

Amanda Lee

From: Lee Andelin <lee@joncornlaw.com>
Sent: Thursday, August 09, 2018 2:14 PM
To: Amanda Lee; Terry Gaasterland; Terry Gaasterland
Cc: Jon Corn; Julie Hamilton
Subject: Red dot letter for STAC meeting
Attachments: Ltr to Chair Terry Gaasterland and STAC Members dated 8.9.18.pdf; Memorandum to Leslie Devaney and Barry Schultz.pdf; Ltr from Coastal Commission to Scott Huth dated 4.25.15.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Ms. Lee,

Please see the attached red dot letter, with enclosures, from Jon Corn on behalf of the Del Mar Beach Preservation Coalition.

Lee Andelin



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Coastal Property Rights, Land Use & Litigation

August 9, 2018

Dr. Terry Gaasterland, Chair
Sea Level Rise Technical Advisory Committee (STAC)
City of Del Mar
1050 Camino Del Mar
Del Mar, California 92014

Re: Comments on City Attorney Memorandum re: Adoption and Processing of Sea-Level Rise Adaptation Plan

Dear Chair Gaasterland and Honorable STAC Members:

My firm represents the Del Mar Beach Preservation Coalition, a California mutual benefit corporation promoting the interests of Del Mar's property owners, residents, businesses, and visitors who wish to preserve the city's cherished beaches, beach culture, beach neighborhoods, and seaside charm. I write to address the issues raised in the city attorney's undated memorandum entitled Adoption and Processing of Sea-Level Rise Adaptation Plan.

The city attorney incorrectly concludes that the city is required to, and for practical reasons should, adopt the Sea-Level Rise Adaptation Plan as a local coastal program amendment (LCPA). Enclosed with this letter is a separate memorandum, which I previously shared with the city attorney, explaining in depth why the city is not legally required to process the plan as an LCPA and why there is no practical benefit to doing so.

The city attorney seems to agree that S.B. 379 and the California Coastal Act do not require an LCPA but suggests, however, that the Coastal Commission's grant program does require it. The memorandum assumes a contractual obligation but does not identify any specific provision of any specific agreement. "Consequences" for a breach of the contract are mentioned but not explained.

The only document I have seen purporting to be a contract is attached to the April 25, 2015 letter from the Coastal Commission to City Manager Scott Huth (enclosed). That "contract" is unsigned, and I have been unable to find an executed version of the document. Assuming the contract was executed at some point, it is unenforceable for purposes of requiring the city to amend its LCP. The Coastal Act provides: "The precise content of each local coastal program *shall be determined by the local government* ... in full consultation with the commission and *with full public participation*." (Pub. Res. Code, § 30500(c) [emphasis added].) The Coastal Commission did not have the authority to obligate the City of Del Mar to amend its LCP, let alone incorporate specific content such as managed retreat, before there had been any public participation. Likewise, the City of Del Mar had no authority to commit itself to make particular changes to its LCP before engaging in any public participation. As made clear by section 30500(c) of the Coastal Act, Del

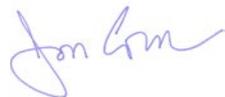
Mar must do what is in the interest of Del Mar and its residents, after full public participation, and not be bound by a purported contract that was created without *any* public participation.

The city attorney's memorandum goes on to suggest an LCPA would be beneficial for other reasons. I will not attempt to address all of those arguments, except to point out that the certified LCP that Del Mar already has in place has been serving the unique needs of the city and its residents well.

The Coastal Commission has already indicated that it will refuse to certify any proposed LCPA that does not include managed retreat and will demand amendments that the City of Del Mar has already decided are unacceptable. Thus, one of two outcomes is the inevitable result of any attempt to process an LCPA: either (1) the city will reject the Coastal Commission's demands, in which case the whole process will have been a waste of time and money, or (2) the city will capitulate and the Coastal Commission will impose its own priorities, contrary to the will of the people of Del Mar.¹ The city should do what is best for its people and process the proposed Sea-Level Rise Adaptation Plan as part of the safety element of the city's general plan.

Thank you for allowing the BPC to participate in this process. I look forward to continuing to collaborate with the city on these important issues.

Sincerely yours,



Jon Corn

cc: BPC Board

Enclosures

¹ The City Council of Del Mar has already gone on record stating that they will *not* capitulate to the Coastal Commission, but as we don't know who will be the members of the future council that will actually vote on these issues, it is difficult to take comfort in such statements.

MEMORANDUM

TO: Del Mar City Attorney Leslie Devaney, Assistant City Attorney Barry Schultz, and staff

FROM: Jon Corn

DATE: July 17, 2018

RE: Proposed Amendments to the City of Del Mar Certified Local Coastal Program (LCP)

The purpose of this memorandum is to provide our analysis of (1) whether the City of Del Mar is required by state law to amend its LCP to address the impacts of climate change, including anticipated sea level rise, and (2) if such an amendment is not required, whether the city should do so for practical or strategic reasons. Our analysis leads us to conclude firmly that the answer to both questions is *no*. As you are aware, my firm represents the Del Mar Beach Preservation Coalition, a group of concerned citizens and homeowners in Del Mar. Nevertheless, I have endeavored as much as possible to provide an objective analysis of these issues.

I. AN AMENDMENT TO DEL MAR'S CERTIFIED LCP IS NOT LEGALLY REQUIRED.

A. Senate Bill No. 379.

S.B. 379, enacted by the California legislature in 2015, amended section 65302 of the Government Code to require a municipality such as the City of Del Mar to review and update “the *safety element*” of the city’s general plan “as necessary to address climate adaptation and resiliency strategies applicable to the city” (Gov’t Code, § 65302(g)(4) [emphasis added].) Nothing in S.B. 379 requires any amendment to the city’s certified LCP. Indeed, LCPs are not mentioned in either S.B. 379 or Government Code, § 65302. Furthermore, the city is not required to consult with—let alone receive approval from—the Coastal Commission to amend its safety element; the city is only required to consult with the Geological Survey and the Office of Emergency Services. (Gov’t Code, § 65302(g)(7).) Based on the clear and unambiguous language of the statute, Del Mar is not required to amend its LCP to address the impacts of climate change. The only document that must comply with S.B. 379 is the safety element of the city’s general plan.

B. The California Coastal Act.

We have also investigated whether some provision of the Coastal Act might require the city to amend its LCP to address climate change, sea-level rise, “managed retreat,” or related issues. I personally reviewed the entire text of the Coastal Act in view of this issue and did not see any language that would require such an amendment.

To be sure, the Coastal Commission has issued “guidance” for municipalities to consider in drafting their LCPs. (See *Sea Level Rise Policy Guidance* (Aug. 12, 2015).)¹ But the Coastal Commission’s “guidance” document does not purport to *require* municipalities to amend their LCPs. (See *id.*, at p. 18.) As implied by the title of the document, it contains only suggestions—“best practices,” so to speak—for processes and policies that the municipality should consider implementing *if* it is drafting or amending its LCP. Consider, for example, the following excerpt:

This document provides a step-by-step process for addressing sea level rise and adaptation planning *in new and updated Local Coastal Programs*. These Steps ... *can be tailored to fit the needs of individual communities* and to address the specific coastal resource and development issues of a community, such as dealing with bluff erosion or providing for effective redevelopment, urban infill, and concentration of development in already developed areas. *Ideally*, Commission and local government staff will establish regular coordination and work together in the early steps of any LCP planning process. (*Id.*, at p. 18 [emphasis added].)

