event of any of the following events:

1. The Member fails to receive funding or appropriation from its governing body at levels sufficient to pay for the goods to be purchased;
2. Federal or state laws or regulations prohibit the purchase or change the Member's requirements; or
3. Vendor commits any material breach of this Contract or the additional terms agreed to between the Vendor and a Member.

F. **GOVERNING LAW AND VENUE.** The governing law and venue for any action related to a Member's purchase order will be determined by the Member making the purchase.

7. CUSTOMER SERVICE

A. **PRIMARY ACCOUNT REPRESENTATIVE.** Vendor will assign an Account Representative to Sourcwell for this Contract and must provide prompt notice to Sourcwell if that person is changed. The Account Representative will be responsible for:

- Maintenance and management of this Contract;
- Timely response to all Sourcwell and Member inquiries; and
- Business reviews to Sourcwell and Members, if applicable.

B. **BUSINESS REVIEWS.** Vendor must perform a minimum of one business review with Sourcwell per contract year. The business review will cover sales to members, pricing and contract terms, administrative fees, supply issues, customer issues, and any other necessary information.

8. REPORT ON CONTRACT SALES ACTIVITY AND ADMINISTRATIVE FEE PAYMENT

A. **CONTRACT SALES ACTIVITY REPORT.** Each calendar quarter, Vendor must provide a contract sales activity report (Report) to the Sourcwell Contract Administrator assigned to this Contract. A Report must be provided regardless of the number or amount of sales during that quarter (i.e., if there are no sales, Vendor must submit a report indicating no sales were made).

The Report must contain the following fields:

- Customer Name (e.g., City of Staples Highway Department);
- Customer Physical Street Address;
- Customer City;
- Customer State;
- Customer Zip Code;
- Customer Contact Name;
- Customer Contact Email Address;
- Customer Contact Telephone Number;
- Sourcwell Assigned Entity/Member Number;
- Item Purchased Description;
- Item Purchased Price;
- Sourcwell Administrative Fee Applied; and
- Date Purchase was invoiced/sale was recognized as revenue by Vendor.

B. ADMINISTRATIVE FEE. In consideration for the support and services provided by Sourcwell, the Vendor will pay an administrative fee to Sourcwell on all Equipment, Products, and Services provided to Members. The Vendor will submit a check payable to Sourcwell for the percentage of administrative fee stated in the Proposal multiplied by the total sales of all Equipment, Products, and Services purchased by Members under this Contract during each calendar quarter. Payments should note the Sourcwell-assigned contract number in the memo and must be mailed to the address above "Attn: Accounts Receivable." Payments must be received no later than forty-five (45) calendar days after the end of each calendar quarter.

Vendor agrees to cooperate with Sourcwell in auditing transactions under this Contract to ensure that the administrative fee is paid on all items purchased under this Contract.

In the event the Vendor is delinquent in any undisputed administrative fees, Sourcwell reserves the right to cancel this Contract and reject any proposal submitted by the Vendor in any subsequent solicitation. In the event this Contract is cancelled by either party prior to the Contract's expiration date, the administrative fee payment will be due no more than thirty (30) days from the cancellation date.

9. AUTHORIZED REPRESENTATIVE

Sourcwell's Authorized Representative is its Chief Procurement Officer.

Vendor's Authorized Representative is the person named in the Vendor's Proposal. If Vendor's Authorized Representative changes at any time during this Contract, Vendor must promptly notify Sourcwell in writing.

10. ASSIGNMENT, AMENDMENTS, WAIVER, AND CONTRACT COMPLETE

A. **ASSIGNMENT.** Neither the Vendor nor Sourcwell may assign or transfer any rights or obligations under this Contract without the prior consent of the parties and a fully executed assignment agreement. Such consent will not be unreasonably withheld.

B. **AMENDMENTS.** Any amendment to this Contract must be in writing and will not be effective until it has been fully executed by the parties.

C. **WAIVER.** If either party fails to enforce any provision of this Contract, that failure does not waive the provision or the right to enforce it.

D. **CONTRACT COMPLETE.** This Contract contains all negotiations and agreements between Sourcwell and Vendor. No other understanding regarding this Contract, whether written or oral, may be used to bind either party.

E. **RELATIONSHIP OF THE PARTIES.** The relationship of the parties is one of independent contractors, each free to exercise judgment and discretion with regard to the conduct of their respective businesses. This Contract does not create a partnership, joint venture, master-servant, principal-agent, or any other relationship.

11. LIABILITY

Vendor must indemnify, save, and hold Sourcwell and its Members, including their agents and employees, harmless from any claims or causes of action, including attorneys' fees, arising out of the performance of this Contract by the Vendor or its agents or employees; this indemnification includes injury or death to person(s) or property alleged to have been caused by some defect in the Equipment, Products, or Services under this Contract to the extent the Equipment, Product, or Service has been used according to its specifications.

12. AUDITS

Sourcwell reserves the right to review the books, records, documents, and accounting procedures and practices of the Vendor relevant to this Contract for a minimum of six (6) years from the end of this Contract. This clause extends to Members as it relates to business conducted by that Member under this Contract.

13. GOVERNMENT DATA PRACTICES

Vendor and Sourcwell must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by or provided to Sourcwell under this Contract and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Vendor under this Contract.

If the Vendor receives a request to release the data referred to in this article, the Vendor must immediately notify Sourcewell and Sourcewell will assist with how the Vendor should respond to the request.

14. INTELLECTUAL PROPERTY

As applicable, Vendor agrees to indemnify and hold harmless Sourcewell and its Members against any and all suits, claims, judgments, and costs instituted or recovered against Sourcewell or Members by any person on account of the use of any Equipment or Products by Sourcewell or its Members supplied by Vendor in violation of applicable patent or copyright laws.

15. PUBLICITY, MARKETING, AND ENDORSEMENT

A. **PUBLICITY.** Any publicity regarding the subject matter of this Contract must not be released without prior written approval from the Authorized Representatives. Publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Vendor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Contract.

B. **MARKETING.** Any direct advertising, marketing, or offers with Members must be approved by Sourcewell. Materials should be sent to the Sourcewell Contract Administrator assigned to this Contract.

C. **ENDORSEMENT.** The Vendor must not claim that Sourcewell endorses its Equipment, Products, or Services.

16. GOVERNING LAW, JURISDICTION, AND VENUE

Minnesota law governs this Contract. Venue for all legal proceedings out of this Contract, or its breach, must be in the appropriate state court in Todd County or federal court in Fergus Falls, Minnesota.

17. FORCE MAJEURE

Neither party to this Contract will be held responsible for delay or default caused by acts of God or other conditions that are beyond that party's reasonable control. A party defaulting under this provision must provide the other party prompt written notice of the default.

18. SEVERABILITY

If any provision of this Contract is found to be illegal, unenforceable, or void then both Sourcewell and Vendor will be relieved of all obligations arising under such provisions. If the

remainder of this Contract is capable of performance, it will not be affected by such declaration or finding and must be fully performed.

19. PERFORMANCE, DEFAULT, AND REMEDIES

A. **PERFORMANCE.** During the term of this Contract, the parties will monitor performance and address unresolved contract issues as follows:

1. *Notification.* The parties must promptly notify each other of any known dispute and work in good faith to resolve such dispute within a reasonable period of time. If necessary, Sourcewell and the Vendor will jointly develop a short briefing document that describes the issue(s), relevant impact, and positions of both parties.
2. *Escalation.* If parties are unable to resolve the issue in a timely manner, as specified above, either Sourcewell or Vendor may escalate the resolution of the issue to a higher level of management. The Vendor will have thirty (30) calendar days to cure an outstanding issue.
3. *Performance while Dispute is Pending.* Notwithstanding the existence of a dispute, the Vendor must continue without delay to carry out all of its responsibilities under the Contract that are not affected by the dispute. If the Vendor fails to continue without delay to perform its responsibilities under the Contract, in the accomplishment of all undisputed work, any additional costs incurred by Sourcewell and/or its Members as a result of such failure to proceed will be borne by the Vendor.

B. **DEFAULT AND REMEDIES.** Either of the following constitutes cause to declare this Contract, or any Member order under this Contract, in default:

1. Nonperformance of contractual requirements, or
2. A material breach of any term or condition of this Contract.

Written notice of default and a reasonable opportunity to cure must be issued by the party claiming default. Time allowed for cure will not diminish or eliminate any liability for liquidated or other damages. If the default remains after the opportunity for cure, the non-defaulting party may:

- Exercise any remedy provided by law or equity, or
- Terminate the Contract or any portion thereof, including any orders issued against the Contract.

20. INSURANCE

A. **REQUIREMENTS.** At its own expense, Vendor must maintain insurance policy(ies) in effect at all times during the performance of this Contract with insurance company(ies) licensed or authorized to do business in the State of Minnesota having an "AM BEST" rating of A- or better, with coverage and limits of insurance not less than the following:

1. *Workers' Compensation and Employer's Liability.*

Workers' Compensation: As required by any applicable law or regulation.

Employer's Liability Insurance: must be provided in amounts not less than listed below:

Minimum limits:

\$500,000 each accident for bodily injury by accident

\$500,000 policy limit for bodily injury by disease

\$500,000 each employee for bodily injury by disease

2. *Commercial General Liability Insurance.* Vendor will maintain insurance covering its operations, with coverage on an occurrence basis, and must be subject to terms no less broad than the Insurance Services Office ("ISO") Commercial General Liability Form CG0001 (2001 or newer edition). At a minimum, coverage must include liability arising from premises, operations, bodily injury and property damage, independent contractors, products-completed operations including construction defect, contractual liability, blanket contractual liability, and personal injury and advertising injury. All required limits, terms and conditions of coverage must be maintained during the term of this Contract.

Minimum Limits:

\$1,000,000 each occurrence Bodily Injury and Property Damage

\$1,000,000 Personal and Advertising Injury

\$2,000,000 aggregate for Products-Completed operations

\$2,000,000 general aggregate

3. *Commercial Automobile Liability Insurance.* During the term of this Contract, Vendor will maintain insurance covering all owned, hired, and non-owned automobiles in limits of liability not less than indicated below. The coverage must be subject to terms no less broad than ISO Business Auto Coverage Form CA 0001 (2010 edition or newer).

Minimum Limits:

\$1,000,000 each accident, combined single limit

4. *Umbrella Insurance.* During the term of this Contract, Vendor will maintain umbrella coverage over Workers' Compensation, Commercial General Liability, and Commercial Automobile.

Minimum Limits:

\$2,000,000

5. *Professional/Technical, Errors and Omissions, and/or Miscellaneous Liability.*

During the term of this Contract, Vendor will maintain coverage for all claims the Vendor may become legally obligated to pay resulting from any actual or alleged negligent act, error, or omission related to Vendor's professional services required under this Contract.

Minimum Limits:

\$2,000,000 per claim or event

\$2,000,000 – annual aggregate

6. *Network Security and Privacy Liability Insurance.* During the term of this Contract, Vendor will maintain coverage for network security and privacy liability. The coverage may be endorsed on another form of liability coverage or written on a standalone policy. The insurance must cover claims which may arise from failure of Vendor's security resulting in, but not limited to, computer attacks, unauthorized access, disclosure of not public data – including but not limited to, confidential or private information, transmission of a computer virus, or denial of service.

Minimum limits:

\$2,000,000 per occurrence

\$2,000,000 annual aggregate

Failure of Vendor to maintain the required insurance will constitute a material breach entitling Sourcewell to immediately terminate this Contract for default.

B. CERTIFICATES OF INSURANCE. Prior to commencing under this Contract, Vendor must furnish to Sourcewell a certificate of insurance, as evidence of the insurance required under this Contract. Prior to expiration of the policy(ies), renewal certificates must be mailed to Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 or sent to the Sourcewell Contract Administrator assigned to this Contract. The certificates must be signed by a person authorized by the insurer(s) to bind coverage on their behalf. All policies must include there will be no cancellation, suspension, non-renewal, or reduction of coverage without thirty (30) days' prior written notice to the Vendor.

Upon request, Vendor must provide to Sourcewell copies of applicable policies and endorsements, within ten (10) days of a request. Failure to request certificates of insurance by Sourcewell, or failure of Vendor to provide certificates of insurance, in no way limits or relieves Vendor of its duties and responsibilities in this Contract.

C. ADDITIONAL INSURED ENDORSEMENT AND PRIMARY AND NON-CONTRIBUTORY INSURANCE CLAUSE. Vendor agrees to name Sourcewell and its Members, including their officers, agents, and employees, as an additional insured under the Vendor's commercial general liability insurance policy with respect to liability arising out of activities, "operations," or "work" performed by or on behalf of Vendor, and products and completed operations of Vendor. The policy provision(s) or endorsement(s) must further provide that coverage is primary and not excess over or contributory with any other valid, applicable, and collectible insurance or self-insurance in force for the additional insureds.

D. WAIVER OF SUBROGATION. Vendor waives and must require (by endorsement or otherwise) all its insurers to waive subrogation rights against Sourcewell and other additional insureds for losses paid under the insurance policies required by this Contract or other insurance applicable to the Vendor or its subcontractors. The waiver must apply to all deductibles and/or self-insured retentions applicable to the required or any other insurance

11

Rev. 4/2019

maintained by the Vendor or its subcontractors. Where permitted by law, Vendor must require similar written express waivers of subrogation and insurance clauses from each of its subcontractors.

E. UMBRELLA/EXCESS LIABILITY. The limits required by this Contract can be met by either providing a primary policy or in combination with umbrella/excess liability policy(ies).

F. SELF-INSURED RETENTIONS. Any self-insured retention in excess of \$10,000 is subject to Sourcewell's approval.

21. COMPLIANCE

A. LAWS AND REGULATIONS. All Equipment, Products, or Services provided under this Contract must comply fully with applicable federal laws and regulations, and with the laws in the states and provinces in which the Equipment, Products, or Services are sold.

B. LICENSES. Vendor must maintain a valid status on all required federal, state, and local licenses, bonds, and permits required for the operation of the business that the Vendor conducts with Sourcewell and Members.

22. BANKRUPTCY, DEBARMENT, OR SUSPENSION CERTIFICATION

Vendor certifies and warrants that it is not in bankruptcy or that it has previously disclosed in writing certain information to Sourcewell related to bankruptcy actions. If at any time during this Contract Vendor declares bankruptcy, Vendor must immediately notify Sourcewell in writing.

Vendor certifies and warrants that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated by the State of Minnesota, the United States federal government, or any Member. Vendor certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this Contract. Vendor further warrants that it will provide immediate written notice to Sourcewell if this certification changes at any time.

23. PROVISIONS FOR NON-UNITED STATES FEDERAL ENTITY PROCUREMENTS UNDER UNITED STATES FEDERAL AWARDS OR OTHER AWARDS

Members that use United States federal grant or FEMA funds to purchase goods or services from this Contract may be subject to additional requirements including the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 C.F.R. § 200. Members may also require additional requirements based on specific funding specifications. Within this Article, all references to "federal" should be interpreted to mean the United States federal government. The following list only applies when

a Member accesses Vendor's Equipment, Products, or Services with United States federal funds.

A. EQUAL EMPLOYMENT OPPORTUNITY. Except as otherwise provided under 41 C.F.R. § 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. §60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 C.F.R. §, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 C.F.R. § 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." The equal opportunity clause is incorporated herein by reference.

B. DAVIS-BACON ACT, AS AMENDED (40 U.S.C. § 3141-3148). When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. § 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 C.F.R. § 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-federal entity must report all suspected or reported violations to the federal awarding agency. Vendor must be in compliance with all applicable Davis-Bacon Act provisions.

C. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. § 3701-3708). Where applicable, all contracts awarded by the non-federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. § 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. § 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction

work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. This provision is hereby incorporated by reference into this Contract. Vendor certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Vendor must comply with applicable requirements as referenced above.

D. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT. If the federal award meets the definition of "funding agreement" under 37 C.F.R. § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 C.F.R. § 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency. Vendor certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Vendor must comply with applicable requirements as referenced above.

E. CLEAN AIR ACT (42 U.S.C. § 7401-7671Q.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. § 1251-1387). Contracts and subgrants of amounts in excess of \$150,000 require the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401- 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). Vendor certifies that during the term of this Contract will comply with applicable requirements as referenced above.

F. DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689). A contract award (see 2 C.F.R. § 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. §180 that implement Executive Orders 12549 (3 C.F.R. § 1986 Comp., p. 189) and 12689 (3 C.F.R. § 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. Vendor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

G. BYRD ANTI-LOBBYING AMENDMENT, AS AMENDED (31 U.S.C. § 1352). Vendors must file any required certifications. Vendors must not have used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award

covered by 31 U.S.C. § 1352. Vendors must disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award. Vendors must file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352).