Even if the Coastal Commission’s “guidance” did purport to impose specific requirements on municipalities, it would not have the force of law. (See *Bollay v. Office of Admin. Law* (2011) 193 Cal.App.4th 103, 112–13 [holding that a state agency’s policy or interpretation of law that is not duly enacted pursuant to statutory authorization, with proper notice and hearing under the California Administrative Procedures Act, is an “invalid underground regulation”].) Indeed, the Coastal Commission disclaims—in bold, italicized type—any intent to impose new regulations through its “guidance”:

[T]his document is intended to function as interpretive guidance for effective implementation of the Coastal Act and LCPs in light of sea level rise. It is not a regulatory document and does not contain any new regulations. Further, it does not amend or supersede existing legal authorities or the standard of review for Local Coastal Programs and coastal development permit decisions pursuant to the Coastal Act. Those actions are subject to the applicable requirements of the Coastal Act, the Coastal Zone Management Act, certified LCPs, and other applicable laws and regulations as applied in the context of the evidence in the records for those actions. The Commission is adopting this Guidance as interpretive guidelines pursuant to its authority under Public Resources Code Sections 30620. (Sea Level Rise Policy Guidance, at p. 23.)

The Coastal Commission’s grant program likewise does not create a legal obligation for the city to amend its LCP. The official announcement of the program states that “[t]he purpose of this grant program is to *encourage* local governments and other entities responsible for planning under

¹ Available at https://documents.coastal.ca.gov/assets/slr/guidance/August2015/0_Full_Adopted_Sea_Level_Rise_Policy_Guidance.pdf.

the Coastal Act to develop and adopt updated plans that conserve and protect coastal resources ... from future impacts from sea-level rise and related climate change impacts such as extreme weather events.” (Local Coastal Program Sea Level Rise Adaptation Grant Program Announcement, at p. 2 [emphasis added].)² While the City of Del Mar’s Round 3 grant agreement includes a “deliverable” of submitting an LCP amendment to the Coastal Commission by October 31, 2018, it does not define any penalty for failing to meet this deliverable. (See *City of Del Mar, LCP-16-13 A/1*, at p. 9.)³ I am not aware of any statutory authority for the Coastal Commission to bring a lawsuit to compel the city to comply with the grant agreement, and the only penalty the Coastal Commission could impose on its own would be to withhold further funding for this project.

II. THE CITY WILL NOT GAIN ANY BENEFIT BY AMENDING ITS CERTIFIED LCP VOLUNTARILY.

It seems clear that, under current law, the City of Del Mar is not required to amend its LCP. The question has been raised, however, whether Del Mar might gain some advantage by doing so voluntarily. The concern that I have heard expressed is that if Del Mar does *not* amend its LCP, then the Coastal Commission will indirectly impose its views on how to address climate change and sea-level rise—namely, by requiring a “managed retreat” policy—through the process of reviewing coastal development permits (CDPs) issued by the city. This fear is unfounded, and in fact an amendment to the LCP will only enhance the ability of the Coastal Commission to impose its policies on the city.

A. Permit applicants would be worse off under an amended LCP.

Where, as here, the city already has a certified LCP, the Coastal Commission’s review on appeal is generally limited to considering whether the city’s decision on a permit application is consistent with the city’s LCP. (See Pub. Res. Code, § 30603(b)(1).) In other words, the city’s LCP is the law that the Coastal Commission must follow on an appeal, and the Coastal Commission is without authority to add to or modify the LCP, regardless of what the Coastal Commission’s policy preferences may be. (See, e.g., *Schneider v. California Coastal Commission* (2006) 140 Cal.App.4th 1339, 1348 [“In reviewing the proposed development to determine whether it was consistent with the certified LCP, Coastal Commission was not empowered to adopt a new offshore visual resource policy for San Luis Obispo County.”].) With managed retreat not being included in the city’s LCP, the Coastal Commission would be on very weak legal footing if it were to try to impose a managed retreat policy on the city indirectly through the appeal process.

One might argue that the Coastal Commission will try to impose managed retreat-type conditions on CDPs regardless of whether the applicable LCP includes sea-level rise or managed retreat. That may be true, but with the two most recent permit applications from Del Mar that was not the case. In fact, Coastal Commission staff took a strong position that the standard for the Thompson seawall was the Del Mar LCP, and they did not consider managed retreat as the standard for the proposed seawall. (See *Staff Report: Regular Calendar* [Application No. 6-16-0381, Aug. 31,

² Available at

http://www.opc.ca.gov/webmaster/ftp/pdf/docs/LCP2013/LCP_SLR_Program_Announcement_FINAL.pdf.

³ Available at https://documents.coastal.ca.gov/assets/lcp/grants/round-3-awarded-15-16/LCP-16-13_Del_Mar_Redacted.pdf.

2017], at pp. 16–17, 21–22 & fn. 2 [hereinafter, “Thompson Report”].)⁴ For the same reason, the staff dismissed any consideration of managed retreat for the Naftzger seawall appeal heard earlier this year. (See *Staff Report and Recommendation on Appeal: Substantial Issue Determination* [Appeal No. A-6-DMR-18-0005, Feb. 15, 2018], at pp. 14–15 & fn. 1 [hereinafter, “Naftzger Report”].)⁵ The staff specifically indicated in both projects, however, that the Coastal Commission’s position “may change in the future” based on the amendments that they hope will be made to Del Mar’s LCP. (Thompson Report, at p. 21; Naftzger Report, at p. 14.)

It is thus clear that the Coastal Commission staff (and most likely the commissioners, who generally defer to staff on these matters in the absence of a good reason to take a contrary position) believe the Coastal Commission does not have the authority to delve into managed retreat under the current LCP. It is equally clear that they desire the LCP to be amended to provide the authority to consider managed retreat in future decisions. If an amended LCP were to contain the mention of sea-level rise or even the possibility of managed retreat at some point in the future, the Coastal Commission would be emboldened and would gain legitimacy for its managed retreat policy in a court challenge. On the other hand, if the LCP does not mention sea-level rise or managed retreat, then a property owner has a much stronger argument that the Coastal Commission has exceeded its authority if it tries to impose managed retreat on a permit applicant. (*Schneider, supra*, 140 Cal.App.4th at p. 1348.) An amendment to the LCP would give the Coastal Commission an opening to impose its managed retreat policy contrary to the local policy of the City of Del Mar.

B. Amending the LCP would serve no useful purpose and would only increase the Coastal Commission’s ability to meddle in local affairs.

If Del Mar decides to amend its LCP, this will without a doubt increase the opportunity for the Coastal Commission to meddle in local policymaking—and correspondingly decrease local control. Any amendment (except certain “minor” amendments) to the city’s LCP must be certified by the Coastal Commission. (Cal. Code Regs., tit. 14, § 13555.) In recent years the Commission, leveraging concerns over anticipated sea-level rise, has placed a high priority on implementing a policy of managed retreat, which is simply government-speak for requiring property owners to abandon their land and improvements and prohibiting them from erecting barriers such as seawalls and revetments to protect their property. A managed retreat policy is nowhere to be found in the text of the Coastal Act itself. More fundamentally, this policy raises serious concerns about the use of eminent domain and/or unconstitutional taking of property rights and the public and private costs to implement such a policy. (Cf. Pub. Res. Code, § 30010 “[T]his division is not intended, and shall not be construed as authorizing the commission ... or local government acting pursuant to this division to exercise their power to grant or deny a permit in a manner which will take or damage private property for public use, without the payment of just compensation therefor.”.)

As we have seen, the Commission will put heavy pressure on the city to include managed retreat in any amendment to the LCP. The Coastal Commission has already said it will refuse to certify any amendment that does not include managed retreat. The Coastal Commission would then draft its own suggested amendments, which the city council would vote to accept or reject. The city has already gone through a long and grueling process to achieve consensus on the managed retreat issue; consideration of the Coastal Commission’s suggested modifications would reopen the entire

⁴ Available at <https://documents.coastal.ca.gov/reports/2017/9/w15a/w15a-9-2017-report.pdf>.

⁵ Available at <https://documents.coastal.ca.gov/reports/2018/3/w16c/w16c-3-2018-report.pdf>.

discussion. The city council would be forced to take a position in defiance of either its constituents or the Coastal Commission. In the end, the Coastal Commission will never approve an amendment that implements the city's preferred policy regarding sea-level rise. From a political and strategic standpoint, there is no practical benefit to submitting an LCP amendment to the Coastal Commission with the knowledge the Coastal Commission will not accept the proposed amendment and will demand substantial and unacceptable modifications.

III. CONCLUSION.

Thank you for your willingness to consider input from your constituents. I very much appreciate the opportunity to work with you and would be more than happy to address any follow-up questions you may have.

CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE (415) 904-5200
FAX (415) 904-5400
TDD (415) 597-5885



April 25, 2015

Scott Huth, City Manager
City of Del Mar
1050 Camino del Mar
Del Mar, CA 92014

Subject: Agreement Number LCP-14-13

Dear Mr. Huth:

Enclosed please find items related to your Agreement with the California Coastal Commission. Please note that in the newer format of the Standard Agreement (STD 213), a copy of the General Terms and Conditions (GTC) is not provided. The GTC are available on the Internet at <http://www.ols.dgs.ca.gov/Standard+Language.htm> and may be downloaded and printed for your files. However, if you do not have Internet capabilities, you may request a hard copy by contacting the person listed in the paragraph below.

This Agreement cannot be considered binding on either party until approved by appropriate authorized state agencies. No services should be provided prior to approval, as the State is not obligated to make any payments on any agreement prior to final approval. Expedient handling of this Agreement is appreciated. For inquiries regarding this Agreement, please call *Lalli Venkatakrishnan, LCP Grant Program Assistant at (415) 904-5251*.

Complete the following item(s) and return to the address stated above:

- Standard Agreement (STD 213) with attached exhibits. Sign and date the first page of the standard agreement package (STD 213) and the additional single STD 213. Return all originals for further processing. A fully executed original will be returned when completed.
- Payee Data Record (STD 204). No payment can be made unless this form is completed and returned.
- Contractor Certification Clauses (CCC). The CCC package contains clauses and conditions that may apply to your agreement and to persons doing business with the State of California. The CCC will be kept on file in a central location and must be renewed every three (3) years and updated as changes occur. It is available on the Internet site referenced in paragraph one above. Please sign and return the first page of the current CCC. Failure to do so will prohibit the State of California from doing business with your company.
- A copy of your insurance certification which states coverage will not be canceled without 30 days written notice to the State of California, and which also includes the State of California, its officers, agents, and employees as additional insureds.
- The attached Agreement is signed on behalf of *California Coastal Commission*. Continue processing and when approved, return the original to this office.
- The attached approved Agreement is for your records. You are now authorized to provide the agreed upon services.

Handwritten signature of Lalli Venkatakrishnan in cursive.

Lalli Venkatakrishnan, LCP Grant Program Assistant
(415) 904-5251
Lalli.Venkatakrishnan@coastal.ca.gov

Attachment(s)
cc: Hilary Papendick

CALIFORNIA COASTAL COMMISSION
STANDARD GRANT AGREEMENT

(Rev 03/15)

AGREEMENT NUMBER

LCP-14-13

FEDERAL ID NUMBER

95-6006231

1. This Agreement is entered into between the State Agency and the Grantee named below:

STATE AGENCY'S NAME

California Coastal Commission

GRANTEE'S NAME

City of Del Mar

2. The term of this Agreement is: 4/16/2015 through 4/30/2017 (the "Termination Date")

3. The maximum amount of this Agreement is: \$100,00.00 One Hundred Thousand Dollars and No Cents¹

4. The parties agree to comply with the terms and conditions of the following exhibits which are by this reference made a part of the Agreement.

Exhibit A – Definitions 3 pages

Exhibit B – Scope of Work 22 pages

Exhibit C – Budget Detail and Payment Provisions 3 pages

Exhibit D* – General Terms and Conditions GTC 610

Check mark one item below as Exhibit E:

Exhibit E - Special Terms and Conditions 9 pages

Exhibit F – Amendments Template 1 page

Items shown with an Asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto. *These documents can be viewed at www.ols.dgs.ca.gov/Standard+Language.*

IN WITNESS WHEREOF, this Agreement has been executed by the parties hereto.

GRANTEE

GRANTEE'S NAME (if other than an individual, state whether a corporation, partnership, etc.)

City of Del Mar

BY (Authorized Signature)



DATE SIGNED(Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

Scott Huth, City Manager

ADDRESS

1050 Camino del Mar
 Del Mar, CA 92014

STATE OF CALIFORNIA

AGENCY NAME

California Coastal Commission

BY (Authorized Signature)



DATE SIGNED(Do not type)

PRINTED NAME AND TITLE OF PERSON SIGNING

Susan M. Hansch, Chief Deputy Director

ADDRESS

45 Fremont Street, Suite 2000, San Francisco, CA 94105

California Department of General Services Use Only

I, the Chief Deputy Director of the California Coastal Commission, certify that this agreement is exempt from Department of General Services' approval.