H. RECORD RETENTION REQUIREMENTS. To the extent applicable, Vendor must comply with the record retention requirements detailed in 2 C.F.R. § 200.333. The Vendor further certifies that it will retain all records as required by 2 C.F.R. § 200.333 for a period of three (3) years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

I. ENERGY POLICY AND CONSERVATION ACT COMPLIANCE. To the extent applicable, Vendor must comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

J. BUY AMERICAN PROVISIONS COMPLIANCE. To the extent applicable, Vendor must comply with all applicable provisions of the Buy American Act. Purchases made in accordance with the Buy American Act must follow the applicable procurement rules calling for free and open competition.

K. ACCESS TO RECORDS (2 C.F.R. § 200.336). Vendor agrees that duly authorized representatives of a federal agency must have access to any books, documents, papers and records of Vendor that are directly pertinent to Vendor's discharge of its obligations under this Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to Vendor's personnel for the purpose of interview and discussion relating to such documents.

L. PROCUREMENT OF RECOVERED MATERIALS (2 C.F.R. § 200.322). A non-federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. § 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

24. CANCELLATION

Sourcewell or Vendor may cancel this Contract at any time, with or without cause, upon sixty (60) days' written notice to the other party. However, Sourcewell may cancel this Contract immediately upon discovery of a material defect in any certification made in Vendor's Proposal. Termination of this Contract does not relieve either party of financial, product, or service obligations incurred or accrued prior to termination.

Sourcewell

DocuSigned by:
By: Jeremy Schwartz
C0FD2A139D06489...
Jeremy Schwartz

Title: Director of Operations & Procurement/CPO

Date: 5/5/2020 | 5:05 PM CDT

Municipal Emergency Services Inc.

DocuSigned by:
By: Seth Cosans
BEDE7B96DF184BB...
Seth Cosans

Title: Contract Administrator

Date: 5/5/2020 | 5:06 PM CDT

Approved:

DocuSigned by:
By: Chad Coauette
7E42B8F817A64CC...
Chad Coauette

Title: Executive Director/CEO

Date: 5/5/2020 | 5:08 PM CDT

RFP 032620 - Firefighting Personal Protective Equipment, Apparel, and Accessories, with Related Cleaning and Maintenance Equipment

Vendor Details

Company Name: Municipal Emergency Services Inc
Does your company conduct business under any other name? If yes, please state: Lawmen Supply Company of New Jersey Inc.
Address: 12 Turnberry Ln
2nd Floor
Sandy Hook, CT 06482
Contact: Seth Cosans
Email: seth.cosans@mesfire.com
Phone: 410-960-2600
Fax: 410-960-2600
HST#: 651051374

Submission Details

Created On: Tuesday March 17, 2020 14:35:57
Submitted On: Tuesday March 24, 2020 15:22:27
Submitted By: Seth Cosans
Email: seth.cosans@mesfire.com
Transaction #: 0324bb6e-3b06-4962-a998-e3f0a01857b0
Submitter's IP Address: 173.49.115.251

Specifications

Table 1: Proposer Identity & Authorized Representatives

General Instructions (applies to all Tables) Sourcewell prefers a brief but thorough response to each question. Please do not merely attach additional documents to your response without also providing a substantive response. Do not leave answers blank; mark "NA" if the question does not apply to you (preferably with an explanation).

Line Item	Question	Response *
1	Proposer Legal Name (and applicable d/b/a, if any):	Municipal Emergency Services Inc.
2	Proposer Address:	12 Turnberry Ln 2nd Floor Sandy Hook, CT,06482
3	Proposer website address:	www.mesfire.com
4	Proposer's Authorized Representative (name, title, address, email address & phone) (The representative must have authority to sign the "Proposer's Assurance of Compliance" on behalf of the Proposer and, in the event of award, will be expected to execute the resulting contract):	Seth Cosans Contract Administrator seth.cosans@mesfire.com 410-960-2600
5	Proposer's primary contact for this proposal (name, title, address, email address & phone):	Seth Cosans Contract Administrator seth.cosans@mesfire.com 410-960-2600
6	Proposer's other contacts for this proposal, if any (name, title, address, email address & phone):	David Mooney Regional Vice President dmooney@mesfire.com 360-953-7773

Table 2: Company Information and Financial Strength

Line Item	Question	Response *
7	Provide a brief history of your company, including your company's core values, business philosophy, and industry longevity related to the requested equipment, products or services.	Municipal Emergency Services Inc was established in October of 2000. MES/Lawmen Supply Company is a national full-line first responder and public safety distributor in the US. We represent, stock and distribute over 60,000 thousand products from over 2000 manufacturers. We currently have over 180 outside sales reps, 100 mobile service technicians, as well as dedicated inside sales staff and customer service representatives, and over 16 warehouse locations across the United States. In 2012 MES acquired Lawmen Supply. This merger gives the company the unique ability to serve all first responders and public safety officials on a national level. MES/Lawmen annual sales are in excess of \$200MM and the majority of our sales are for fulfillment of contracts and purchases to local, state and federal first responder and public safety organizations. We are a financially stable company with an excellent reputation with our customers and suppliers. What makes MES/Lawmen distinctive is our national presence. Our size, number of sales representatives, service technicians, strategic warehouse locations and geographic coverage positions us to provide superior products and customer service to fire and public safety departments on a national level as no other sales and service distributor can provide.
8	Provide a detailed description of the products and services that you are offering in your proposal.	MES represents the best manufactures for first responder and public safety products in our industry including but not limited to turnout gear, structural, wildland, technical rescue, aircraft rescue, Hazmat and EMS. These products include Firefighting PPE protective clothing and gear, coats, pants, boots, gloves, hoods, CBRN, station wear, footwear, helmets, eye protection, SCBA and compressors and supply air devises, laundry, extractor machines drying cabinets and service for SCBA's and supply air compressor devises. Accessories include body armor.

9	What are your company's expectations in the event of an award?	MES's expectations upon an award from Sourewell is to update our sales force on the new contract vehicle for which the membership would have access and to roll out to that membership the same level of service that MES provides to all of our agencies everyday many of which are already members. Providing another wonderful way for customers to achieve their missions and for MES to help them reach each solution with the best value that we provide in the way we service all of our markets nation wide.	*
10	Demonstrate your financial strength and stability with meaningful data. This could include such items as financial statements, SEC filings, credit and bond ratings, letters of credit, and detailed reference letters. Upload supporting documents (as applicable) in the document upload section of your response.	MES is attaching a bank reference letter as well as audited financials from 2018 to show how stable and strong we are and have continued to grow.	*
11	What is your US market share for the solutions that you are proposing?	MES represents 25% market share nationwide and continues working to grow with the great contracts like Sourcewell provides.	*
12	What is your Canadian market share, if any?	N/A	*
13	Has your business ever petitioned for bankruptcy protection? If so, explain in detail.	No.	*
14	How is your organization best described: is it a manufacturer, a distributor/dealer/reseller, or a service provider? Answer whichever question (either a) or b) just below) best applies to your organization. a) If your company is best described as a distributor/dealer/reseller (or similar entity), provide your written authorization to act as a distributor/dealer/reseller for the manufacturer of the products proposed in this RFP. If applicable, is your dealer network independent or company owned? b) If your company is best described as a manufacturer or service provider, describe your relationship with your sales and service force and with your dealer network in delivering the products and services proposed in this RFP. Are these individuals your employees, or the employees of a third party?	MES is an authorized distributor reseller and service provider for the manufactures we represent nationwide with the exception a few areas. We do this all with our own company owned sales and service teams working closely with the manufactures we represent without any other network outsourcing. MES is an industry leader for both sales and service.	*
15	If applicable, provide a detailed explanation outlining the licenses and certifications that are both required to be held, and actually held, by your organization (including third parties and subcontractors that you use) in pursuit of the business contemplated by this RFP.	MES sales force experience is second to none in the public safety industry. They are trained and have the experience to size agencies for turnout gear and many other types of gear including body armor. They are knowledgeable subject matter specialists concerning NFPA standards for turnout gear and SCBA certification standards as they are changing. Our Service technicians are certified to evaluate test repair and work on 3M/Scott Safety SCBA systems and various other Air supply compressors and components that support 3M Scott SCBA's. MES is one of only very few Five Star certified 3M Scott National Service groups.	*
16	Provide all "Suspension or Debarment" information that has applied to your organization during the past ten years.	N/A	*
17	Within this RFP category there may be subcategories of solutions. List subcategory titles that best describe your products and services.	N/A	*

Table 3: Industry Recognition & Marketplace Success

Line Item	Question	Response *
18	Describe any relevant industry awards or recognition that your company has received in the past five years	As mentioned in another section MES is only one of a very few that is a 3m/Scott Safety Five Star Safety certified group and we are very proud of this. To achieve this as a distributor you must have certified technicians, mobile and stocking service locations and maintain certain standards for excellence for which MES has for many years.
19	What percentage of your sales are to the governmental sector in the past three years	95% of MES business is and has been to government. Local Towns, County, and State government agencies which are the bulk of our business. MES does sell to some contractors that service certain aspects of the safety market however that is a smaller part.
20	What percentage of your sales are to the education sector in the past three years	Less than 2%. MES does sell to some public safety groups that have security police forces or fire rescue training academies however those purchases are still not a bulk of our overall business.
21	List any state or cooperative purchasing contracts that you hold. What is the annual sales volume for each of these contracts over the past three years?	MES NPPGov Contracts the last three years sold \$56,194,974.17. NY HIRE Contract the last three years sold \$18,874,155.57. NJ State Contract the last three years sold \$27,572,071.00.
22	List any GSA contracts that you hold. What is the annual sales volume for each of these contracts over the past three years?	MES has a GSA contract. Last three years total sales \$14,837.00. MES's GSA contract has no COOP provision so no agency other than Federal or Military can purchase from that contract. It is also very limited and does not offer the same products requested within this RFP.

Table 4: References/Testimonials

Line Item 23. Supply reference information from three customers who are eligible for Sourcewell membership.

Entity Name *	Contact Name *	Phone Number *
Los Angeles City Fire Department	Assistant Chief Wade White	213-703-4504
West Metro Fire and Rescue	Fire Chief Don Lombardi	303-989-4307
City of Aurora Fire-Rescue Department	Deputy Chief of Operations Stephen McInerny II	303-326-8889

Table 5: Top Five Government or Education Customers

Line Item 24. Provide a list of your top five government, education, or non-profit customers (entity name is optional), including entity type, the state or province the entity is located in, scope of the project(s), size of transaction(s), and dollar volumes from the past three years.

Entity Name	Entity Type *	State / Province *	Scope of Work *	Size of Transactions *	Dollar Volume Past Three Years *
Miami Dade Fire Rescue	Government	Florida - FL	Fire Rescue PPE and Service	\$78,499.00 avg	\$6,986,426.25
San Diego Fire	Government	California - CA	Fire Rescue PPE and Service	\$ 48,997.00 avg	\$6,516,619.15
L.A. Co Fire	Government	California - CA	Fire Rescue PPE and Service	\$38,882.00 avg	\$6,415,498.09
Sacramento Metro Fire	Government	California - CA	Fire Rescue PPE and Service	\$52,477.00 avg	\$6,402,231.76
Houston Fire	Government	Texas - TX	Fire Rescue PPE and Service	\$41,346.00 avg	\$6,367,298.70

Table 6: Ability to Sell and Deliver Service

Describe your company's capability to meet the needs of Sourcwell Members across the US, and Canada if applicable. Your response should address in detail at least the following areas: locations of your network of sales and service providers, the number of workers (full-time equivalents) involved in each sector, whether these workers are your direct employees (or employees of a third party), and any overlap between the sales and service functions.

Line Item	Question	Response *
25	Sales force.	Municipal Emergency Services has a sales force of approximately 180 sales representatives in the field across the United States. This sales force is backed up by skilled inside regional office support throughout the USA to process sales orders, purchase orders with manufacturers and support customers. *
26	Dealer network or other distribution methods.	Municipal Emergency Services is the distributor/dealer for the products proposed. *
27	Service force.	Municipal Emergency Services has a mobile service force of approximately 100 service technicians fully trained and certified by the manufacturer. *
28	Describe in detail the process and procedure of your customer service program, if applicable. Include your response-time capabilities and commitments, as well as any incentives that help your providers meet your stated service goals or promises.	Municipal Emergency Services has 30+ customer service representatives to assist sales representatives and service technicians with order placing, job scheduling and followup. It is a company initiative that a response to an inquiry is made the same business day whenever possible and no later than the next business day. *
29	Identify any geographic areas of the United States or Canada that you will NOT be fully serving through the proposed contract.	MES will not be providing any coverage to Canada. MES distribution agreements are for the USA and that is where we have sales, service and customer service staff to maintain the market in the USA. MES covers 44 states so there are only a few areas in the USA MES does not have sales coverage. Maine, Rhode Island, Kentucky, Michigan, Wisconsin, and North Dakota. *
30	Identify any Sourcwell Member sectors (i.e., government, education, not-for-profit) that you will NOT be fully serving through the proposed contract. Explain in detail. For example, does your company have only a regional presence, or do other cooperative purchasing contracts limit your ability to promote another contract?	MES has a nationwide presence and coverage with sales force across the bulk of the states as well as strategically placed warehouses and service stations to support orders and service related work. *
31	Define any specific contract requirements or restrictions that would apply to our Members in Hawaii and Alaska and in US Territories.	Shipping for large, bulky or heavy items MES will quote as needed separately. From time to time MES may include shipping as added discount at no charge. When MES ships from our warehouses to get products to customers quickly shipping may be added and at other times drop shipments may have shipping included no charge due to shipping terms with manufacture's. Whatever the fairest and most equitable shipping situation MES will present to each order. Hawaii and Alaska orders shipping will be quoted as stated. MES will present these shipping terms at time of each quote. This would apply to all US Territories. *

Table 7: Marketing Plan

Line Item	Question	Response *
32	Describe your marketing strategy for promoting this contract opportunity. Upload representative samples of your marketing materials (if applicable) in the document upload section of your response.	Municipal Emergency Services is very familiar with promoting contracts. As the largest supplier of First Responder Equipment in the US, we recognize the value of contracts and the time and money that can be saved by agencies not having to go to bid and still receive the items they specify as a solution for their entity from contracts. Additionally MES has implemented an outbound call center (Sales Development Team) that is tasked with reaching out to customers to make them aware of new products, services, etc. Promoting a new contract would fit nicely in this team's scope of work.
33	Describe your use of technology and digital data (e.g., social media, metadata usage) to enhance marketing effectiveness.	Municipal Emergency Services has a marketing team that handles our print, digital and social media marketing campaigns. Content is regularly created and posted to our approximately 100,000 followers made up of customers and industry professionals.
34	In your view, what is Sourcwell's role in promoting contracts arising out of this RFP? How will you integrate a Sourcwell-awarded contract into your sales process?	Promotion from Sourcwell in concert with MES would be very important to all its membership. Sourcwell brings significant municipal contract experience and coupled with MES's national relationships would be powerful. Our sales staff is well versed in contracts of this type and their importance so integration into our program would be seamless.
35	Are your products or services available through an e-procurement ordering process? If so, describe your e-procurement system and how governmental and educational customers have used it.	Municipal Emergency Services has several e-procurement process options and order type and expected frequency would play a role in deciding which of these platforms are appropriate. As examples we have a normal e-commerce website in which members could be given a code to unlock discounts on specific items. We have a custom web store that specific department approved items can be populated and access for procurement granted to as many or few individuals as an agency deems appropriate. There is also dynamic quoting which is similar to the custom website but designed for a smaller number of items that are ordered in high volume. Of course we have the traditional method of ordering where a member can email and call the sales representative or office directly and place an order.

Table 8: Value-Added Attributes

Line Item	Question	Response *
36	Describe any product, equipment, maintenance, or operator training programs that you offer to Sourcewell Members. Include details, such as whether training is standard or optional, who provides training, and any costs that apply.	MES provides SCBA annual test service maintenance in and out of warranty. MES also performs training on SCBA set up of new certification packs, as well as many other general review of products. If specific requests for training are made outside of general review MES quotes those training on a case by case based on all of the products in need of training based on time and number of people needed to train which can vary.
37	Describe any technological advances that your proposed products or services offer.	MES has SOS stores which are Signature Online Stores which are unique in our industry and newer tech we can provide and can be built and configured to meet the needs of large customers as one example of services. MES represents the best PPE products in the industry that provides some of the most outstanding tech for first responders like programs that track turnout gear, and SCBA service, also protection advances in general that make turnout gear lighter and yet still keep firefighters safe under newer standards.
38	Describe any "green" initiatives that relate to your company or to your products or services, and include a list of the certifying agency for each.	N/A
39	Identify any third-party issued eco-labels, ratings or certifications that your company has received for the equipment or products included in your Proposal related to energy efficiency or conservation, life-cycle design (cradle-to-cradle), or other green/sustainability factors.	N/A
40	Describe any Women or Minority Business Entity (WMBE), Small Business Entity (SBE), or veteran owned business certifications that your company or hub partners have obtained. Upload documentation of certification (as applicable) in the document upload section of your response.	MES is not a (WMBE) so this does not apply. N/A
41	What unique attributes does your company, your products, or your services offer to Sourcewell Members? What makes your proposed solutions unique in your industry as it applies to Sourcewell members?	MES has the largest and experienced sales force that are subject matter specialists in the equipment we sell and amazing service technicians to service many of those products. This is what sets MES apart from any other group in the USA.
42	Identify your ability and willingness to provide your products and services to Sourcewell member agencies in Canada.	MES is not interested in providing an award of what we submit outside of the USA at this time. MES's distributor contracts are set for distribution in the USA.