¹ \$100,000 OPC Reimbursement

EXHIBIT A

DEFINITIONS

1. The term "Agreement" means this Grant Agreement.
2. The term "Benchmark" means specific tasks or project deliverables identified in the Project Work Plan as approved by the Commission.
3. The term "Budget Act" means the annual enacted version of the Budget Bill which makes appropriations for the support of the government of the State of California.
4. The term "Chief Deputy Director" means the Chief Deputy Director of the Commission.
5. The term "Commission" refers to the California Coastal Commission.
6. The term "Executive Director" means the Executive Director of the Commission.
7. The term "General Terms and Conditions" refers to terms contained in GTC-610 effective as of 6/9/2010 which may be viewed at <http://www.dgs.ca.gov/ols/Resources/StandardContractLanguage.aspx>.
8. The term "Grant" or "Grant Funds" means the money provided by the Commission and Ocean Protection Council ("OPC") to the Grantee pursuant to this Agreement.
9. The term "Grantee" means an applicant who has a signed agreement for Grant Funds.
10. The term "Grant Manager" means the representative of the Commission given authorization by the Executive Director to administer and provide oversight of the Grant.
11. The term "LCP" refers to Local Coastal Program.
12. The term "Local Coastal Program Local Assistance Grant Program" refers to the Coastal Commission's grant program to support local governments in planning for sea level rise and climate change, and developing new or updating existing Local Coastal Programs (LCP), consistent with the California Coastal Act.
13. The term "Materials" means all data, plans, drawings, specifications, surveys, studies, and other written or graphic work produced in the performance of this Agreement.
14. The term "OPC" refers to Ocean Protection Council.
15. The term "Other Sources of Funds" means cash or in-kind contributions that are required or used to complete the Project beyond the Grant Funds provided by this Agreement.

EXHIBIT A

16. The term “Pooled Money Investment Account” (PMIA) refers to the account through which the State Treasurer invests taxpayers’ money to manage the State’s cash flow and strengthen the financial security of local governmental entities. The rate of interest earned on the Pooled Money Investment Account serves as a benchmark for setting interest rates in several provisions of state law, and is the rate that is used for purposes of this Agreement.² The current rate is available: <http://www.treasurer.ca.gov/pmia-laif/pmib-program.asp>.
17. The term "Project" means the activity described under the Scope of Work, attached as Exhibit B1, to be accomplished with Grant Funds.
18. The term “Project Budget” means the Commission approved cost estimate submitted to the Grant Manager as part of the Work Program. The Project Budget shall describe all labor and materials costs of completing each component of the Project. The Project Budget may contain either itemized amounts, or ranges permissible for each item or task described in Project Scope and Work Plan. The Project Budget must include the set administrative and indirect costs agreed upon by the Parties if applicable. For each project component, the Project Budget shall list all intended funding sources including the Commission’s grant and all other sources of monies, materials or labor.
19. The term “Public Agency” means any State of California department or agency, a county, city, public district or public agency formed under California law.
20. The term “Request for Funds Form” or “RFF Form” means the form that will be submitted requesting payment and which is described in Exhibit C hereto.
21. The term “Scope of Work” refers to Exhibit B, including the approved Work Plan, Project Schedule, and Project Budget.
22. The term “Draft Sea Level Rise Guidance” refers to the Coastal Commission’s draft sea level rise guidance document released for public review in October 2013. The document provides an overview of best available science on sea level rise for California and recommended steps for addressing sea level rise in Coastal Commission planning and regulatory actions under the Coastal Act.
23. The term “Final Guidance” refers to the Sea Level Rise Guidance document once adopted by the Commission.
24. The term “Termination Date” means the date by which all activity for the project must be concluded and all invoices and other reporting requirements must be complete, as specified in the signature page of this Agreement. Work performed after this date cannot be reimbursed.

² Umbach and Moller 2001. Available: <http://www.umbachconsulting.com/discussion/CaShortTerm.pdf>. Accessed 19 September 2014.

EXHIBIT A

25. The term "Work Plan" means the description of tasks and related work to be accomplished by the Project.

EXHIBIT B

SCOPE OF WORK

1. Grantee agrees to provide to the Commission project activities as described under the Scope of Work, attached hereto as Exhibit B1.
2. The Project representatives during the term of this agreement will be:

State Agency: California Coastal Commission	Grantee: City of Del Mar
Name: Hilary Papendick, Statewide LCP Grant Manager ("Grant Manager")	Name: Scott Huth, City Manager
Address: 45 Fremont Street, Suite 2000 San Francisco, CA 94105-2219	Address: 1050 Camino del Mar Del Mar, CA 92014
Phone: (415) 904-5294	Phone: 858-755-9313
Fax: (415) 904-5400	Fax: 858-755-2794

3. Direct all inquiries to:

State Agency: California Coastal Commission	Grantee City of Del Mar
Section/Unit:	Section/Unit:
Name: Hilary Papendick, Statewide LCP Grant Manager ("Grant Manager")	Name: Joseph Smith, AICP, Associate Planner ("Planning Manager")
Address: 45 Fremont Street, Suite 2000 San Francisco, CA 94105-2219	Address: 1050 Camino del Mar Del Mar, CA 92014
Phone: (415) 904-5294	Phone: 858-755-9313
Fax: (415) 904-5400	Fax: 858-755-2794

EXHIBIT B1

Project Work Plan, Schedule, and Budget

Title: Local Coastal Program Amendment to Address Sea Level Rise

Organization: City of Del Mar, Planning and Community Development Department

Budget Summary:

OPC Grant Funds:	\$100,000
City of Del Mar General Fund	\$77,794
<u>City of Del Mar In-kind services</u>	<u>\$22,206</u>
Total project cost:	\$200,000

Term of Project: April 16, 2015 to April 30, 2017

A. PROJECT DESCRIPTION

The City of Del Mar Local Coastal Program Amendment (LCPA) will develop and incorporate retreat, protection, and accommodation strategies into its certified LCP. The LCPA will be targeted specifically on addressing sea level rise (SLR) and coastal flooding impacts to its most vulnerable coastal resources, visitor-serving amenities, and residences. In particular, vulnerable areas include the following: 1) San Dieguito Lagoon State Marine Conservation Area (SMCA) and bordering tidelands; 2) Northern limit of the Los Peñasquitos Lagoon; 3) Del Mar Racetrack and Fairgrounds; 4) North Beach and coastal bluff at north City limit; 5) Public beach from 29th Street south to Powerhouse Park; 6) Public beach from Powerhouse Park to south City limit, including the flanking 1.5-mile coastal bluff and rail corridor; 7) Various public access points to the coast; and 8) Crest to Coast Trail, including the Lagoon Boardwalk and RiverPath Del Mar segments.

The LCPA is anticipated to add a new chapter to the LCP Implementing Ordinances (IO) specific to SLR with modifications to existing IO provisions, LCP Land Use Plan (LUP) policies, and boundaries of applicable Overlay Zones and the Post-LCP Permit and Appeal Jurisdiction Map. Corollary amendment to the City's Community (General) Plan and the Del Mar Municipal Code (DMMC) may also be required to ensure the Community (General) Plan and Municipal Code is consistent with the proposed LCPA. Technical studies will include the preparation of a Vulnerability Assessment, Risk Assessment, and Adaptation Plan. Review pursuant to the California Environmental Quality Act (CEQA) is not anticipated pursuant to Public Resources Code Section 21080.9 which exempts local governments from activities and approvals that are necessary for the preparation and adoption of an LCPA.