Table 9: Warranty

Describe in detail your manufacturer warranty program, including conditions and requirements to qualify, claims procedure, and overall structure. You may upload representative samples of your warranty materials (if applicable) in the document upload section of your response in addition to responding to the questions below.

Line Item	Question	Response *
43	Do your warranties cover all products, parts, and labor?	The warranties provided by each manufacture being bid provides slightly different things. Most provide for coverage against mfg defects for a industry standard amount of time. Some cover parts and labor within warranty period however some do not cover labor.
44	Do your warranties impose usage restrictions or other limitations that adversely affect coverage?	All of the warranties for the companies MES is bidding shows coverage for normal wear and use. Abuse to a produce normally does have a provision to exclude coverage however MES works very closely with each mfg to work through any warranty issue with customers.
45	Do your warranties cover the expense of technicians' travel time and mileage to perform warranty repairs?	Most mfg warranty do not cover travel time and mileage unless there is a gross failure of the product and in those cases we work with the mfg to work through the issue on a case by case issue which is rare.
46	Are there any geographic regions of the United States (and Canada, if applicable) for which you cannot provide a certified technician to perform warranty repairs? How will Sourcewell Members in these regions be provided service for warranty repair?	MES will not be providing any coverage to Canada. MES distribution agreements are for the USA and that is where we have sales and service staff to maintain the market in the USA. There are only a few areas in the USA MES does not have sales and service coverage. We address this on a case by case basis as for the listed products we cover most of the USA Alaska and Hawaii.
47	Will you cover warranty service for items made by other manufacturers that are part of your proposal, or are these warranties issues typically passed on to the original equipment manufacturer?	MES is the distributor of products made by manufacturers we represent. MES follows the Manufacturers warranty. Depending on the Manufacturer MES works on some of the products under warranty and out of warranty repairs. Some of them are sent back to the manufacturer in and out of warranty for service all based on MFG policy.
48	What are your proposed exchange and return programs and policies?	Goods received in damaged or defective condition will be repaired or replaced as outlined by the manufactures warranty and guidelines. If the product was damaged while in transport, a claim will be filed with the carrier and we will then work to resolve the replacement asap. These evaluations are expected to be done within 30 days of delivery or sooner by the customer. After that time MES and most manufacturers will not be held responsible for whatever issue is presented. MES does our best to always resolve issues presented.
49	Describe any service contract options for the items included in your proposal.	MES lists service for items we submit for bid. These are both for annual testing, repair in and out of warranty with listed labor and parts cost discount.

Table 10: Payment Terms and Financing Options

Line Item	Question	Response *
50	What are your payment terms (e.g., net 10, net 30)?	Net 30
51	Do you provide leasing or financing options, especially those options that schools and governmental entities may need to use in order to make certain acquisitions?	Municipal Emergency Services, Inc utilizes Community Leasing Partners as a source for leasing/financing eligible items when requested.
52	Describe your formal trade-in program or policy for the products or equipment offered in your proposal, if any. Upload trade-in program materials (if applicable) in the document upload section of your response.	From time to time and when market conditions permit, Municipal Emergency Services may offer a trade in credit for items being replaced. When applicable, the value of the trade in will be based on market and product conditions at the time.
53	Briefly describe your proposed order process. Include enough detail to support your ability to report quarterly sales to Sourcewell as described in the Contract template. For example, indicate whether your dealer network is included in your response and whether each dealer (or some other entity) will process the Sourcewell Members' purchase orders.	Municipal Emergency Services has several ordering platforms and as stated previously, MES is a dealer so there would be no network outside of ourselves processing orders. All orders, regardless of the sales platform utilized will be marked that they are Sourcewell Contract orders within our internal systems to make quarterly reporting simplified. When a sales representative creates a quote, there is a "forced field" where the rep must select a contract (or none) but there is no default and the field cannot be bypassed. Once a quote is verified and approved by a member, the quote becomes the sales order, the sales order generates a purchase order to our supplier if not in stock in our facility, and then becomes an invoice- all a product of the original quote and does not have to be re-entered at every step. The ordering platforms offered are traditional orders, in which a customer contacts the sales representative or office with approval to order. Most orders on this contract would likely fall into this category due to the customization of many of these protective clothing items. We have several electronic platforms that can be utilized depending on the anticipated order size and frequency. We have a customizable web store in which the member would have a private website with approved items. We also have a dynamic quote system designed for smaller quantities of items in which the member can log in and order off of a quote with an extended expiration date.
54	Do you accept the P-card procurement and payment process? If so, is there any additional cost to Sourcewell Members for using this process?	MES limits P-Card and credit card purchases to \$10,000. There is no added fee to use this method.

Table 11: Pricing and Delivery

Provide detailed pricing information in the questions that follow below. Keep in mind that reasonable price and product adjustments can be made during the term of an awarded Contract as described in the RFP, the template Contract, and the Sourcwell Price and Product Change Request Form.

Line Item	Question	Response *
55	Describe your pricing model (e.g., line-item discounts or product-category discounts). Provide detailed pricing data (including standard or list pricing and the Sourcwell discounted price) on all of the items that you want Sourcwell to consider as part of your RFP response. If applicable, provide a SKU for each item in your proposal. Upload your pricing materials (if applicable) in the document upload section of your response.	MES will upload MSRP, list or net price sheets depending on manufacturer as we list them as well as discounts off of those MSRP, list price or net price lists as the Sourcwell price.
56	Quantify the pricing discount represented by the pricing proposal in this response. For example, if the pricing in your response represents a percentage discount from MSRP or list, state the percentage or percentage range.	MES will list the discount from MSRP, list or net price sheets depending on manufacturer as we list them for the Sourcwell proposed bid price.
57	Describe any quantity or volume discounts or rebate programs that you offer.	MES gives our best price based on the volume of business we do annually so any added volume discounts would only be when we have special pricing to list as Sourcwell indicated can be done on a case by case in the portal as they happen.
58	Propose a method of facilitating "sourced" products or related services, which may be referred to as "open market" items or "nonstandard options". For example, you may supply such items "at cost" or "at cost plus a percentage," or you may supply a quote for each such request.	For any open market requested items or items not found on contract MES would quote those as open market at the same agency discounted pricing we do every day.
59	Identify any element of the total cost of acquisition that is NOT included in the pricing submitted with your response. This includes all additional charges associated with a purchase that are not directly identified as freight or shipping charges. For example, list costs for items like pre-delivery inspection, installation, set up, mandatory training, or initial inspection. Identify any parties that impose such costs and their relationship to the Proposer.	Special requests such as training on items not always listed, inside delivery, lift gates so that deliveries can be more easily offloaded or anything else, MES is willing to work with the membership to price out to take care of the needs of the agencies and make sure their goals are met. MES's goal is to be the first and last supplier and service provider agency members think of and go to because we know there are other options and we are here to make sure you get the best value which is not always the low price for the best job.
60	If freight, delivery, or shipping is an additional cost to the Sourcwell Member, describe in detail the complete freight, shipping, and delivery program.	Shipping for large, bulky or heavy items MES will quote as needed separately. From time to time MES may include shipping as added discount at no charge. When MES ships from our warehouses to get products to customers quickly shipping may be added and at other times drop shipments may have shipping included no charge due to shipping terms with manufacture's. Whatever the fairest and most equitable shipping situation MES will present to each order. MES will present these shipping terms at time of each quote. Hawaii and Alaska orders shipping will be quoted as stated per quote. MES has a very substantial account with Federal Express so MES's rates are very low considering how much volume we ship every year.
61	Specifically describe freight, shipping, and delivery terms or programs available for Alaska, Hawaii, Canada, or any offshore delivery.	Shipping and or freight to Alaska or Hawaii are quoted per quote. MES is not interested in servicing Canada at this time. MES does no exporting unless shipped to a Federal/DOD location.
62	Describe any unique distribution and/or delivery methods or options offered in your proposal.	Unique distribution that MES offers is our many hubs through out the USA and if we do not have it in stock our relationships with our manufactures are second to none in the industry making MES the effective hammer in the market that we are today. Any special quicker shipping requests can be quoted upon request and MES will do our best to accommodate. MES has a very substantial account with Federal Express so MES's rates are very low considering how much volume we ship every year.

Table 12: Pricing Offered

Line Item	The Pricing Offered in this Proposal is: *	Comments
63	b. the same as the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.	

Table 13: Audit and Administrative Fee

Line Item	Question	Response *
64	Specifically describe any self-audit process or program that you plan to employ to verify compliance with your proposed Contract with Sourcwell. This process includes ensuring that Sourcwell Members obtain the proper pricing, that the Vendor reports all sales under the Contract each quarter, and that the Vendor remits the proper administrative fee to Sourcwell.	Within the MES ordering system as mentioned reference ordering there is a forced tab that must be selected when entering a quote to select a contract vehicle. Sourcwell being one of those that needs to be selected when quoting for that contract if awarded and once selected the sales representative then ensures that the item quoted is getting the sourcwell discounted price per the contract price list or in the case that there is any added discount also as listed to determine if shipping would be included as sometimes is or if needs to be added based on the situation we need to quote shipping. Quarterly a report is pulled by Vice President of Finance and then reviewed by the contract administrator then once review is complete fees are calculated using excel with the formula set to the fee percentage due and then that report is then sent back to the Vice President of Finance for his department's review. Once approved the fee is sent to Sourcwell for the quarterly sales.
65	Identify a proposed administrative fee that you will pay to Sourcwell for facilitating, managing, and promoting the Sourcwell Contract in the event that you are awarded a Contract. This fee is typically calculated as a percentage of Vendor's sales under the Contract or as a per-unit fee; it is not a line-item addition to the Member's cost of goods. (See the RFP and template Contract for additional details.)	MES proposes a 1% fee for all sales quarterly.

Table 14: Industry Specific Questions

Line Item	Question	Response *
66	If you are awarded a contract, provide a few examples of internal metrics that will be tracked to measure whether you are having success with the contract.	Upon an award MES would survey our sales force to see how the response of the membership customers wish to use this contract vehicle to purchase. And MES will be tracking success of the use of the contract by its membership when we look at the quarterly reports to see how much business is completed using this contract after it has had a couple quarters to be promoted both by Sourcewell and by MES.
67	Describe the unique design and feature attributes of the products and/or equipment offered in your proposal.	MES provides the very best that the fire and public safety industry manufacturers have to offer our market. Many of these products are similar however MES takes feedback from agencies and gives that back to manufacturers to improve products performance and safety while maintaining safety standards and certifications. MES has had many manufacturers make products just for MES to offer as a result so that MES can provide thermal imaging cameras, gloves, boots, or other products that are better than we normally see in the market.
68	Describe available options for customization of the products and/or equipment offered in your proposal.	MES offers the full range of options from all of the various manufactures represented to customize items within the extent that certifications allow.
69	Explain your processes for sizing, fitting, and the alteration of the products and/or equipment offered in your proposal, as applicable.	Once MES gets an order which involves a need for sizing of any product our regional sales force is in contact with the agency membership to schedule sizing. If fitting is needed after delivery MES is again available to help with that as well and any alterations can be ordered or addressed quickly.
70	If you provide on-site or in-person sales, service, training, and/or support, explain how those activities are handled and the unique attributes of your process.	MES has as mentioned in other tabs the largest and most experienced subject matter specialist in the industry for on site sales demo, training and support. Our sales force works closely with the manufactures having many of their folks ride with MES sales force to sales calls to demo and service products. This makes MES the reason we are the first ones agencies call and even though we may not always be the lowest price we are the best value in the industry. MES gets it done.
71	Describe your compliance with applicable national standards for the products and/or equipment offered in your proposal, such as: National Fire Protection Association (NFPA), Occupational Safety and Health Administration (OSHA), and American National Standards Institute (ANSI).	MES staff are subject matter specialist on NFPA standards for turnout gear, SCBA systems and all related gear so that as changes in certifications are happening we are there to help the market stay up to speed with all of their gear and certifications testing and service. Our Techs are updated on their training as well as our sales staff as needed.

Exceptions to Terms, Conditions, or Specifications Form

Only those Proposer Exceptions to Terms, Conditions, or Specifications that have been accepted by Sourcewell have been incorporated into the contract text.

Documents**Ensure your submission document(s) conforms to the following:**

1. Documents in PDF format are preferred. Documents in Word, Excel, or compatible formats may also be provided.
2. Documents should NOT have a security password, as Sourcewell may not be able to open the file. It is your sole responsibility to ensure that the uploaded document(s) are not either defective, corrupted or blank and that the documents can be opened and viewed by Sourcewell.
3. Sourcewell may reject any response where any document(s) cannot be opened and viewed by Sourcewell.

4. If you need to upload more than one (1) document for a single item, you should combine the documents into one zipped file. If the zipped file contains more than one (1) document, ensure each document is named, in relation to the submission format item responding to. For example, if responding to the Marketing Plan category save the document as "Marketing Plan."

- [Financial Strength and Stability](#) - MES Audited Financials 2018 FS.pdf - Saturday March 21, 2020 15:12:35
- [Marketing Plan/Samples](#) - MES Sourcewell 03262020 Marketing plan.doc - Sunday March 22, 2020 17:06:30
- WMBE/MBE/SBE or Related Certificates (optional)
- [Warranty Information](#) - Sourcewell 03262020 Warranty.doc - Tuesday March 24, 2020 09:27:04
- [Pricing](#) - MES PL.zip - Tuesday March 24, 2020 09:27:34
- [Additional Document](#) - MESWEL~1.PDF - Saturday March 21, 2020 15:12:11

Proposers Assurance of Comp

PROPOSER ASSURANCE OF COMPLIANCE

PROPOSER'S AFFIDAVIT

The undersigned, authorized representative of the entity submitting the foregoing proposal (the "Proposer"), swears that the following statements are true to the best of his or her knowledge.

1. The Proposer is submitting its proposal under its true and correct name, the Proposer has been properly originated and legally exists in good standing in its state of residence, the Proposer possesses, or will possess before delivering any products and related services, all applicable licenses necessary for such delivery to Sourcewell member agencies. The undersigned affirms that he or she is authorized to act on behalf of, and to legally bind the Proposer to the terms in this RFP and any resulting Contract.
2. The Proposer, or any person representing the Proposer, has not directly or indirectly entered into any agreement or arrangement with any other vendor or supplier, any official or employee of Sourcewell, or any person, firm, or corporation under contract with Sourcewell, in an effort to influence the pricing, terms, or conditions relating to this RFP in any way that adversely affects the free and open competition for a Contract award under this RFP; and, the Proposer has not participated in any collusion, or otherwise taken any action in restraint of free, competitive bidding in connection with the above named solicitation.
3. The contents of the Proposer's proposal have not been communicated by the Proposer or its employees or agents to any person not an employee or agent of the Proposer and will not be communicated to any such persons prior to the official opening of the proposals.
4. The Proposer has examined and understands the terms, conditions, scope, contract opportunity, specifications request, and other documents in this solicitation and affirms that any and all exceptions have been noted and included with the Proposer's Proposal.
5. The Proposer will, if awarded a Contract, provide to Sourcewell Members the /products and services in accordance with the terms, conditions, and scope of this RFP, with the Proposer-offered specifications, and with the other documents in this solicitation.
6. The Proposer agrees to deliver products and services through valid contracts, purchase orders, or means that are acceptable to Sourcewell Members. Unless otherwise agreed to, the Proposer must provide only new and first-quality products and related services to Sourcewell Members under an awarded Contract.
7. The Proposer will comply with all applicable provisions of federal, state, and local laws, regulations, rules, and orders.
8. The Proposer understands that Sourcewell will reject RFP proposals that are marked "confidential" (or "nonpublic," etc.), either substantially or in their entirety. Under Minnesota Statute §13.591, Subd. 4, all proposals are considered nonpublic data until the evaluation is complete and a Contract is awarded. At that point, proposals generally become public data. Minnesota Statute §13.37 permits only certain narrowly defined data to be considered a "trade secret," and thus nonpublic data under Minnesota's Data Practices Act.

The Proposer understands that it is the Proposer's duty to protect information that it considers nonpublic, and it agrees to defend and indemnify Sourcewell for reasonable measures that Sourcewell takes to uphold such a data designation.

By checking this box I acknowledge that I am bound by the terms of the Proposer's Affidavit, have the legal authority to submit this Proposal on behalf of the Proposer, and that this electronic acknowledgment has the same legal effect, validity, and enforceability as if I had hand signed the Proposal. This signature will not be denied such legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation. - Seth Cosans, Contract Administrator, Municipal Emergency Services Inc

The Proposer declares that there is an actual or potential Conflict of Interest relating to the preparation of its submission, and/or the Proposer foresees an actual or potential Conflict of Interest in performing the contractual obligations contemplated in the bid.

Yes No

The Bidder acknowledges and agrees that the addendum/addenda below form part of the Bid Document.

Check the box in the column "I have reviewed this addendum" below to acknowledge each of the addenda.

File Name	I have reviewed the below addendum and attachments (if applicable)	Pages
Addendum_7_Firefighting_Pers_Protect_Eqpt_RFP032620 Thu March 19 2020 10:31 AM	<input checked="" type="checkbox"/>	2
Addendum_6_Firefighting_Pers_Protect_Eqpt_RFP032620 Fri March 13 2020 02:36 PM	<input checked="" type="checkbox"/>	-
Addendum_5_Firefighting_Pers_Protect_Eqpt_RFP032620 Wed March 4 2020 05:07 PM	<input checked="" type="checkbox"/>	1
Addendum_4_Firefighting_Pers_Protect_Eqpt_RFP032620 Thu February 27 2020 03:55 PM	<input checked="" type="checkbox"/>	2
Addendum_3_Firefighting_Pers_Protect_Eqpt_RFP032620 Mon February 10 2020 06:01 PM	<input checked="" type="checkbox"/>	1
Addendum_2_Firefighting_Pers_Protect_Eqpt_RFP032620 Thu January 30 2020 05:45 PM	<input checked="" type="checkbox"/>	-
Addendum_1_Firefighting_Pers_Protect_Eqpt_RFP032620 Mon January 27 2020 09:48 AM	<input checked="" type="checkbox"/>	-

**AMENDMENT #1
TO
CONTRACT # 032620-MES**

THIS AMENDMENT is effective upon the date of the last signature below by and between **Sourcewell** and **Municipal Emergency Services Inc.** (Vendor).

Sourcewell awarded a contract to Vendor to provide Firefighting Personal Protective Equipment, Apparel, and Accessories, with Related Cleaning and Maintenance Equipment, to Sourcewell and its Participating Entities, effective May 5, 2020, through May 7, 2024 (Contract).

The parties wish to amend the Contract.

NOW THEREFORE, Section 20. Insurance–Subsection A. Requirements– Item 5. Professional/Technical, Errors and Omissions, and/or Miscellaneous Liability, of the Contract, is deleted in its entirety.

Except as amended by this Amendment, the Contract remains in full force and effect.

Sourcewell

DocuSigned by:
Jeremy Schwartz
By: _____
C0FD2A139D06489...
Jeremy Schwartz, Director of Operations/CPO

Date: 3/6/2023 | 9:46 PM CST

Approved:

DocuSigned by:
Chad Coquette
By: _____
7E42B8F817A64CC...
Chad Coquette, Executive Director/CEO

Date: 3/7/2023 | 6:02 AM CST

Municipal Emergency Services Inc.

DocuSigned by:
John Walker
By: _____
10644B472C64440...
John Walker, CFO

Date: 3/6/2023 | 3:21 PM CST



City of Del Mar Agenda Report

TO: Honorable Mayor and City Council Members

FROM: Christopher Cincotta, Battalion Chief
Joshua Gordon, Fire Chief
Via Ashley Jones, City Manager

DATE: November 13, 2023

SUBJECT: Purchase of Mobile Data Computers, Operating Software, Accessories, and Installation for Emergency Vehicles

REQUESTED ACTION/RECOMMENDATION:

It is recommended that the City Council approve the purchase and installation of two (2) Mobile Data Computers (MDCs), Tablet Command Operating Software, Accessories for the MDCs, Installation into the Fire Engine, and amend the Fiscal Year 2023-2024 Operating and Capital Budget as described in the Fiscal Impact section of this report.

EXECUTIVE SUMMARY:

Mobile Data Computers are integral tools for firefighters, enhancing communication, safety, and efficiency during emergency responses. The current MDCs were purchased in 2018 and as of July 1, 2023, are no longer being serviced or maintained. The new MDCs will improve the speed in which data is provided and increase efficiency for emergency response times. Updating this equipment will ensure that the fire engine fleet remains technologically current and operationally effective.

DISCUSSION/ANALYSIS:

Each of the City's two Fire Engines have Mobile Data Computers (MDCs). The emergency response equipment is used to route emergency vehicles to emergency calls while tracking their locations and providing real-time updates as the call is happening. The useful life for the MDC's is five years, and the City's current equipment was purchased in 2018. They can no longer be serviced or maintained and are in need of replacement.

The City of Del Mar joined the North County Dispatch Joint Powers Authority (NCJPA) in 2007. There are funds available to the City of Del Mar to purchase updated MDCs through an established NCJPA Capital Equipment Replacement Fund, which the City pays into. These funds are held by NCJPA and are released to the City upon request. The total capital reserve funds currently available to the City of Del Mar is \$15,085, which is sufficient to cover

City Council Action:

the purchase of two (2) iPads, operating software, accessories, and installation. That total will not exceed \$7,930.

This equipment will assist the City of Del Mar Fire Department in responding to the needs of the community in the most efficient and comprehensive manner with up-to-date equipment. This upgraded MDC equipment meets the standard operability and capabilities of equipment currently used by other NCJPA agencies. A breakdown of the project and equipment costs is included in Attachment A.

Staff is seeking Council authorization to request and accept the City's portion of the capital replacement funds held by NCJPA to purchase and install two (2) Mobile Data Computers, Tablet Command operating software, accessories, and installation.

FISCAL IMPACT:

Approval of this item will require an amendment to the Fiscal Year 2023-2024 Operating and Capital Budget as listed in the table below. This item will have no impact to the General Fund Contingency.

Account Name	Account Number	Amount
Equipment/Radio Maintenance & Repair (Exp)	01.5730.2100	\$7,930
Expenditure Reimbursement-NCJPA (Rev)	01.4800.4899	\$7,930
Net Budget Impact		\$0

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:

This is an operational equipment purchase that is unrelated to the established Council Goals/Priorities.

ATTACHMENTS:

Attachment A – Breakdown of equipment costs

Quote

North County Fire Dispatch JPA San Diego - Del Mar v2

North County Fire Dispatch JPA San Diego

PO Box 1206
 Rancho Santa Fe, CA 92067
 United States

Tablet Command, Inc.

822 Hartz Way
 Suite 235
 Danville, CA 94526
 United States

Shanna Devine

Division Manager - Support Services
 sdevine@ncdjpa.org
 (619) 203-0227

Sales Person:

Thom Woodward

thom@tabletcommand.com

877-998-2639

Reference:

Quote created: October 10, 2023

Quote expires: December 26, 2023

Total **\$1,800.00**

Products & Services

DESCRIPTION	QUANTITY	UNIT PRICE	DISCOUNT	AMOUNT
Pro License (Tablet)	2	\$500.00 / year		\$1,000.00 / year for 1 year
Manage	2	\$50.00 / year		\$100.00 / year for 1 year
 Help us to CAD	2	\$200.00 / year		\$400.00 / year for 1 year
Location to CAD	2	\$150.00 / year		\$300.00 / year for 1 year

SUMMARY

Annual subtotal

\$1,800.00

Total**\$1,800.00****Comments**

Annual License Subscription Fees

Purchase terms

Net 30 Days



Thank you for choosing CDW. We have received your quote.

Hardware Software Services IT Solutions Brands Research Hub

Review and Complete Purchase

EMILY BERNARDO,

Thank you for considering CDW•G for your technology needs. **If you are an eProcurement or single sign on customer, please log into your system to access the CDW site.** You can search for your quote to retrieve and transfer back into your system for processing.

Convert Quote to Order

QUOTE #	QUOTE DATE	QUOTE REFERENCE	CUSTOMER #	GRAND TOTAL
1CCGBJ7	10/3/2023	FIRE MDC IPADS	2416904	\$3,468.43

IMPORTANT - PLEASE READ

Fees applied to item(s): 7213844

Additional Information:

Cost Center: FIRE

QUOTE DETAILS

ITEM	QTY	CDW#	UNIT PRICE	EXT. PRICE
Apple 12.9" iPad Pro - Wi-Fi + Cellular - 6th Generation - 512 GB - Silver	2	7213844	\$1,591.00	\$3,182.00
Mfg. Part#: MP633LL/A Contract: National IPA Technology Solutions (2018011-01)				

RECYCLING FEE DETAILS

ITEM	QTY	CDW#	UNIT PRICE	EXT. PRICE
RECYCLING FEE 4" TO LESS THAN 15" Fee Applied to Item: 7213844	2	654809	\$4.00	\$8.00

SUBTOTAL	\$3,182.00
SHIPPING	\$0.00
RECYCLING FEE	\$8.00
SALES TAX	\$278.43
GRAND TOTAL	\$3,468.43

PURCHASER BILLING INFO	DELIVER TO
Billing Address: CITY OF DEL MAR ACCTS PAYABLE 1050 CAMINO DEL MAR DEL MAR, CA 92014-2698 Phone: (858) 755-9313 Payment Terms:	Shipping Address: CITY OF DEL MAR ATTN:EMILY BERNARDO 1050 CAMINO DEL MAR DEL MAR, CA 92014 Phone: (858) 755-9313 Shipping Method: FedEx Ground (1-2 days)
	Please remit payments to: CDW Government 75 Remittance Drive Suite 1515 Chicago, IL 60675-1515



City of Del Mar Agenda Report

TO: Honorable Mayor and City Council Members

FROM: Deputy Mayor Dan Quirk and Council Member Dwight Worden, Council Liaisons to the Lagoon Committee
Prepared by Denise Galvan, Management Analyst

DATE: November 13, 2023

SUBJECT: Lagoon Committee Appointment and Charter Amendment

REQUESTED ACTION/RECOMMENDATION:

The City Council Liaisons to the Lagoon Committee recommend that: 1) the City Council re-appoint Udo Wahn as a voting member of the Lagoon Committee to serve a second full three-year term starting November 1, 2023, and ending on November 30, 2026; and 2) Adopt a Resolution (Attachment A) amending the Committee Charter to reduce the membership to seven voting members and convert the ex-officio, non-voting member to a voting member (Exhibit A to Attachment A).

DISCUSSION/ANALYSIS:

The Lagoon Committee (Committee) is charged with monitoring the preservation and enhancement of the portions of the San Dieguito and Peñasquitos Lagoon located in the City of Del Mar, and also any outside actions that impact the lagoon systems within the City. The Committee participates on both local and regional levels. Regionally, the Committee monitors the on-going programs of the San Dieguito River Valley Joint Powers Authority (JPA), including, but not limited to, the lagoon restoration plan, and reviews and comments on future development that may have an effect on the San Dieguito or Peñasquitos Lagoons. Locally, the Committee monitors reports on the health of the lagoons, investigates additional public access opportunities, and encourages educational and informational programs to uncover the lagoons' little-known points of interest. The committee also monitors and comments, when appropriate, on developments limited to impacts on the lagoon.

Re-appointment to the Lagoon Committee

There are three vacancies on the Committee due to Geoffrey Criqui and Udo Wahn's term expirations on October 31, 2023, and Jill E. Gartman's upcoming term expiration on November 19, 2023. City staff advertised the vacancies, and one Citizen Interest Form was received during the recruitment period from Udo Wahn (Attachment B). The Council Liaisons to the Committee have reviewed the application and recommend that the City Council re-appoint Udo Wahn as a voting member for a second full three-year term effective November 1, 2023, and ending on November 30, 2026.

City Council Action:

Lagoon Committee Charter Amendments

According to Section E.6 of Council Policy 200 (Attachment C), a committee's membership size can be reduced at the recommendation of the committee's Council liaisons and by approval of the City Council. The Council liaisons to the Committee recommend that the City Council adopt a Resolution (Attachment A) reducing the Committee's membership size from nine (9) to seven (7) members.

Additionally, as currently written, the Lagoon Committee charter allows for one ex-officio, non-voting member. This position is currently occupied by Donna Shaw, who is a Del Mar resident. Due to the nature of the Committee and given that all recent members have been residents, the Council liaisons recommend that the Committee charter be amended to require that all members of the Lagoon Committee be Del Mar residents and all positions be voting. Reducing the Committee's membership size from nine to seven members and converting a seat from non-voting to voting will result in a more optimal committee size, and have an odd number of voting members for quorum, voting, and subcommittee formation.

A redlined version of the Committee Charter reflecting the recommended changes is included with this agenda report as Attachment D.

If the recommended appointment and revisions to the Committee Charter are approved by the City Council, the Committee will continue to operate with a full roster of seven voting members. A copy of the current Committee roster is included with this agenda report as Attachment E.

FISCAL IMPACT:

There is no fiscal impact or action to be taken by the City Council related to this agenda item.

ENVIRONMENTAL IMPACT:

The action being considered is exempt from the California Environmental Quality Act (CEQA) because it is not a "project" per Section 15378(b)(5) of CEQA Guidelines. The action involves an organizational or administrative activity of government that will not result in the direct or indirect physical change in the environment.

NEXUS TO CITY COUNCIL GOALS AND PRIORITIES:

This is an operational item and is not related to the City Council's Goals and Priorities.

ATTACHMENTS:

- Attachment A – Resolution Amending Lagoon Committee Charter
- Exhibit A to Attachment A – Revised Lagoon Committee Charter (Clean)
- Attachment B– Citizen Interest Form
- Attachment C – Policy 200 – City Council Advisory Committees, Boards and Commissions
- Attachment D – Redlined Amended Lagoon Committee Charter
- Attachment E – Current Lagoon Committee Roster

RESOLUTION NO. 2023-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, AMENDING AND RESTATING THE LAGOON COMMITTEE CHARTER TO REDUCE MEMBERSHIP SIZE FROM NINE TO SEVEN MEMBERS AND CONVERT THE EX-OFFICIO, NON-VOTING MEMBER TO A VOTING MEMBER

WHEREAS, the City of Del Mar Lagoon Committee (Committee) was established in 1974 and has since served as an advisory committee to the City Council and provided recommendations on topics related to the San Dieguito Lagoon; and

WHEREAS, on January 10, 2022, the City Council adopted Resolution No. 2022-06 to repeal Resolutions No. 74-41; 74-59; 78-22; 79-24; 2014-71; 2014-88; 2015-18; 2015-33; 2018-57, and 2019-51 and to amend and restate the Lagoon Committee Charter; and

WHEREAS, the Committee Charter currently requires that the Committee consist of nine (9) members, including one ex-officio non-voting member; and

WHEREAS, the City Council desires to amend and restate the Committee Charter to reduce the Committee membership size from nine (9) members to seven (7) members and to convert the non-voting at-large/ex-officio seat to a voting member seat; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Del Mar, California, that the Lagoon Committee Charter is hereby amended and restated as shown in Exhibit A to this Resolution.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Del Mar, California, at a Regular Meeting held this 13th day of November, 2023.

Tracy Martinez, 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 Resolution No. 2023-XX, adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the 13th day of November, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sarah Krietor, Administrative Services
Manager/City Clerk
City of Del Mar



LAGOON COMMITTEE CHARTER

Mission & Work Program:

The Lagoon Committee (Committee) is charged with monitoring the preservation and enhancement of the portions of the San Dieguito and Penasquitos Lagoons located in the City of Del Mar, and also any actions outside the City of Del Mar that impact the lagoon systems within the City of Del Mar. The Committee participates on both local and regional levels. Regionally, the Committee monitors the on-going programs of the San Dieguito River Valley Joint Powers Authority (JPA), including but not limited to the lagoon restoration plan, and monitors development that may have an effect on the San Dieguito or Penasquitos Lagoons. Locally, the Committee monitors reports on the health of the lagoons, investigates additional public access opportunities, and encourages educational and informational programs to uncover the lagoons' little-known points of interest. The Committee also monitors and comments, when appropriate, on developments limited to impacts on the lagoons.

Membership:

The Committee consists of seven (7) voting members. All members must be Del Mar Residents.

Membership Term:

Committee members serve three (3) year staggered terms expiring the last day of the month.

Meeting Requirements:

The Committee meets quarterly, or as may be needed, as approved by the City Council and in full compliance with the California Open Meeting Laws (Brown Act).

Conflict of Interest Filing:

Members of the City of Del Mar Lagoon Committee are not required to file Conflict of Interest Filings due to the advisory nature of the committee.

Status:

The City of Del Mar Lagoon Committee is a standing committee.

RECEIVED

SEP 20 2023

City of Del Mar
Administrative Services Dept.