The City will submit all grant deliverables to the California Coastal Commission (CCC) San Diego Coast District Office and the CCC's grant coordinator. For reports and the LCPA, the City will discuss an outline or scope of work with CCC San Diego staff before commencing work, and will share drafts of reports with CCC San Diego staff for review before finalizing. The City will work with the CCC to update work products based on an iterative exchange of comments.

EXHIBIT B1

The Work Program has four main objectives:

- Objective 1:** Understand the degree of vulnerability posed to Del Mar's beaches, lagoons, bluffs, visitor-serving amenities, and residences by examining the magnitude of risks and sensitivities associated with SLR and coastal flooding. A Vulnerability Assessment will be prepared in early 2016 using the best available science on SLR, which examines historical erosion and storm data, and creates a model of the current and projected Mean High Tide Line (MHTL). This assessment will serve as the foundation for the Update and necessary technical studies.
- Objective 2:** Evaluate how expected sea level rise impacts will affect California Coastal Act resources, people, development, infrastructure, and natural resources located in areas vulnerable to sea level rise. A Risk Assessment will be prepared in early 2016 and will prioritize areas to target with sea level rise strategies as part of an Adaptation Plan.
- Objective 3:** Create an Adaptation Plan that identifies effective shoreline Accommodation, Protection and Retreat strategies through rigorous analysis of sea level rise and community/stakeholder input. The Plan will prioritize adaptation strategies based on ability to protect coastal resources and to implement *Safeguarding California: Reducing Climate Risk* principles (see Task 3.1). Once designed in mid-2016, the Adaptation Plan will be integrated into the LCP and will serve as the City's long-range planning guide for SLR management.
- Objective 4:** Consolidate the findings from the prior three objectives into an updated LCPA that would include land use policies and implementation measures related to SLR and coastal flooding impacts.

B. TASK DESCRIPTION

TASK 1: PROJECT COMMENCEMENT

Task 1.1 Issue a Request for Proposal

The City will issue a Request for Proposal (RFP) for a 43-day review period to obtain bids from consultants experienced in SLR analysis and technical assessments.

Deliverables

Confirmation of RFP posting

EXHIBIT B1

Task 1.2 Establish a Stakeholder-Technical Advisory Committee

The City will also establish the selection framework for a SLR Stakeholder-Technical Advisory Committee (STAC) to assist the City throughout the LCPA process. The STAC will be comprised of several stakeholders in SLR issues. Examples may include any of the following: 1) those who could be directly impacted by sea level rise, including property owners of beachfront and bluff-top parcels and users of City beaches and trails; 2) those with a broader interest in coastal resources including citizen groups, non-profits, and regional organizations; 3) those with technical expertise in sea level rise, dynamic modeling, and coastal engineering, including researchers and practitioners; 4) a biologist experienced in wetland preservation and restoration; 5) a representative from the 22nd District Agricultural Association and/or the North County Transit District; and 6) members from the City advisory committees (e.g., San Dieguito Lagoon Committee, Parks & Recreation Committee, and/or Sustainability Advisory Board).

Deliverables

Initial STAC roster with a preliminary meeting schedule

Task 1.3 Consultant Selection

The City and its appointed members will review RFP bids, conduct interviews, and select a consultant to assist in sea level rise analysis and technical assessments. The selection will be presented to the City Council at a public hearing and a contract award will be authorized.

Deliverables

Executed consultant contract

Summary of consultant RFPs received and interviewed

Task 1.4 Prepare the Public Involvement Process

The City, with STAC input, will prepare a program and schedule for community meetings and stakeholder outreach to engage the broader public throughout the process. Community meetings will be coordinated in relation to each of the project benchmarks in order to assist the City in defining the Planning Area, identifying potential vulnerabilities and risks, developing implementation strategies and policies, and evaluating the feasibility and costs associated with those strategies and policies.

Additional stakeholder outreach will be conducted, including polling and/or citywide surveys, to encourage additional input throughout the process. As part of the outreach efforts, at minimum, in addition to CCC staff, the following groups will be invited to participate in the project: 1) Del Mar residents, businesses, and interest groups, especially those in the Planning Area; 2) Cities of Solana Beach, Encinitas, Carlsbad, and the City and County of San Diego; 3) The San Diego Foundation; 4) Surfrider Foundation, San Diego Chapter; 5) San Diego Coastkeeper; 6) San Dieguito River Valley Joint Powers Authority; 7) San Dieguito River Valley Conservancy; 8) Friends of San

EXHIBIT B1

Dieguito River Valley; 9) Sierra Club, San Diego Chapter; 10) Scripps Institute of Oceanography, School of Marine Sciences; 11) Climate Collaborative Network; 12) San Diego County Supervisor, District 3; 13) State Assembly Member, District 78; and 14) State Senator, District 39.

Task 1.5 Regional Coordination

Additionally, the City will coordinate and share information and lessons learned as appropriate with other LCP planning grant recipients, regional local governments, and other entities, as appropriate. The City will hold regular coordination meetings (phone or in-person) with CCC San Diego staff on a monthly basis, or as needed, throughout the duration of the project.

Deliverables

Outreach program

Schedule for community meetings

TASK 2: ASSESSMENT PREPARATION

Task 2.1 Compile Data and Existing Analyses, Determine Data and Information Gaps

Prior to initiating Tasks 2.2, 2.4 and 2.5, the City will complete an analysis to assess all existing data and information available, including the documents identified in Task 2.4, and will identify data and information gaps.

Deliverable

Gaps analysis

Task 2.2 Define the Planning Area

Conduct an extensive refinement of the preliminary Planning Area boundaries included in the grant request. The City will coordinate with the CCC's Mapping Unit on the development of maps, including maps of the Coastal Zone, Coastal Appeal Zone, and other maps as required by the Coastal Act. The following activities are anticipated to be components of this Task:

1. Create a detailed hydrodynamic model of the Planning Area to provide an accurate picture of the future floodplain based on SLR scenarios.
2. Expand beyond the baseline data provided by the Federal Emergency Management Agency (FEMA) and National Oceanic and Atmospheric Administration (NOAA) to include the following:
 - a. Coastal Storm Modeling System (CoSMoS) information, including CoSMoS 3.0 once it is made available in late 2015
 - b. Both coastal and river flood scenarios as an example for aggregating coastal and river flooding

EXHIBIT B1

- c. Historical shoreline and bluff positions and coastal armoring
 - d. Wave and tide profiles
 - e. Climate change data to determine baseflow and future run-off projections
 - f. A range of SLR projections for 2030, 2060, and 2100 including low and high values for each time period
 - g. Culvert outfall and surface discharge points
 - h. Backshore characterization (dune, inlet, cliff, and armoring) and geology
 - i. Potential erosion impacts of a large storm wave event
 - j. Shoreline, bluff, and river sedimentation
 - k. Wave modeling and run-up calculations
3. Establish planning horizons for years 2030, 2060 and 2100.

Deliverables

Geographic Information System (GIS) layers outlining the Planning Area as a whole, by site type, and specific sites for use

Task 2.3 STAC and Community/Stakeholder Meetings – Planning Area and Assessments

Facilitate STAC and community/stakeholder meeting(s) to obtain input on Planning Area refinement and proposed methodologies for SLR modeling.

Provide an introduction into the next task that will evaluate vulnerabilities and risks associated with SLR and obtain input.

Deliverables

STAC and community meeting reports
Stakeholder outreach reports

Task 2.4 Vulnerability Assessment Preparation

The Vulnerability Assessment (VA) serves as part of the underlying foundation for the Adaptation Plan (Task 3) and the LCPA overall. Specifically, the VA will provide an understanding of the degree of vulnerability posed to the City's beaches, lagoons, bluffs, visitor-serving amenities, public access areas, residential/commercial, and infrastructure by examining the magnitude of risks and sensitivities associated with SLR and coastal flooding, and the combination of SLR and storms or extreme high water events. In addition, the VA will examine historical erosion and storm data along the City's coastline, and the results of the hydrodynamic model of the Planning Area created in Task 2.2.

Several studies and projections have been completed in the region that includes information and data on SLR. To the maximum extent feasible, the VA will include the existing data and analyses from the following studies and projections:

1. Coastal Storm Modeling System (CoSMoS): Southern California 1.0, including CoSMoS Southern California 3.0 once it is made available in late 2015

EXHIBIT B1

<http://cosmos.deltares.nl/SoCalCoastalHazards/index.html>.

CoSMoS 1.0 was initially developed and tested for the Southern California coast in collaboration with Deltares. The Southern California 1.0 study area extends 470 kilometers from Pt. Conception, California, south to the Mexican border and includes microtidal basins but has few significant inlets or narrow straits that would focus tidal currents in the nearshore. The coastline is highly variable in terms of its orientation (west to south facing), morphology (rocky to wide, flat beaches), structures (seawalls, jetties, groins, breakwaters, and so on), exposure (open to significant island sheltering), and backbeach development (for example, rural coast to urban beach front). CoSMoS 1.0 will be used to assess coastal vulnerability within the region.

CoSMoS 3.0 is currently in development and is anticipated for completion in Fall 2015. Funding for the updated study has been provided from the California Coastal Conservancy with additional support from local jurisdictions, and features top coastal and climate scientists from Scripps Institution of Oceanography, Oregon State University, the private sector, and USGS. As part of CoSMoS 3.0, model enhancements for Southern California will include the following elements to be used to assess coastal vulnerability in the region.

- Long-term coastal evolution modeled, including sandy beaches and cliffs
- Downscaled winds from Global Climate Models (GCMs) for locally generated seas and surge
- Discharge from rivers for event response and long-term sediment supply
- An improved baseline-elevation Digital Elevation Model (DEM) developed by the California Coastal Conservancy and the National Oceanic and Atmospheric Administration (NOAA) that incorporates the most recent bathymetric and topographic surveys available

2. Coastal Data Information Program at Scripps Institution of Oceanography

<http://cdip.ucsd.edu/>

The Coastal Data Information Program (CDIP) at Scripps Institute of Oceanography (SIO) is a valuable, local resource for obtaining environmental data on a number of wave and beach conditions. As part of the LCPA, this source would be used to research historical trends of wave and beach profile information monitored by CDIP since 1975. Additional sources will include the Focus 2050 Study that was created in large part by SIO in 2008. The Study assessed SLR in six low-lying areas in San Diego County and is one of first comprehensive regional assessment of climate change impacts to San Diego County. The range of impacts presented in the Study (which includes SLR as one such impact) are based on projections of climate change using three climate models and two emissions scenarios drawn from those used by the Intergovernmental Panel on Climate Change (IPCC). As part of the LCPA, the models and scenarios utilized in the study would be used to help determine comparable effects of SLR and coastal flooding impacts in the City, respectively.

EXHIBIT B1

3. CCC Draft Sea Level Rise Policy Guidance

<http://www.coastal.ca.gov/climate/slrguidance.html>

The City will use the best available science on SLR, the CCC's Draft Sea Level Rise Guidance document, and the Final Sea Level Rise Guidance Document, once adopted by the CCC, to inform the LCP update. It will be a fundamental component of the design methodologies considered for use in planning and regulating development at risk of SLR impacts. The Guidance provides techniques for assessing SLR vulnerability, and strategies for reducing risks from SLR. The Guidance contains guiding principles for addressing SLR in California's Coastal Zone; a discussion of the best available science on SLR; and step-by-step guidance for addressing SLR in LCPs and the Coastal Development Permit process, the two fundamental land use planning and regulatory mechanisms established by the California Coastal Act. The Guidance will assist in the preparation of the LCPA and in addressing SLR in future coastal development permits issued by the City.

4. Sea level rise projection analysis in the San Diego Bay Sea Level Rise Strategy prepared by ICLEI-Local Governments for Sustainability USA, with the support of the San Diego Foundation

http://www.icleiusa.org/climate_and_energy/Climate_Adaptation_Guidance/san-diego-bay-sea-level-rise-adaptation-strategy-1

The San Diego Bay Sea Level Rise Strategy was completed in January 2012 through a collaborative effort by the San Diego Unified Port District, the San Diego County Regional Airport Authority, and five bay front cities including San Diego, National City, Chula Vista, Imperial Beach, and Coronado. The Strategy is a useful source of information for the LCPA since it provides an initial framework of organizing stakeholder engagement and guiding principles to utilize during the course of the process. The Strategy consists of a VA that evaluates how community assets could be impacted by SLR; and a Recommendations Section to build in resilience of those community assets. The Strategy would be used as a reference document in developing its VA and Adaptation Plan. Even though the Strategy was targeted on jurisdictions surrounding San Diego Bay, the Strategy will provide valuable guidance on assessing vulnerabilities typical of those in the San Diego region. These include ecosystems and critical species, stormwater management and wastewater, potable water, local transportation facilities, building stock, emergency response facilities, parks and recreation areas, and public access. The Strategy provides some historical data for SLR analysis in San Diego Bay between 1910 and 2010, and projected sea level change by 2050 and 2100, which would be considered as part of the City's analysis. The Strategy further illustrates SLR management practices that were identified by the participating jurisdictions for implementation, including hard defense, soft defense, accommodation, and withdrawal.

EXHIBIT B1

5. Sea level rise projection and mitigation analysis in the San Diego County Hazard Mitigation Plan Update

http://www.sandiegocounty.gov/oes/emergency_management/oes_il_mitplan.html

The Multi-jurisdictional Hazard Mitigation Plan is a countywide plan that identifies risks and ways to minimize damage caused by natural and manmade disasters (of which coastal storm/erosion is included). The Plan covers 20 beachfront and non-beachfront jurisdictions, and provides tools for enhancing public awareness and improving inter-jurisdictional coordination, and gives a methodology for promoting compliance with hazard regulations. The Plan was last revised in 2010 and is currently undergoing another review to reflect changes in hazards threatening San Diego, as well as the programs in place to minimize or eliminate those hazards. The Plan would be used as a reference document in developing the Risk Assessment as it provides some preliminary data on potential hazard-related exposure and loss in the City including exposed population, residential and commercial buildings, and critical facilities based on projections provided by FEMA, the National Inventory of Dams, and the University of Southern California on coastal storm/erosion, dam failure, 100- and 500- year flooding, and tsunami. The Plan also provides general goals, objectives, and actions to assist in achieving the City's hazard mitigation goals.