DEL MAR CITIZEN INTEREST FORM

I. APPLICANT INFORMATION

Wahn

Udo

Last Name

First Name

Middle Initial

[Redacted]

Del Mar, CA

Home Street Address*

City, State

**Applicants are required to provide a physical residency address. Mailing addresses or Post Office boxes will not be accepted. The City will maintain all residency addresses strictly confidential.*

Business Street Address (if applicable)

City, State

Home Phone Number

Business Phone Number

E-mail Address

II. APPLICATION DETAILS

I am interested in serving on the following Committees, Board(s) or Commission(s) in order of preference (indicate 1st, 2nd choice, etc.):

Design Review Board

Planning Commission

Arts Advisory Committee

Parks and Recreation Committee

Finance Committee

Traffic and Parking Advisory Committee

Measure Q Citizen Oversight Committee

Lagoon Committee

Other(s) (please indicate): _____

Sustainability Advisory Committee

Qualifications for appointment and/or reasons for application (attach additional pages as needed):

Renewal

Education:

BA Johns Hopkins U.
M.D. USC
Fellow ACOG- Obstetrics and Gynecology

Relevant Experience (job or volunteer etc.):

City of Del Mar Lagoon Committee
Vice Chair Executive Committee Surfrider Foundation San Diego Chapter
Volunteer WildCoast
Climate Reality Leader


Name all of the Del Mar Committees/Boards/Commissions that you now serve on:

Lagoon Committee

Please name all the Boards/Commissions/Committee/Task Forces that you have served on in the past, and if you can, the dates of your service:

Surfrider Foundation Executive Committee Jan 2022-Dec23, Jan2019-Dec2020

Optional: Please list three Del Mar residents who can provide a reference:**

NAME	STREET NAME (no house number)	Phone Number
Jan McMillan	Stratford Court	
Terry Gaasterland	Sea View	
Dwight Wordan	Bellaire St.	

***Due to Brown Act limitations that restrict communications between Councilmembers regarding upcoming actions of the City Council, please do not include a current sitting Councilmember as a reference for your appointment.*

Residency

	Month	Year
I have been a resident of California since:	8	1975
I have been a resident of San Diego County since:	8	1983
I have been a resident of Del Mar since:	8	1983

Are you a full-time or part-time resident of Del Mar? Full-time Part-time

Is Del Mar your primary place of residence? Yes No

Are you a register voter in Del Mar? Yes No

III. COMMITTEE SPECIFIC QUESTIONS

The following are additional questions related to specific committees. Please answer the questions only for the committee(s) you are applying for.

1. Arts Advisory Committee

Membership on the Arts Advisory Committee is set by category. Which membership category do you best fit in? Select all that apply. (Note that City staff, consultants, and vendors are precluded from serving on the Arts Advisory Committee.)

- Resident with an art background
- Resident without an art background
- Business Owner- Art related business
- Del Mar Foundation Representative
- Del Mar Village Association Representative
- Ex-Officio (non-voting) – with Art related expertise
- Other (please explain): _____

Describe your experience and skills as they relate to the world of community art and fine art.

Why in your opinion is public art valuable to the Del Mar community?

What is your public art philosophy?

2. Finance Committee

The Finance Committee is looking for applicants with financial expertise and background.

Please describe your experience reviewing financial reports, conducting financial studies or any related experience. Please include any experience specific to public entities.

What aspects of the City's finances most interest you and why?

3. Measure Q Citizen Oversight Committee

Membership on the Measure Q Citizen Oversight Committee is set by category. To avoid conflicts of interest, members of the Measure Q Citizen Oversight Committee cannot concurrently serve on the Undergrounding Project Advisory Committee. Which membership category do you best fit in? (Select all that apply)

- Current (or within past 5 years) Finance Committee Member
- Business Community Member
- At-large Resident Member
- Other (please explain): _____

4. Traffic and Parking Advisory Committee

Which membership category do you best fit in? (Select all that apply)

- Business representative (can be a non-resident)
- Resident
- Other (please explain): _____

What part of town do you live in? Geographic diversity is desirable and will be taken into account. Check the [neighborhood map](#) to verify your neighborhood.

- | | |
|---|--------------------------------------|
| <input type="checkbox"/> North Bluff | <input type="checkbox"/> South Bluff |
| <input type="checkbox"/> North Beach | <input type="checkbox"/> South Hills |
| <input type="checkbox"/> South Beach | <input type="checkbox"/> North Hills |
| <input type="checkbox"/> Village Center | <input type="checkbox"/> Valley |

Do you have any special expertise or experience related to traffic and parking? If yes, please explain:

5. Parks and Recreation Committee

The Parks and Recreation Committee is looking for applicants with an interest in the City's parks and open spaces.

Please describe your personal or professional experience related to parks, open spaces, trails, public recreation or any similar experience.

What aspects of the City's parks and recreation most interest you and why?

6. Lagoon Committee

The Lagoon Committee is looking for applicants interested in the preservation of the lagoon and surrounding area.

What aspect(s) of being on the Lagoon Committee most interest you and why?

Blue Carbon Capture, Trail maintenance and development Preservation and Habitat Restoration

7. Shores Advisory Committee

The Shores Advisory Committee is looking for applicants interested in the Shores Park property and planning process.

What aspects of being on the Shores Advisory Committee most interest you and why?

Please describe your vision for the future of Shores Park.

8. Sustainability Advisory Committee

The Sustainability Advisory Committee members are community leaders on environmental issues.

In what ways would you like to contribute to a more sustainable world either in your personal life or on a broader community level?

Please describe any outreach or public education efforts you have participated in related to environmental issues or in other areas. Do you have skills or experience in outreach that you could bring to the Sustainability Advisory Committee?

9. Undergrounding Project Advisory Committee

The Undergrounding Project Advisory Committee is seeking applicants with an interest in the citywide undergrounding project. To avoid conflicts of interest, members of the Undergrounding Project Advisory Committee cannot concurrently serve on the Measure Q Citizen Oversight Committee.

Geographic diversity is desirable and will be taken into account. What part of town do you live in? Check the [neighborhood map](#) to verify your neighborhood.

- North Bluff
- South Beach
- South Bluff
- North Hills
- North Beach
- Village Center
- South Hills
- Valley

Is your utility service undergrounded? What involvement did you have, if any?

[Empty text box for utility service involvement]

What aspects of being on the Utility Undergrounding Advisory Committee most interest you?

[Empty text box for aspects of interest]

Thank you for completing the Citizen Interest Form. Is there anything else you would like to add to your application for the City Council to consider?

[Empty text box for additional comments]

IV. SIGNATURE AND ACKNOWLEDGEMENT

Please review the important information below before signing and submitting your application. Please note that recommendations for appointments to City advisory committees (other than the Planning Commission and Design Review Board) are made by the Council Liaisons to that Committee. The appointments are then placed on the consent calendar for consideration for approval by the full City Council at the next available City Council meeting. For reasons of privacy, the individual candidates are not discussed at the meeting.

Additionally, the Del Mar Conflict of Interest Code requires that members of the Design Review Board, Planning Commission, and Finance Committee file Conflict of Interest Statements with the Administrative Services Department in conformance with the Fair Political Practices Commission and the City's Conflict of Interest Code. Other advisory committee members are not required to file Conflict of Interest Statements.


By signing below, you are acknowledging that you have reviewed the Committee webpage for which you are applying and that you understand the conflict of interest filing requirement, if applicable. Part of your service may include ethics and anti-harassment training upon appointment and bi-annually. Visit the City's Conflict of Interest Code webpage to learn more about the requirement.

By submitting this application, you are signing under penalty of perjury that the information you are providing, is true and correct to the best of your knowledge.


Signature

9/20/23
Date

Within three (3) business days you will receive a confirmation email that your application is received. If you have questions, please email cityclerk@delmar.ca.us or call (858) 755-9313 and a staff member will get back to you promptly.

		CITY OF DEL MAR CITY COUNCIL POLICY BOOK	
		200	CITY COUNCIL ADVISORY COMMITTEES, BOARDS AND COMMISSIONS

POLICY:

A. Vacancies

It is the City Council policy to advertise vacancies of the City Council advisory committees, Design Review Board, and Planning Commission on the City website for a minimum of 10 calendar days, and at least once in the Del Mar Weekly and/or through CivicSend eblast. Upcoming vacancies may also be announced by the City Manager or Council Members at City Council meetings. The deadline for interested citizens to file a Citizen Interest Form (application) is by the close of business (4:30 p.m.) on a Friday.

B. Council Appointments to City Council Advisory Committees

1. It shall be the policy of the City Council to direct its liaisons to each Council advisory committee to make recommendations to the full Council regarding appointments to City Council advisory committees.
2. If by the application deadline, the number of applications received by the City for such committees is equal to the number of vacancies, or less than the number of vacancies when recruiting for multiple vacancies, the Council liaisons to the specific committee shall determine whether to extend the deadline or review the Citizen Interest Form(s) and/or interview the applicant(s), and make a recommendation to Council that the applicant(s) be appointed to serve on the committee.
3. If by the application deadline, the number of applications received by the City for such committees is more than the number of vacancies, then the Council liaisons to the specific committee shall review the Citizen Interest Forms and/or interview the applicant(s). Council liaisons shall then make a recommendation to Council as to which applicant(s) should be appointed to serve on the committee. If the Council liaisons determine the applicants are not qualified or do not meet the needs of the committee, the application period may be reopened by the Council liaisons in order to solicit additional interest.
4. If the Council liaisons to a committee cannot agree on a recommendation for appointment(s), they shall direct staff to prepare an agenda report for the next available City Council meeting where the City Council will vote on the appointment without discussion. Three affirmative votes are needed in order for the City Council to make an appointment. If an applicant does not receive the necessary votes, the Council may re-vote or may direct staff to reopen the vacancy to solicit additional interest.



CITY OF DEL MAR CITY COUNCIL POLICY BOOK

200	CITY COUNCIL ADVISORY COMMITTEES, BOARDS AND COMMISSIONS	DATE REVISED:	04/04/2022
		BY RESOLUTION:	2022-25
		PAGES:	PAGE 2 OF 6

5. Applicants nominated to serve on a Council advisory committee are encouraged, but not required, to attend the City Council meeting when the City Council is scheduled to consider their appointment to serve on the Committee.
6. In the event that there is only one Council liaison to an advisory committee, the Mayor will act as the second Council liaison for the purposes of reviewing Citizen Interest Forms to recommend to the City Council for appointment.
7. Prior to the City Council meeting where the Council will vote on an appointment, any Council member can request an un-redacted copy of all qualified Citizen Interest Forms in order to review applicant information and contact interested applicant(s) prior to the meeting if so desired.
8. In accordance with Del Mar Municipal Code Chapter 2.30 “Commissions, Boards and Committees: General Provisions”, it shall be the City Council’s policy to select for appointment the candidates who received three affirmative votes by the City Council. In the case where a candidate does not receive three affirmative votes, the Council may re-vote or direct the City Clerk to re-advertise the vacancy.
9. When there are open vacancies for City Council advisory committees, other than Planning Commission or Design Review Board, the City Clerk will bring forward to the City Council the names of the candidates, the number of vacancies, and the liaison recommendation(s). The City Council will then vote on the recommendation to fill the vacancies. When the Council liaisons to a committee agree on a recommendation for appointment, the item will be included on the consent calendar. When the Council liaisons to a committee do not agree on the recommendation for appointment, the item will be brought forward as a Council Business item as described in Section B(4) of this policy.
10. If the spouse or significant other of a City Council member is an applicant to fill a vacancy on an advisory committee, the City Council member must recuse themselves from voting on that appointment.

C. Council Appointments to the Design Review Board and Planning Commission

1. The City Council shall make appointments to the Planning Commission and Design Review Board in accordance with the membership requirements of Chapter 2.34 “Planning Commission” and 2.38 “Design Review Board” of the Del Mar Municipal Code, respectively.



CITY OF DEL MAR CITY COUNCIL POLICY BOOK

200	CITY COUNCIL ADVISORY COMMITTEES, BOARDS AND COMMISSIONS	DATE REVISED:	04/04/2022
		BY RESOLUTION:	2022-25
		PAGES:	PAGE 3 OF 6

2. It shall be the policy of the City Council to hold interviews for appointments to the Planning Commission and Design Review Board only when applications received for such commission or board exceed the number of vacancies.
3. Interviews shall be public and televised as part of the City Council meeting.
4. If, by the application deadline, the number of applications received by the City for such board or commission equals or is less than the number of vacancies, then there shall be an automatic extension of time to accept applications.
5. Prior to the City Council meeting where the Council will vote on an appointment, an un-redacted copy of all qualified Citizen Interest Forms will be provided to the full City Council in order to allow the full Council to review applicant information and contact interested applicant(s) prior to the meeting if so desired.
6. In accordance with Del Mar Municipal Code Chapter 2.30 “Commissions, Boards and Committees: General Provisions”, it shall be the City Council’s policy to select for appointment the candidates who received three affirmative votes by the City Council. In the case where a candidate does not receive three affirmative votes, the Council may re-vote or direct the City Clerk to re-advertise the vacancy.
7. When there are advertised vacancies for Planning Commission or Design Review Board, the City Clerk will bring forward to the City Council the names of the candidates and the number of vacancies. After interviewing candidates in a public forum, the City Council will vote on the candidates to fill the vacancies. The City Clerk will read aloud the vote of each Council member.
8. Because of conflicts of interest which might exist, or which might give the appearance to the public of existing, and in order to preserve public confidence in the City’s vital planning processes and avoid questions of fairness and bias, prejudice or influence, the immediate family member, of a City Council member, Design Review Board Member or Planning Commissioner may not serve or be appointed to serve simultaneously on the Design Review Board or Planning Commission. For purposes of this policy, immediate family member is defined as an individual’s parent, child, spouse, significant other, or sibling living.
9. In accordance with Section C(8) of this policy, should an immediate family member of a Design Review Board Member or Planning Commissioner be elected to serve on the City Council, said Board Member or Commissioner shall be required to resign from their position no later than the day prior to the day the City Council member’s term of office commences.



**CITY OF DEL MAR
CITY COUNCIL POLICY BOOK**

200	CITY COUNCIL ADVISORY COMMITTEES, BOARDS AND COMMISSIONS	DATE REVISED:	04/04/2022
		BY RESOLUTION:	2022-25
		PAGES:	PAGE 4 OF 6

D. City Advisory Committee Membership Categories

1. Subject to the membership limits set forth in Section E(6) of this policy, the City Council may designate seat(s) for ex-officio members in a committee’s charter. Ex-officio members are non-voting subject matter experts who may be residents or non-residents.
2. Subject to the membership limits set forth in Section E(6) of this policy, the City Council may designate membership categories for business representatives in a committee’s charter. Business representatives are business owners or operators whose business has a physical entity within the City of Del Mar and who have a current City of Del Mar business license.

E. Concurrent Committee Assignments, Term Limits and Length, Membership Size and Rotation of Chair and Vice Chair

1. It shall be the policy of the City Council to limit the number of concurrent appointments that any one individual has to City Council advisory committees, Design Review Board, and Planning Commission. The limit of concurrent appointments shall be two. If an individual has two concurrent appointments, they will not be eligible to serve on ad hoc committees, except in special circumstances as determined by the Council or Council liaisons.
2. The number of consecutive terms an individual may serve on a committee is two, as further described in Section E(5) below. However, the City Council has the flexibility to make an exception if they feel it is to the benefit of the committee to re-appoint an individual for a third term. Committee members who would like to continue to serve another term once their appointed term has expired must re-apply by filing a Citizen Interest Form prior to the advertised deadline for applications. Former committee members must wait one year from the expiration of their second consecutive term before being appointed to the same committee.
3. The term length for all City Council advisory committees shall be three years. Terms will expire on the last day of the month.
4. The term length for voting members of the Planning Commission and Design Review Board shall be four years, in accordance with Del Mar Municipal Code Sections 2.34.020 and 2.38.020, respectively. The term length for ex-officio members on the Design Review Board shall be two years, in accordance with Del Mar Municipal Code Section 2.38.020.



**CITY OF DEL MAR
CITY COUNCIL POLICY BOOK**

200	CITY COUNCIL ADVISORY COMMITTEES, BOARDS AND COMMISSIONS	DATE REVISED:	04/04/2022
		BY RESOLUTION:	2022-25
		PAGES:	PAGE 5 OF 6

5. In order to ensure that terms remain appropriately staggered, individuals appointed to fill an unexpired vacancy shall finish the remainder of the term of the vacating committee member. If the balance of the vacant term is less than six (6) months, it shall not count as a term towards the two-consecutive-term limit.

6. All City advisory committees have a maximum committee membership of seven (7) to nine (9) total members, including ex-officio members, at the recommendation of the committee’s Council liaisons and approval of the full City Council. If a committee membership size is to be reduced via attrition, attrition shall not affect members who complete their first term and are eligible and wiling to serve a second term. However, such members must be recommended for reappointment by the committee’s Council liaisons, and their reappointment shall be confirmed by the full Council at a Council meeting.

7. It shall be the policy of the City Council that the members of each advisory committee appoint a chair, vice chair and secretary at the last meeting of the calendar year, with the new chair serving at the first meeting of the new year, and that the these positions rotate annually among all the committee members. It is recommended that the vice chair assist with committee responsibilities and provide for a succession plan for chairing the committee. In the event a committee does not have volunteers to serve as chair and vice chair, then the committee has the flexibility to allow consecutive appointments to the chair/vice chair or secretary positions, i.e. rotation of such positions among the members is not required if there are no volunteers to serve in those positions. At the discretion of the committee, the vice chair and secretary positions may be filled by the same committee member.

8. It shall be the policy of the City Council that the members of the Design Review Board and Planning Commission appoint a chair and vice chair at the last meeting of the calendar year, with the new chair serving at the first meeting of the new year, and that the these positions should rotate annually among all the members. The functions of a secretary for the Design Review Board and Planning Commission, such as preparing minutes, will be managed by City staff.

F. Incumbents to Serve Until New Appointments Confirmed

It shall be the policy of the City Council to allow an incumbent on a City Council advisory committee, Design Review Board, or Planning Commission, whose term has expired to continue to officially serve until the vacancy is filled or three months has passed, whichever occurs sooner.



CITY OF DEL MAR CITY COUNCIL POLICY BOOK

200	CITY COUNCIL ADVISORY COMMITTEES, BOARDS AND COMMISSIONS	DATE REVISED:	04/04/2022
		BY RESOLUTION:	2022-25
		PAGES:	PAGE 6 OF 6

G. Attendance Policy for Boards, Commissions, and Committees

In accordance with Del Mar Municipal Code Chapter 2.30, if a member of a City advisory committee, Design Review Board, or Planning Commission is absent from three regular, adjourned, or special meetings within a 12-month period without cause, the term of said member is automatically vacated. Council liaisons to the commission, board, or committee shall determine whether the absence was for cause. If an advisory committee, which does not include the Design Review Board or Planning Commission, does not have two Council liaisons, then the Mayor and the Deputy Mayor shall act as liaisons to that commission, board, or committee for this purpose. If the liaisons do not agree about whether the absences were without cause so as to warrant removal, the item will be presented to the full City Council to make the determination.

H. Formation and Dissolution of Boards, Commissions, and Committees

1. New committees must be formed by Resolution of the City Council and must include a committee charter detailing, the committee mission/purpose, type of committee (standing or ad-hoc), membership requirements, conflict of interest requirements, and open meeting requirements.
2. If the newly formed committee is an ad-hoc committee, the Resolution and charter should include a sunset date. The sunset date can be extended by Council action, if necessary.
3. Committees may be dissolved by Resolution of the City Council at any time or during the annual review of the City Council Local Appointments. Ad hoc committees shall automatically be dissolved on their sunset date unless extended in advance by the City Council.

I. City Council Review of City Board, Commission, and Committee System

At least every four (4) years the City Council shall establish a subcommittee or alternative process to review the City's boards, commission and committee system to provide recommendations to improve committee efficiencies to the City Council. However, the City Council may, in its discretion, elect to review the City's boards, commission and committee system outside of the four (4) year review as it deems necessary.



LAGOON COMMITTEE CHARTER

Mission & Work Program:

The Lagoon Committee (Committee) is charged with monitoring the preservation and enhancement of the portions of the San Dieguito and Penasquitos Lagoons located in the City of Del Mar, and also any actions outside the City of Del Mar that impact the lagoon systems within the City of Del Mar. The Committee participates on both local and regional levels. Regionally, the Committee monitors the on-going programs of the San Dieguito River Valley Joint Powers Authority (JPA), including but not limited to the lagoon restoration plan, and monitors development that may have an effect on the San Dieguito or Penasquitos Lagoons. Locally, the Committee monitors reports on the health of the lagoons, investigates additional public access opportunities, and encourages educational and informational programs to uncover the lagoons' little-known points of interest. The Committee also monitors and comments, when appropriate, on developments limited to impacts on the lagoons.

Membership:

The Committee ~~currently~~ consists of ~~nine (9) members~~ seven (7) voting members, including eight (8) voting members, and two (2) ex-officio, non-voting members. All members must be Del Mar Residents.

~~Once the Committee membership is reduced through attrition through approval of the City council the membership will be nine (9) seven (7) members, including eight (8) voting members, and one (1) ex-officio, non-voting member. Attrition will not affect members who complete their first term and are eligible and willing to serve a second term. Such reappointments must be recommended by the Council liaisons and approved by the full City Council.~~

Membership Term:

Committee members serve three (3) year staggered terms expiring the last day of the month.

Meeting Requirements:

The Committee meets quarterly, or as may be needed, as approved by the City Council and in full compliance with the California Open Meeting Laws (Brown Act).

Conflict of Interest Filing:

Members of the City of Del Mar Lagoon Committee are not required to file Conflict of Interest Filings due to the advisory nature of the committee.

Status:

The City of Del Mar Lagoon Committee is a standing committee.



City of Del Mar
Lagoon Committee

Board Roster



Udo Wahn

1st Term May 17, 2021 - Oct 31, 2023

Appointing Authority City Council

Position Voting Member



Jill E. Gartman

1st Term Nov 19, 2019 - Nov 19, 2023

Appointing Authority City Council

Position Chair



Robert B Chase

1st Term Oct 19, 2020 - Oct 19, 2024

Appointing Authority City Council

Position Voting Member



Carol Kerridge

2nd Term Feb 07, 2022 - Feb 28, 2025

Appointing Authority City Council

Position Voting Member



Karen F Lare

2nd Term Oct 18, 2022 - Oct 31, 2025

Appointing Authority City Council

Position Secretary

Office/Role Secretary



Julie Kawasaki

2nd Term Feb 01, 2023 - Feb 28, 2026

Position Voting Member



Donna Shaw

2nd Term Apr 01, 2023 - Apr 30, 2026

Appointing Authority City Council

Position At-Large Member (Non-Voting)



Jeffrey Barnouw

1st Term Jul 01, 2023 - Jul 31, 2026

Appointing Authority City Council

Position Voting Member



Vacancy

Appointing Authority City Council

Position Voting Member



City of Del Mar Agenda Report

TO: Honorable Mayor and City Council Members

FROM: Michael Luna, Special Projects & Programs Manager
Clement Brown, Assistant City Manager
Via Ashley Jones, City Manager

DATE: November 13, 2023

SUBJECT: Introduction of an Ordinance Regulating Balloons Filled with a Gas Lighter Than Air

REQUESTED ACTION/RECOMMENDATION:

Staff recommends that the City Council conduct a public hearing and introduce an ordinance (Attachment A) to add Chapter 11.48 to the Del Mar Municipal Code (DMMC) that would prohibit the use, sale, and distribution of balloons filled with a gas lighter than air.

DISCUSSION/ANALYSIS:

Plastic pollution is a significant environmental challenge and microplastics have been found in drinking water, food, and the air we breathe. The City of Del Mar has been a leader in implementing local regulations to decrease litter and pollution by prohibiting the use of expanded polystyrene and non-recyclable plastic disposable food service ware, plastic straws and stirrers, prohibiting the distribution of paper, biodegradable or reusable straws unless requested by customers, and single-use plastic carry-out bags.

While plastic pollution reduction efforts in Del Mar have focused on single-use plastic bags, utensils and straws, balloons have not been addressed. Latex and Mylar are the two types of balloons in general use. Mylar balloons are petroleum-based and not biodegradable, and while latex does biodegrade, latex balloons contain petroleum-based additives and are not 100% biodegradable. Researchers have observed that latex balloons deteriorate slowly and retain their elasticity even after floating in the ocean for 12 months. The release of both types of balloons result in additional plastic pollution that negatively impacts the safety of our citizens, wildlife, oceans, coastlines, and communities.

The Ocean Conservancy has determined that latex and Mylar balloons are the most common form of floating garbage within 200 miles of American shorelines. Beach litter surveys have shown that the number of balloons and balloon pieces found on beaches has tripled in the past 10 years. According to a National Oceanic and Atmospheric Administration (NOAA) Fisheries bulletin, every balloon released during well-meaning celebrations returns to earth as trash, with grave potential to injure or kill wildlife. Balloons can travel hundreds, sometimes thousands, of miles before landing, and those that land in the ocean resemble jellyfish, a

City Council Action:

favorite food of the threatened green sea turtle species residing off the San Diego County coastline.

Balloon debris can even have a negative economic impact by contributing to dirty beaches, parks and communities that create added costs and drive away tourists. An article published by NOAA's Marine Debris Program states that balloon debris on shorelines contributes to dirty beaches, deterring tourists and residents from visiting and enjoying them.

Mylar balloons have also proven to be a menace to utilities and fire departments. Their metallic silvery coating serves as a conductor for electricity, which means they can short transformers and melt wires when they come near a high-voltage line. Mylar balloons pose a risk to our communities by sparking fires and interrupting electric service to essential facilities such as hospitals, schools, and traffic lights. According to SDG&E, over the past five years, Mylar balloons have been identified as the cause of more than 520 power outages and 18 dangerous fire ignitions in the San Diego region's electrical system.

Professor Andrea Sella from University of College London explains that helium is a unique and precious non-renewable resource that is predicted to run out sometime between 2030 and 2040 due to human use. When it's gone, it is lost forever. This is of great concern because helium plays an important role in science, industry, and medicine. A few of the most important uses of helium are in MRI machines, the production of computer chips, and fiber optics. There have already been helium shortages in San Diego and nationwide, causing retailers to suspend the sale of helium filled balloons. It is therefore likely that the sale of helium balloons will continue to decline due to the decrease in helium availability and prioritization of its use for more essential activities such as medical treatment and research.

Plastics will continue to be part of our environment in the near-term, despite waste reduction efforts. Nevertheless, the most effective way to reduce balloon debris in the City's waterways and to protect our local environment is to prohibit the sale and intentional release of lighter than air-filled balloons due to their frequent release into the atmosphere and high likelihood of becoming coastal pollution.

In 1990, the California State Legislature passed Senate Bill (SB) 1990, enacting a statewide balloon law that regulates the sale and use of helium-filled foil balloons (metalized Mylar). SB 1990 prohibits the sale or distribution of a balloon that is constructed of electrically conductive material and filled with a lighter than air gas (e.g., helium) without affixing an object of sufficient weight to the balloon to counter the lift capability. SB 1990 further requires affixing a specific warning statement on the balloon and affixing printed identification of the balloon's manufacturer.

While State legislation to regulate balloons has been in place for some time, a variety of emergent issues have been addressed locally by jurisdictions across California. In the development of the proposed ordinance (Attachment A), various local ordinances regulating balloons were evaluated, including those adopted by the cities of Encinitas (2022), Carlsbad (2022) and Solana Beach (2022). These ordinances generally address local concerns related to balloons, including specific prohibitions on the sale of metallic balloons (to prevent power line entanglement and resultant fire danger and power disruption) or specific prohibitions on the intentional release of balloons filled with a gas lighter than air.

As part of the Council approved fiscal year 2023-24 work plan for the Sustainability Advisory Committee (SAC), the proposed ordinance has been developed to address the critical local and regional concerns with balloons, including plastic pollution, marine debris, marine life impacts, land animal and bird impacts, negative economic impacts, and wildfire dangers. The proposed ordinance is supported by the Surfrider Foundation and was approved for recommendation to the Council for adoption by the SAC at their meeting on October 23, 2023. The proposed ordinance includes the following key provisions:

- No person, including, but not limited to, a balloon wholesaler, retailer or third-party vendor, shall use, sell or distribute any type of balloon inflated with any gas lighter than air within the City, either as a separate item or included in a packaged product set, including at any City facility, park, beach or at a City-sponsored event.
- No person shall dispose of any balloon inflated with any gas lighter than air within the City in any manner, including release outdoors into the air, other than in a trash container.
- The proposed ordinance shall not apply to manned hot air balloons, or to balloons used in governmental or scientific research purposes.

If the proposed ordinance is introduced by the City Council, staff will return with the second reading and adoption of the ordinance at the December 4, 2023, City Council meeting and the ordinance would go into effect thirty (30) days after adoption.

FISCAL IMPACT:

There is no fiscal action to be taken by the City Council related to this agenda item. Staff estimates a limited amount of staff time will be needed to coordinate the education and outreach efforts to the one (1) impacted Del Mar business prior to the ordinance going into effect.

ENVIRONMENTAL IMPACT:

The proposed Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Sections 15060(c)(2) and 15061(b)(3) in that the proposed changes are not anticipated to result in a direct or reasonably foreseeable indirect physical change in the environment, nor will the proposed changes have the potential for causing a significant effect on the environment. This action further strengthens the City's regulations regarding the use of expanded polystyrene products, plastic straws/stirrers, and non-recyclable plastic disposable food service ware that harm the environment. Therefore, this Ordinance is further exempt from the provisions of CEQA pursuant to Section 15308 of the State CEQA Guidelines as an action to assure the maintenance, restoration, enhancement, or protection of the environment.

NEXUS TO CITY COUNCIL GOALS AND PRIORITIES:

Adoption of the proposed ordinance is a priority project in the City Council approved SAC Work Plan for Fiscal Year 2023-2024.

ATTACHMENTS:

Attachment A – Ordinance Regulating Balloons Filled with a Gas Lighter Than Air

ORDINANCE No. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA ADDING CHAPTER 11.48 TO THE DEL MAR MUNICIPAL CODE PROHIBITING THE USE, SALE AND DISTRIBUTION OF BALLOONS FILLED WITH A GAS LIGHTER THAN AIR

WHEREAS, the City of Del Mar, California (“City”) aims to be a leader in sustainability and take action to protect our natural resources, divert waste from landfills, reduce greenhouse gas emissions, and increase City cleanliness and quality of life by reducing litter on City beaches and public areas; and

WHEREAS, the City has been a leader in implementing local regulations to decrease litter and pollution by prohibiting the use of expanded polystyrene and non-recyclable plastic disposable food service ware, plastic straws and stirrers, prohibiting the distribution of paper, biodegradable or reusable straws unless requested by customers, and single-use plastic carry-out bags; and

WHEREAS, State law currently prohibits the outdoor release of any balloon constructed of electrically conductive material (e.g., foil or “Mylar”) that is filled with a gas lighter than air as part of a public or civic event, promotional activity or product advertisement, and places certain requirements on the condition of sale for such balloons (California Penal Code Section 653.1 and Business and Professions Code Section 22942); and

WHEREAS, State law does not address the release of other common balloon materials, such as latex balloons, that have detrimental effects on wildlife and the environment; and

WHEREAS, the City of Del Mar desires to implement additional measures to minimize the existence of balloons filled with a gas lighter than air within the City and mitigate the dangerous impacts from these balloons coming into contact with ocean life, animals and power lines; and

WHEREAS, helium is a unique and precious non-renewable resource that is predicted to run out sometime between 2030 and 2040 due to human use and there is a concern for limited supply for use in science, industry, and medicine; and

WHEREAS, balloons can be damaging to ecosystems and wildlife when released into the air or not disposed of properly, as they are not biodegradable; and

WHEREAS, the Ocean Conservancy lists balloons as the second most dangerous debris item since they are frequently mistaken as food by birds, mammals, and marine life; and

WHEREAS, balloons are the most common form of floating garbage within 200 miles of American shorelines, and beach litter surveys have shown that the number of balloons and balloon pieces found on beaches has tripled in the past 10 years; and

WHEREAS, balloon debris persists despite laws and regulations that prohibit littering, which contributes to dirty beaches, parks and communities, creates added costs to City budgets and discourages tourism; and

WHEREAS, balloons made of metalized or foil materials that conduct electricity, including Mylar, also pose a safety hazard when released as they can cause power outages, explosions, downed power lines, and damaged infrastructure when coming near or into direct contact with high-voltage power lines, resulting in costly repairs and/or hours of power outages affecting City residents and businesses; and

WHEREAS, over the past five years, Mylar balloons have been identified as the cause of more than 520 power outages and 18 dangerous fire ignitions in the San Diego region's electrical system; and

WHEREAS, the most effective way to reduce balloon debris in the City's waterways, decrease litter and pollution and protect the environment, marine life, human health and the City's infrastructure, is to prohibit the use, sale and distribution of balloons filled with a gas lighter than air; and

WHEREAS, on October 23, 2023, the Sustainability Advisory Committee considered the proposed Ordinance and recommended adoption by the City Council of Chapter 11.48 to the Del Mar Municipal Code prohibiting the use, sale and distribution of balloons filled with a gas lighter than air.

NOW, THEREFORE, the City Council of the City of Del Mar hereby ordains as follows:

SECTION ONE:

Chapter 11.48 of the Del Mar Municipal Code is hereby added as follows:

Chapter 11.48 PROHIBITING THE USE, SALE AND DISTRIBUTION OF BALLOONS FILLED WITH A GAS LIGHTER THAN AIR

11.48.010 Purpose and Intent.

The purpose of this Chapter is to establish standards and procedures for environmental waste and litter reduction measures and promote environmentally sustainable practices throughout the City by prohibiting the use, sale and distribution of balloons filled with a gas lighter than air. In enacting this Chapter, it is the City's intent to further current prohibitions and regulations relating to balloons under State law and to protect the City's residents, businesses, animals, and infrastructure from damage caused by balloons.