6. Bridge assessment analysis from the San Diego Double Track Project for the replacement of the Camino del Mar pedestrian and vehicle bridge, and the railroad trestle bridge crossing the inlet to the San Dieguito Lagoon

http://www.keepsandiegomoving.com/Lossan/lossan_san_dieguito_double_track.a_spx

Over the next 20 years, the San Diego Association of Governments (SANDAG) plans to construct approximately \$1 billion in improvements in the 60-mile San Diego segment of the 351-mile Los Angeles-San Diego-San Luis Obispo (LOSSAN) rail corridor, including a primary effort to double-track the corridor from Orange County to downtown San Diego. Specific to the City, this project would result in the replacement of a 100-year-old, wooden trestle train bridge over the San Dieguito River Bridge, add a mile of second mainline rail track from Solana Beach to Del Mar, and construct a special events platform at the Del Mar Fairgrounds for North County Transit District (NCTD) Coaster and Amtrak Pacific Surfliner trains. The new bridge and tracks would be elevated above the 100-year floodplain. In addition, a second project is under consideration to replace the existing Camino del Mar vehicle and pedestrian bridge over the San Dieguito River. The relevant material contained in the technical and environmental analysis being prepared by SANDAG (estimated completion date in early 2015) would be used to assist in the City's VA and Risk Assessment, as well as Adaptation Planning methodologies.

7. Shoreline preservation strategies, storm-related flooding analysis and coastal modeling within the San Dieguito River Valley

<http://www.sandag.org/index.asp?subclassid=32&fuseaction=home.subclasshome>

EXHIBIT B1

SANDAG has prepared several resources as part of its regional shoreline monitoring program and sand replenishment programs for several beaches between Oceanside and Imperial Beach, of which Del Mar's North Beach area is included. As part of its shoreline monitoring program, SANDAG has measured the changes in beach width overtime, documents the benefits of sand replenishment projects and helps to improve the design and effectiveness of beach fills. Collectively, this information would be used to help determine comparable effects of SLR and coastal flooding impacts in the City, respectively, and provide guidance on preparation of the VA and Adaptation Plan.

- Regional Shoreline Monitoring Program, beach profile data, yearly monitoring reports, and information on the 2001 and 2012 Regional Beach Sand Project is available at:
<http://www.sandag.org/index.asp?classid=17&subclassid=32&projectid=298&fuseaction=projects.detail>
 - SANDAG's Shoreline Preservation Strategy for the San Diego Region, July 1993 is available at:
http://www.sandag.org/uploads/publicationid/publicationid_1256_5880.pdf
8. SLR analysis included in the preliminary bridge assessments/optimizations for both the Interstate 5 (I-5) and the rail corridors were conducted as a part of the North County Corridor (NCC) Public Works Plan/Transportation and Resource Enhancement Program (PWP/TREP)
<http://www.keepsandiegomoving.com/North-Coast-Corridor/North-Coast-PWP.aspx>
9. Long-term beach profile monitoring data completed by Southern California Edison (SCE) in association with the San Dieguito Wetlands Restoration Project
<http://coastalenvironments.com/reports/>

The following activities are anticipated to be components of this Task:

1. Identify site-specific areas ("sites") to analyze impacts resulting from SLR, including beaches, lagoons, bluffs, visitor-serving amenities, residential/commercial, and infrastructure.
2. Evaluate SLR and flooding impacts to public access to and along the shoreline.
3. Utilize modeling data to examine the magnitude of SLR impacts to the sites.
4. Create a vulnerability matrix to identify the various sites' relative vulnerability to SLR impacts, based on the following components:
 - a. Exposure
 - b. Sensitivity to SLR impacts
 - c. Adaptive capacity

EXHIBIT B1

5. Expand detail on the current vulnerability of sites, including:
 - a. Identify the sites' vulnerabilities to existing stressors
 - b. Identify existing conditions that affect the stressors
6. Estimate the following future resource conditions:
 - a. Projected change in conditions with associated time periods
 - b. Projected impacts to conditions [without adaptation actions]
 - c. Projected changes in existing stressors
 - d. New stressors resulting from changed conditions
7. Estimate the following future vulnerabilities:
 - a. Estimate sites' sensitivities to SLR change
 - b. Estimate sites' resiliency to SLR change
8. Analyze the following:
 - a. Sites' current ability to accommodate SLR change
 - b. Barriers to the sites' ability to accommodate SLR change
 - c. Existing stressors that affect the sites in ways that will limit the ability to accommodate SLR change
 - d. Rate of projected change compared to the rate of site adaptability
 - e. Current efforts to address SLR impacts
9. Produce a ranking system against a range of SLR scenarios for the 2030, 2060 and 2100 planning horizons to assess and prioritize the vulnerability of the Planning Area as a whole, by site type, and by specific site.

Deliverables

Vulnerability Assessment draft
GIS layers for identified hazard zones

Task 2.5 Risk Assessment Preparation

The Risk Assessment (RA) will evaluate how expected sea level rise impacts will affect people, development, infrastructure, and natural resources located in areas vulnerable to sea level rise. In addition, the RA will prioritize areas to target with SLR strategies as part of an Adaptation Plan (Task 3).

The following activities are anticipated to be components of this Task:

1. Identify the specific hazards creating risks either caused or exacerbated by SLR change.
2. Determine the consequences associated with SLR changes that have the potential to carry environmental, financial, public accessibility, and social costs.
3. Determine risk by assessing the likelihood and relative consequences of identified hazards.

EXHIBIT B1

4. Prioritize at-risk components in context to other identified risks.
5. Assess risk mitigation that includes the following components:
 - a. Whether or not adaptation is appropriate
 - b. Timing and location to focus adaptation efforts

Deliverables

Risk Assessment draft

Task 2.6 STAC and Community/Stakeholder Meetings – Assessments

Facilitate STAC and community/stakeholder meeting(s) to feedback on the VA and RA, including site locations, vulnerabilities, and risks/hazards.

Provide an introduction into the next task that will evaluate vulnerabilities and risks associated with SLR and obtain early input on the development of an Adaptation Plan (Task 3.1).

Deliverables

STAC and community meeting reports
Stakeholder outreach reports

TASK 3: ADAPTATION PLAN DEVELOPMENT

Task 3.1 Determine SLR Strategies and Adaptation Plan Preparation

The Adaptation Plan (AP) will serve as the City's long-range planning guide for SLR management and will be integrated into the City's LCP, and will draw from the prior work completed under Tasks 1 and 2. Specifically, the AP will identify and require effective shoreline Accommodation, Protection, and Retreat strategies through a rigorous analysis of SLR and community/stakeholder input.