Nothing in this Chapter is intended to or shall be interpreted as conflicting with any federal or state law or regulation.

11.48.020 Definitions.

The following definitions shall be applicable when the following words or phrases are used hereafter in this Chapter, whether or not these words or phrases are capitalized:

Balloon means a flexible bag, including but not limited to, those made from rubber, latex, polychloroprene (neoprene), Mylar, or nylon fabric, that is designed to be inflated with a gas lighter than air, causing it to float, or designed to be filled with fluid. A balloon may be used for decorative, toy or entertainment purposes. Balloons used for medical, industrial or scientific purposes are not subject to the provisions of this Chapter.

City-Sponsored Event means any event, activity or meeting organized, sponsored, permitted, in whole or in part, by the City or any department of the City. This includes events at rented or borrowed City Facilities, City Parks, City Beaches and City co-sponsored events.

Gas Lighter Than Air means a gas that has a lower density than normal atmospheric gases and rises above them as a result, including, but are not limited to, helium, hydrogen, methane, oxygen, and nitrogen.

Person means any person, business, corporation, or event organizer or promoter; public, nonprofit or private entity, agency or institution; or partnership, association or other organization or group, however organized.

11.48.030 Prohibition on the Use, Sale and Distribution of Balloons.

- A. No Person, including, but not limited to, a balloon wholesaler, retailer or third-party vendor, shall use, sell or distribute any type of Balloon inflated with any Gas Lighter Than Air within the City, either as a separate item or included in a packaged product set, including at any City Facility, City Park, City Beach or at a City-Sponsored Event.
- B. No Person shall dispose of any Balloon inflated with any Gas Lighter Than Air within the City in any manner, including release outdoors into the air, other than in a trash container.
- C. This Section shall not apply to manned hot air balloons, or to balloons used in governmental or scientific research purposes.

11.48.040 Enforcement and Administrative Remedies.

- A. The City Manager, or designee, is authorized to establish regulations and to take any and all actions reasonable and necessary to obtain compliance with this

chapter, including, but not limited to, inspecting any commercial business, City Facility, City Park, City Beach or City-Sponsored Event to verify compliance.

- B. Any violation of this chapter shall be enforced through the administrative citation program set forth in Chapter 1.10 of the Del Mar Municipal Code.
- C. Each violation of this chapter shall be considered a separate offense.
- D. The remedies and penalties provided in this section are cumulative and not exclusive, and nothing in this chapter shall preclude any person from pursuing any other remedies provided by law. The city attorney may seek legal, injunctive, or other equitable relief to enforce the provisions of this chapter and any regulations or administrative procedure developed pursuant hereto.
- E. In addition to any other applicable civil or criminal penalty, any person convicted of a violation of this chapter shall be guilty of an infraction, which shall be punishable by a fine not exceeding \$250, or a misdemeanor, which shall be punishable by a fine not exceeding \$1,000.
- F. Administrative enforcement of this chapter shall proceed pursuant to Chapter 1.10 of the Del Mar Municipal Code.
- G. Notwithstanding any other provision of this chapter, this chapter may be enforced through any remedy as provided for in this section upon its effective date.

SECTION TWO:

The action being considered by the City Council is exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15308 of the CEQA Guidelines because it is an activity undertaken to assure the maintenance, restoration, enhancement and protection of the environment. This action further strengthens the City's regulations regarding the use of expanded polystyrene products, plastic straws/stirrers, and non-recyclable plastic disposable food service ware that harm the environment. Further, the action is exempt from CEQA pursuant to Sections 15060(c)(2) and 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

SECTION THREE:

This Ordinance was introduced by the City Council on November 13, 2023.

SECTION FOUR:

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 FIVE:

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 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:

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 at a regular meeting of the City Council held on the _____th day of December 2023.

Tracy Martinez, 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._____, 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 _____th day of December 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sarah Krietor, Administrative Services
Manager/City Clerk
City of Del Mar



City of Del Mar Agenda Report

TO: Honorable Mayor and City Council Members

FROM: Beth Murray, Limited-Term Senior Management Analyst
Karen Brindley, Planning and Community Development Director
Via Ashley Jones, City Manager

DATE: November 13, 2023

SUBJECT: Encroachment Permit EP23-073 – Request to Retain Unpermitted Fencing, Entry Arbor, and Landscaping within the Public Right-of-Way at 157 6th Street (Applicant: Arturo Vivar)

REQUESTED ACTION/RECOMMENDATION:

It is recommended that the City Council adopt a Resolution (Attachment A) denying Encroachment Permit EP23-073, based on the project's non-compliance with the Del Mar Municipal Code (DMMC) and City Council Policy 110 - Private Encroachments into City Rights-of-Way (Attachment B).

BACKGROUND:

On July 17, 2023, Code Enforcement Case No. 23-104 was opened after the City received a complaint that the existing fence, entry arbor, and landscaping were located in the public right of way along the property's 6th Street and Stratford Court frontage. The subject property is located on the southwest corner of 6th Street and Stratford Court, with driveway access taken from Stratford Court. Although there is no sidewalk along 6th Street or Stratford Court, there is a concrete curb adjacent to the pavement on Stratford and an asphalt curb adjacent to the pavement on 6th Street.

Staff confirmed that a fence, entry arbor, and landscaping exists within the right-of-way and there are no records of an Encroachment Permit or Administrative or Design Review permits for the existing fence, entry arbor or landscaping. Staff did find an approved Administrative Design Review permit (ADR14-052) dated April 10, 2015; however, the approval was for a fence and entry arbor on the property line, not encroaching into the public right-of-way. Additionally, staff could find no evidence that building permits were ever issued for the fence or entry arbor.

The encroachments extend approximately 14 feet into the right-of-way along 6th Street and about 10 feet into the right-of-way along Stratford Court (Attachments C and D). The

City Council Action:

hedges on Stratford are partially blocking a speed limit sign and can also present a line-of-sight impact for vehicles backing out of the property onto Stratford Court. Irrigation along 6th Street has caused runoff into the street and possibly contributed to the deterioration of the asphalt curb.

The property owner of 157 6th Street, Arturo Vivar, has since filed a Long-Term Major Encroachment Permit Application requesting City Council approval to allow the existing fence, entry arbor and landscaping within in the public right-of-way. The existing fence is 64 inches in height and constructed of wood. The wood entry arbor is about 7 feet in height. The existing hedges are approximately 7 feet in height and are planted along 6th Street and Stratford Court (Attachment D). There are also several 1' to 2'-6' shrubs and flowers along 6th Street and Stratford Court planted between the property line and the fence which are also located in the right-of-way.

DISCUSSION/ANALYSIS:

A Long-term Major Encroachment Permit, per DMMC Section 23.28.020, is defined as any improvement designed to or having a permanent appearance and intended for use for a period of 365 days or more and include but not limited to structures or portions thereof, balconies, cornices and other architectural projections, awnings, below grade vaults, earth-retaining structures extending 12 inches or more in height above the adjacent grade, planter boxes, ramps, fences or walls, curbs extending 12 inches or more in height above the adjacent grade.

In addition to the findings listed below, DMMC Section 23.28.040 provides a list of specifically prohibited encroachments, which includes any encroachment that would create an unsafe line of sight for pedestrians or motorists (23.28.040(B)(5)). It is staff's position that the location of the fencing, entry arbor, and landscaping within the public right-of-way has the potential to endanger public safety because they block sight lines at the intersection and vehicles that are backing out of the subject property's driveway. In addition, the hedges are planted in close proximity to a utility pole, traffic control signage, including a speed limit and stop sign.

DMMC Section 23.28.040(B)(3) states that any encroachment that would convey an impression or appearance that the encroached upon area is owned by or reserved solely for the private use of the adjacent property with no associated public benefit to the community is strictly prohibited. The encroachments convey the impression that the approximately 1,600 square-feet of public land enclosed with landscaping and fencing is private and reserved solely for the private use of the residents at 157 6th Street.

Required Findings:

Pursuant to Del Mar Municipal Code (DMMC) Section 23.28.070, there are six required findings for approval, which generally relate to public safety, intended use of the right-of-way, community character, aesthetics, and conversion of public land for private use. An Encroachment Permit shall only be approved if the City Council can make all of the

following six findings:

- Finding 1. That the issuance of the EP will not endanger public health, safety or welfare, or the surrounding property.*
- Finding 2. That the issuance of the EP will not unreasonably interfere with the intended use of a City Right-of-Way or Easement.*
- Finding 3. That the issuance of the EP will not have an adverse impact on the welfare of the community or on the community's appearance or aesthetics.*
- Finding 4. That the issuance of the EP will not cause an unnecessary change in the character of the community.*
- Finding 5. That the issuance of the EP will not be to the detriment of the interests of the general public.*
- Finding 6. The proposed Encroachment will convert significant area of public property to private use.*

Staff has determined that the proposed encroachments would only be consistent with Finding 4 above. None of the other findings can be made. Finding 1 cannot be made because the encroachments could endanger public safety due to the interference with sight lines needed for drivers to see other vehicles and/or pedestrians in the right-of-way. Finding 2 cannot be made because the encroachments are interfering with the visibility of the traffic control signage thereby unreasonably interfering with the intended use of a City Right-of-Way. Finding 3 cannot be made because encroachments could have an adverse impact on the welfare of the community due to the interference with sight lines and blockage of traffic control signage. Finding 5 cannot be made because the line of sight and reduced visibility of traffic control signage is a detriment to the interests of general public. Additionally, Finding 6 cannot be made because the encroachments enclose approximately 1,600 square-feet of City right-of-way, thereby converting a significant area of public property for private use.

Furthermore, the fencing, entry arbor and landscaping do not comply with City Council Policy 110, which states "encroachments that would result in an impression or appearance that the encroached upon area is owned by or reserved solely for the private use of the adjacent property will not be authorized unless the City Council makes a finding that the proposed encroachment will result in a public benefit to the Community". Staff cannot identify any public benefits for allowing these encroachments in the public right-of-way.

Given the proposed project's non-compliance with the DMMC in that all required findings cannot be made and non-compliance with City Council Policy 110, staff recommends that the EP application be denied.

FISCAL IMPACT:

There is no fiscal action to be taken or fiscal impact related to this agenda item, as this is a private development proposal. All fees associated with entitlement processing are paid for by the Applicant.

ENVIRONMENTAL IMPACT:

In accordance with California Environmental Quality Act (CEQA) Guidelines Sections 15061(b)(4 and 15270(a), in that CEQA does not apply to project which a public agency rejects or disapproves.

NEXUS TO CITY COUNCIL GOALS AND PRIORITIES:

This is an operational item and is not related to the City Council Goals and Priorities.

ATTACHMENTS:

- Attachment A – Resolution Denying EP23-073
- Attachment B – City Council Policy 110, Private Encroachments into City Rights-of-Way
- Attachment C - Site Plan
- Attachment D – Photographs

RESOLUTION NO. 2023-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, DENYING ENCROACHMENT PERMIT EP23-073 REQUESTING TO RETAIN EXISTING UNPERMITTED FENCING, ENTRY ARBOR, AND LANDSCAPING WITHIN THE PUBLIC RIGHT-OF-WAY ADJACENT TO 157 6TH STREET IN DEL MAR, CALIFORNIA

WHEREAS, the City of Del Mar (City) is the owner of the right-of-way adjacent to 157 6th Street; and

WHEREAS, Arturo Vivar (Applicant) has filed an application for an Encroachment Permit (EP23-073) seeking approval to retain unpermitted existing fencing, entry arbor, and landscaping within the public right-of-way adjacent to 157 6th Street; and

WHEREAS, Del Mar Municipal Code (DMMC) Chapter 23.28 requires an Encroachment Permit (EP) for any private improvements on City property, and specifically any improvements that would alter the intended use of public right-of-way, require City Council approval; and

WHEREAS, DMMC Section 23.28.070 provides that an Encroachment Permit may be approved or conditionally approved only if the decision maker makes all of the findings set forth in Section 23.28.070(C); and

WHEREAS, in accordance with requirements of the California Environmental Quality Act (CEQA), the City Council's action to reject or disapprove a project is exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Sections 15061(b)(4) and 15270. Therefore, environmental review would not be required; and

WHEREAS, on November 13, 2023, the City Council of the City of Del Mar held a duly noticed public hearing to review the encroachment permit, 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. Agenda Report, dated November 13, 2023, incorporated by reference as though fully set forth herein;
- d. Additional information submitted during the hearing.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Del Mar that Encroachment Permit EP23-073 is hereby denied based on the following findings in DMMC Section 23.28.070 (C):

1. DMMC Section 23.28.070(C)(1-6) requires the City Council to make all findings. Finding 1 cannot be made because the encroachments could endanger public safety due to the interference with sight lines needed for drivers to see other vehicles and/or pedestrians in the right-of-way. Finding 2 cannot be made because the hedges are interfering with the traffic control signage visibility thereby unreasonably interfering with the intended use of a City Right-of-Way. Finding 3 cannot be made because encroachments could have an adverse impact on the welfare of the community due to the interference with sight lines and blockage of traffic control signage. Finding 5 cannot be made because the line of sight and reduced visibility of traffic control signage is a detriment to the interests of general public. Finding 6 cannot be made because the encroachments enclose approximately 1,600 square-feet of City Right-of-Way, thereby converting a significant area of public property for private use.

2. The fencing, entry arbor and landscaping would be inconsistent with City Council Policy #110, which states “encroachments that would result in an impression or appearance that the encroached upon area is owned by or reserved solely for the private use of the adjacent property will not be authorized unless the City Council makes a finding that the proposed encroachment will result in a public benefit to the Community.” The applicant has not demonstrated any public benefit that would result from the placement of the proposed fencing/entryway.

NOW, THEREFORE, BE IT FURTHER RESOLVED by the City Council that EP23-073 is denied.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Del Mar, State of California, at a Regular Meeting held on the 13th day of November, 2023.

Tracy Martinez, 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 Resolution No. 2023-XX, adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the 13th day of November, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sarah Krietor, Administrative Services
Manager/City Clerk
City of Del Mar

		CITY OF DEL MAR CITY COUNCIL POLICY BOOK	
		110	PRIVATE ENCROACHMENTS INTO CITY RIGHTS-OF-WAY

POLICY

This policy memorializes the City Council’s position on which types of private encroachments are compatible with and enhance the public areas that City rights-of-way represent and, conversely, which types of encroachments are inappropriate because they would change the character and perception of a right-of-way area to one of being under private ownership and/or benefit rather than being a public space.

Appropriate Uses of City Rights-of-Way or Easements

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.

There are also circumstances where an encroachment is proposed as a means to provide a driveway or entry path across the unimproved right-of-way between the paved section of the right-of-way and the adjacent private property. These too are deemed an appropriate and justifiable use of a City right-of-way or easement. Such proposals are generally approved, unless it is determined that the proposed encroachment would:

1. Present a public health or safety hazard, such as:
 - a) Creating a trip hazard or other impediment to pedestrians
 - b) Creating an unsafe line of sight for pedestrians or motorists
 - c) Interfering with or not accommodating safe pedestrian passage (retention/provision of a continuous, minimum five-foot-wide “safe harbor” along the edge of the paved roadway is the standard applied by the City);
2. Result in a loss of on-street public parking;
3. Be inconsistent with the City’s planned use for the area;
4. Result in a wholesale change in appearance or use of the area, to the detriment of the community;
5. Interfere with development or use on an adjacent public or private property;
6. Result in a permanent feature (e.g., stone wall or reinforced structure) that would be difficult to remove if the City exercises its right to modify the use of the area subject to the Encroachment Permit



CITY OF DEL MAR CITY COUNCIL POLICY BOOK

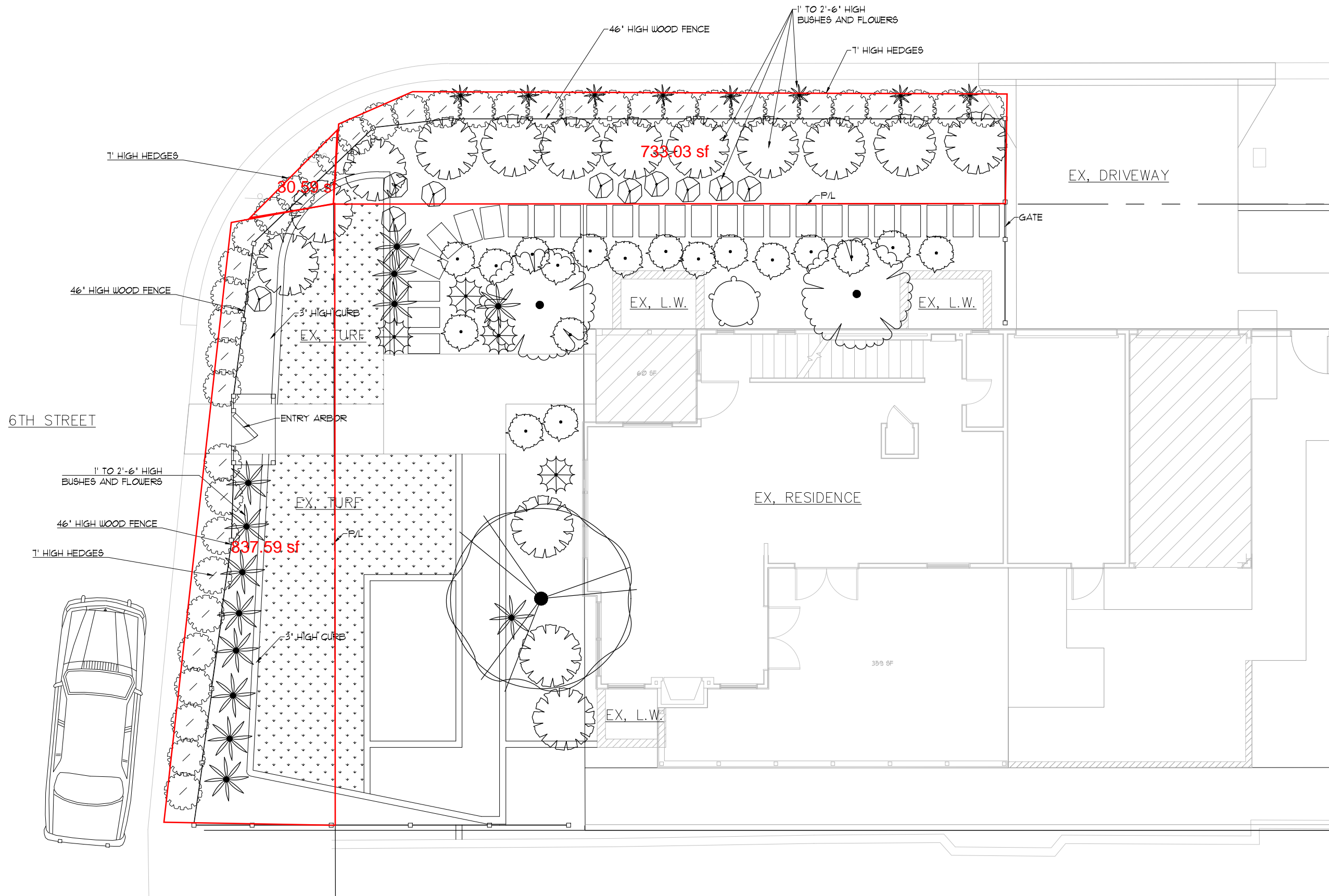
110	PRIVATE ENCROACHMENTS INTO CITY RIGHTS- OF-WAY	DATE ADOPTED:	10/19/15
		BY RESOLUTION:	2015-67
		PAGES:	2 OF 2

Inappropriate Proposals for Use of a Right-of-Way or Easement

It is the City's policy that proposals for development encroachments that would result in an impression or appearance that the encroached upon area is owned by or reserved solely for the private use of the adjacent property will not be authorized unless the City Council makes a finding that the proposed encroachment will result in a public benefit to the community.

Examples of such inappropriate encroachments include: fences, hedges, or vegetation that would create the impression that the "walled-off" area is private vs. public property; and pools, spa or other amenities that would be used primarily for the benefit of the adjacent property, rather than for the public at large.

STRATFORD CT



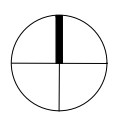
ENCROACHMENT SCOPE

1. PERMIT 7' HIGH HEDGES ALONG STRATFORD AND 6TH STREET
2. PERMIT 46" WOOD FENCE ALONG STRATFORD AND 6TH STREET
3. PERMIT ENTRY ARBOR ON 6TH STREET

PROJECT CONTACT

APPLICANT
 ARTURO VIVAR
 157 6TH STREET
 DEL MAR, CA 92014
 TEL: 713 305 6029

BOKAL
& SNEED
ARCHITECTS



ENCROACHMENT PERMIT - LONG TERM

Scale: 1"=10'

RESIDENCE
 157-159 6TH STREET
 07 AUGUST 2023
 APN: 300-321-5002

Aerial View



APN 300 321 5001





**6th Street and Stratford Court
– Southwest Corner View**



Looking east from 6th Street



**Looking Northwest from
Stratford Court**



**Looking South along
Stratford Court – Traffic
signs partially blocked by
hedges**

2014 Historical View from 6th Street – Hedges at the Property Line



2015 Historical View from Stratford – Fence and Low Vegetation Planted in the ROW



2015 View from 6th Street



2019 Tall landscaping planted in the ROW – View from 6th Street





City of Del Mar Agenda Report



TO: Honorable Mayor and City Council Members

FROM: Councilmembers Dave Druker and Terry Gaasterland Del Mar Representatives to the SANDAG Board and City Council Railroad Subcommittee Members

DATE: November 13, 2023

SUBJECT: Proposed Del Mar Guiding Principles Regarding the LOSSAN Rail Realignment Project

REQUESTED ACTION/RECOMMENDATION:

Councilmembers Druker and Gaasterland request that the City Council adopt the proposed Del Mar Guiding Principles Regarding the LOSSAN Rail Realignment Project (Attachment A).

DISCUSSION/ANALYSIS:

In 2017, SANDAG staff completed a conceptual alignment study that identified potential rail alignments that would remove the tracks from the environmentally sensitive Del Mar bluffs and relocate them to an inland location.

Following completion of the conceptual study, in 2020 SANDAG staff began the San Diego Regional Rail Alignment Study (Rail Realignment Study), which builds upon and further refines the five alternative rail realignments proposed in the 2017 conceptual study. SANDAG's stated purpose of the Rail Realignment Study is to modernize the rail corridor to support future infrastructure investments, reduce travel times, increase capacity, and enhance safety to ensure the long-term viability and resiliency of the corridor.

Periodic updates regarding the SANDAG Rail Realignment Study have been provided to the Del Mar City Council, including July 2020, May 2021, and most recently on July 24, 2023. The Study was finalized in August 2023, and is now available on SANDAG's website at: [lossan-sdsvdt-alternatives-analysis-2023-09-01.pdf \(sandag.org\)](https://www.sandag.org/files/lossan-sdsvdt-alternatives-analysis-2023-09-01.pdf)

Future phases of the overall Los Angeles – San Diego – San Luis Obispo Rail Corridor (LOSSAN) Rail Realignment Project (Project) will include environmental review, full design, and construction. The envisioned timeline would achieve project completion by 2035, with the tracks no longer operating on the Del Mar bluffs.

City Council Action:

On September 5, 2023, the City Council adopted Resolution 2023-33, establishing that it is critically important to the City of Del Mar that SANDAG commit to engaging the public through every means possible to ensure a robust public participation process in which the public can participate fully, receive answers to questions, and provide feedback for consideration prior to decisions being made. This is the only position that the City has taken to date regarding the Project.

Given that SANDAG will soon begin environmental analysis of potential rail realignment alternatives and increasing public concern regarding the Project, it is recommended that the City of Del Mar adopt guiding principles to help clarify the City's position with regard to the Project as well as provide guidance for any future decision(s) or position(s) to be taken by the City related to the Project.

FISCAL IMPACT:

There is no fiscal impact related to this agenda item.

ENVIRONMENTAL IMPACT:

The proposed City Council action does not constitute a "project" under the definition set forth in California Environmental Quality Action (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:

Relocation of the rails from the Del Mar bluffs is a stated priority for the Del Mar City Council.

ATTACHMENTS:

Attachment A – Proposed City of Del Mar Guiding Principles Related to the LOSSAN Rail Realignment Project

**PROPOSED CITY OF DEL MAR
GUIDING PRINCIPLES RELATED TO THE LOSSAN RAIL
REALIGNMENT PROJECT**

The City Council of the City of Del Mar endorses the following guiding principles regarding the San Diego Association of Governments (SANDAG) LOSSAN Rail Realignment Project. City Council adoption of these guiding principles establishes the City of Del Mar's official position regarding this important project. Comments by individual Councilmembers that conflict with these adopted guiding principles are not representative of the City's position.

- 1) Removing the rail line from the environmentally sensitive and fragile Del Mar Bluffs to an inland location by 2035 is a top priority for the City and the region.
- 2) The San Diego Association of Governments (SANDAG) must thoroughly explore all portal locations that limit or eliminate impacts to, and the need for acquisition of, private property to the greatest extent feasible in compliance with the California Environmental Quality Act (CEQA).
- 3) It is critically important that SANDAG engage the public through every means possible to ensure a robust public participation process in which the public can participate fully, receive answers to questions, and provide feedback for consideration prior to decisions being made.
- 4) The coming SANDAG studies must include a reasonable range of feasible alternative rail alignments, including the I-5 and proposed Fairgrounds alignments, and must also include a "no project" alternative as required by federal and state environmental laws.
- 5) A quality cost benefit analysis must be performed comparing the cost and benefits of the proposed final project to the alternatives, and should consider costs due to risks of bluff failure.
- 6) Del Mar expects to be intimately involved in the SANDAG study process with an opportunity to comment at each stage along the way.
- 7) Elimination of the rail line is not within the power of the City of Del Mar, SANDAG, or the North County Transit District (NCTD).
- 8) The City Council pledges to be open and transparent with the public regarding this important project and expects SANDAG to do the same.
- 9) The LOSSAN Rail Realignment Project should include removal of seawalls and the creation of a trail from Powerhouse Park to Torrey Pines State Beach.



City of Del Mar Agenda Report

TO: Honorable Mayor and City Council Members

FROM: Sarah Krietor, Administrative Services Manager/City Clerk
Kseniia Izgarskaia, Associate Management Analyst
Via Ashley Jones, City Manager

DATE: November 13, 2023

SUBJECT: Adoption of the 2024 City Council Meeting Schedule

REQUESTED ACTIONS/RECOMMENDATION:

Staff recommends that the City Council adopt the Resolution (Attachment A) approving the 2024 City Council Meeting Schedule (Exhibit A to Attachment A) or provide direction to staff regarding changes to the proposed schedule.

DISCUSSION/ANALYSIS:

The 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."

2024 City Council Meeting Schedule

The DMMC, and the procedures adopted by the City Council through Resolution No. 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. The proposed 2024 City Council Meeting Schedule is included with this report as Exhibit A to Attachment A. The 2024 City Council Meeting Calendar is included as Attachment B and visually displays the meeting schedule in 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 Changes to the 2024 Regular Meeting Schedule

Typically, the City Council meets twice per month in accordance with the schedule described in the DMMC as referenced above. However, it is not uncommon for the Council to modify the meeting schedule when deemed necessary, which is usually related to holidays. As such, staff is proposing the following changes to the 2024 City Council meeting schedule:

City Council Action:

- 1) Based on the City Council's regular meeting schedule, the first meeting of the year would fall on January 1, 2024. However, this is an official City Holiday (New Year's Day) when City Hall is closed. Staff recommends that the City Council hold the first meeting of the month on Monday, January 8, 2024, and the second meeting on Monday, January 22, 2024.
- 2) The second meeting of February falls on February 19, 2024, which is an observed City Holiday (President's Day) when the City Hall is closed. Staff recommends that the City Council hold the second meeting of that month on Tuesday, February 20, 2024.
- 3) The holiday week of July 4 is historically very busy for the City. As such, staff recommends that the City Council adjust the regular meeting schedule for July 2024, to hold meetings on Monday, July 8 and Monday, July 22, 2024.
- 4) Traditionally, the City Council goes into recess for a month during the summer, which has occurred during the month of August for the last two years. Staff recommends that the City Council continue with this tradition; however, staff requests that the Council consider taking part of July and part of August off in 2024 (meeting on July 8, 2024, and August 26, 2024), or going dark for the entire month of July rather than August (meeting August 5 and 19, 2024).

This recommendation is based on the fact that many City staff members take time off in July, and other organizations such as the Fairgrounds and neighboring cities go dark in July, which coincides with the traditional school year summer break. For example, the City of Encinitas goes dark for the month of July, and the City of Solana Beach goes dark at the end of July through approximately mid-August. With other agencies dark in July and Del Mar dark in August, it tends to have an extended impact on productivity for a two-month period during the summer.

If the City Council finds that a meeting is needed during the Council summer recess, the Council can call a special meeting, which has been the case on occasion in prior years as urgent City matters may arise.

- 5) The first meeting of September falls on September 2, 2024, which is an observed City Holiday (Labor Day) when the City Hall is closed. To avoid scheduling impacts associated with the Labor Day Holiday, staff recommends that the City Council hold the first meeting of the month on Monday, September 9, 2024, and the second meeting on Monday, September 23, 2024.
- 6) In accordance with City Council Policy 107, no City Council meeting shall be scheduled the day prior to the Municipal Election, which will be held on November 5, 2024. The following Monday, November 11, 2024, is a City Holiday (Veteran's Day) and the Thanksgiving Holiday (November 28 & 29, 2024) falls the week of November 25, 2024. As such, staff recommends that the City Council hold one meeting in November on Monday, November 18. This is consistent with the 2023 City Council Meeting schedule which includes only one meeting in November.

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 2024, staff will schedule a meeting to discuss possible dates and a format for the 2024 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 that the certified election results will be available prior to the proposed December 16, 2024, City Council meeting. However, if they are not available in time, a special meeting will be required.

FISCAL IMPACT:

There is no fiscal impact or action to be taken related to this agenda item.

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.

ATTACHMENTS:

Attachment A – Resolution Adopting the 2024 City Council Meeting Schedule
Exhibit A to Attachment A - 2024 City Council Meeting Schedule
Attachment B – Proposed 2024 City Council Meeting Calendar

RESOLUTION NO. 2023-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, DESIGNATING REGULAR MEETINGS OF THE CITY COUNCIL FOR THE 2024 CALENDAR YEAR

WHEREAS, Del Mar Municipal Code Section 2.20.040 Regular Meetings, Subsection A, states that “Regular” meetings of the City Council shall be held on the first and third Monday of each month in the City Council Chambers; and

WHEREAS, Del Mar Municipal Code Section 2.20.040 Regular Meetings, Subsection B, states that “The City Council may, by resolution, designate another date, time, and location for a regular meeting;” and

WHEREAS, Council adopted Resolution No. 2009-40 establishing procedures for setting the Council meeting schedule on an annual basis; and

WHEREAS, it is important that the public know and understand when the City Council will conduct its regular meetings; and

WHEREAS, it is also important that there be flexibility in the schedule of regular meetings in order to complete the City’s business.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Del Mar, California, that the City Council hereby designates the dates and times and location for the regular and special meetings for the 2024 calendar year and cancels any remaining regularly scheduled meetings pursuant to the Del Mar Municipal Code as described in Exhibit A to this Resolution, and directs the City Clerk to post the adopted schedule at City Hall and on the City’s website.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Del Mar, California, at a Regular Meeting held this 13th day of November, 2023.

Tracy Martinez, 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 Resolution No. 2023-XX, adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the 13th day of November, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Sarah Krietor, Administrative Services
Manager/City Clerk
City of Del Mar



City of Del Mar

2024 City Council Meeting Schedule

Regular Meetings are held at the Del Mar Town Hall, 1050 Camino del Mar, Del Mar, or remotely if there is a declared emergency, at 4:30 p.m. on the date shown, unless otherwise noted on the published agenda. Special Meetings and/or City Council Workshops may be held in an alternate location or remotely during if there is a declared emergency.

DATE	MEETING TYPE
Monday, January 8, 2024	Regular
Monday, January 22, 2024	Regular
Monday, February 5, 2024	Regular
Tuesday, February 20, 2024	Regular
Monday, March 4, 2024	Regular
Monday, March 18, 2024	Regular
Monday, April 1, 2024	Regular
Monday, April 15, 2024	Regular
Monday, May 6, 2024	Regular
Monday, May 20, 2024	Regular
Monday, June 3, 2024	Regular
Monday, June 17, 2024	Regular
Monday, July 8, 2024	Regular
Monday, August 26, 2024	Regular
Monday, September 9, 2024	Regular
Monday, September 23, 2024	Regular
Monday, October 7, 2024	Regular
Monday, October 21, 2024	Regular
Monday, November 18, 2024	Regular
Monday, December 2, 2024	Regular
Monday, December 16, 2024	Regular

Adopted by Resolution 2023-XX



2024 Del Mar City Council Meeting Calendar

January						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

February						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29		

March						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

April						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

May						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

June						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

July						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

August						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

September						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

October						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

November						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

December						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

Key:

- City Council Meeting
- City Holiday
- Special Meetings

City Council Goal Setting Workshop Date TBD

Approved 11/13/2023