In development of the adaptation strategies, preference will be given to adaptation measures that adhere to the *Safeguarding California Plan: Reducing Climate Risk* principles

(http://resources.ca.gov/docs/climate/Final_Safeguarding_CA_Plan_July_31_2014.pdf), including measures that protect California's most vulnerable populations, achieve multiple benefits from efforts to reduce climate risks and prioritize green infrastructure solutions, and that integrate climate risk reduction with emissions reductions to the fullest extent possible.

As part of the AP preparation, the City will also evaluate additional measures to further reduce the effects of climate change on the environment. This includes a special emphasis on the confluence of the ocean and San Dieguito River, which occurs in the San Dieguito Lagoon, since the by-product of a changing climate is an increase in the MHTL and potential changes in river flow. This will incorporate analysis that has been

EXHIBIT B1

completed as part of the City's Greenhouse Gas Inventory and the draft Climate Action Plan, and will utilize its ongoing partnership with the Climate Collaborative Network (CCN), of which the City is an active participating member.

Development of long-range planning for SLR and coastal flooding management will include the following activities:

1. Complete a rigorous analysis of the established Planning Area against VA and RA findings incorporating community/stakeholder input.
2. Identify effective shoreline Accommodation, Protection, and Retreat strategies applied to each site type and/or specific site.
3. Assess the ability of adaptation strategies to protect public access to and along the shoreline, scenic views, sensitive habitats, and other coastal resources.
4. Evaluate whether the Beach Overlay Zone and Shoreline Protection Area (LCP IO Chapter 30.50) will be effective in protecting public access in the future from SLR and the combined impact of SLR and coastal flooding.
5. Evaluate whether other accommodation strategies and provisions in the LCP, specifically the Lagoon Overlay Zone (IO Chapter 30.53), Coastal Bluff Overlay Zone (IO Chapter 30.55), Floodplain Overlay Zone (IO Chapter 30.56) will be effective in protecting vulnerable coastal resources from the combined impact of SLR and coastal flooding.
6. Evaluate strategies for climate change adaptation, with an emphasis on potential impacts to the confluence of the ocean and San Dieguito River in the San Dieguito Lagoon with consideration for changing conditions to the (upstream) coastal watershed, sediment transport, and sediment management activities.
7. Evaluate impacts and opportunities for sediment management processes associated with SLR and coastal flooding with respect to beach nourishment, wetland preservation, and water quality improvements.
8. Evaluate strategies against timeframe of risks, cost-benefit considerations, and constraints and/or limitations.
9. Develop operational responses and design strategies for each site type and/or specific site based on identified adaptation strategy.
10. Develop detailed policy guidance for operational responses.
11. Develop detailed design guidelines and protocol for design strategies.
12. Review the LCP for inconsistencies with operational responses and design guidelines and protocol.

EXHIBIT B1

13. Prepare new GIS layers for adaptation strategies. The City will work with the CCC's Mapping Unit to develop LCP maps.
14. Draft framework summary for incorporation of LCP amendments.
15. Identify final modifications to the Planning Area, SLR modeling, VA and/or RA, if needed.

Deliverables

Adaptation Plan draft

GIS layer for selected adaptation strategies

Draft framework for incorporation into the LCP

Final Planning Area GIS layers, if modified

Final Vulnerability and/or Risk Assessments, if modified

Task 3.2 STAC and Community/Stakeholder Meetings – Adaptation Plan

Facilitate multiple STAC and community/stakeholder meetings to obtain input on SLR adaptation strategies including accommodation, protection, and retreat.

Deliverables

STAC, community meeting and stakeholder outreach reports

TASK 4: AMENDMENT DRAFTING

Task 4.1 Draft Amendments to the Del Mar LCP

Based on the information completed in Tasks 1, 2 and 3, a formal amendment to the LCP will be drafted. The LCPA is anticipated to add a new chapter to the LCP IO specific to SLR with necessary modifications to existing IO provisions and LUP policies. Specific modifications to the IO and LUP would largely be understood during the preparation of the Adaptation Plan in Task 3.1. Should changes to the LUP be deemed necessary, the City anticipates filing for a consolidated LCPA submittal that includes changes to both the IO and LUP. In addition, modifications may be included to the Overlay Zone maps and the Post-LCP Permit and Appeal Jurisdiction Map in order to reflect existing tidelands and lands below the MHTL, with consideration for delineating future changes to tidelands and MHTL based on SLR and climate change. The CCC mapping unit will make certain maps, including the Post-LCP Permit and Appeal Jurisdiction Map, as required by the Coastal Act.

The City will submit the draft LCP documents (text, maps, and/or exhibits) to CCC staff in paper hardcopy as well as an electronic copy in permanent format (such as an Adobe Acrobat .pdf file) and one electronic copy in an editable format (such as in Microsoft Word .doc).

Deliverables

EXHIBIT B1

Draft LCPA
Amended Overlay Zone maps
Amended Post-LCP Permit and Appeal Jurisdiction Map

Task 4.2 Identify and Prepare Corollary Amendments

The DMMC and Community (General) Plan will be evaluated to identify any corresponding sections that would require corollary amendments consistent with the LCPA.

Deliverable

Draft amendment outline to the DMMC and Community Plan

TASK 5: CITY PUBLIC HEARINGS

Task 5.1 Planning Commission

Public hearing(s) before the Planning Commission to review the LCPA and corollary amendments.

Deliverable

Recommending Resolution to the City Council

Task 5.2 City Council

Public hearing(s) before the City Council to review the LCPA and corollary amendments.

Deliverable

Resolution approving the LCPA and corollary amendments, and authorizing LCPA submittal to the CCC for review and certification.

TASK 6: LCPA SUBMITTAL TO CCC

Task 6.1 Submit LCPA package to CCC for review and certification

Formal LCPA submittal to the CCC prior to the grant deadline of May 2017. The City will submit the LCP documents (text, maps, and/or exhibits) to CCC staff in paper hardcopy as well as an electronic copy in permanent format (such as an Adobe Acrobat .pdf file) and one electronic copy in an editable format (such as in Microsoft Word .doc). Additional information may be requested by CCC staff prior to completing the LCPA review and scheduling for hearing.

Task 6.2 CCC Certification Hearing

CCC hearing on the City's LCPA. Note that additional time may be needed in the event of the following actions by the CCC: 1) follow-up City Council meeting to consider any

EXHIBIT B1

suggested modifications to the LCPA; 2) resubmittal to the CCC; and 3) follow-up CCC certification hearing.

Task 7: COORDINATION WITH COASTAL COMMISSION

The City will hold regular coordination meetings (phone or in-person) with CCC San Diego Coast District staff every other month, or as needed, throughout the entire grant period. This task involves early review of work products by the CCC staff and iterative exchange of comments between the City and the CCC staff.

C. SCHEDULE

Term of Project: April 16, 2015 to April 30, 2017

Project Schedule	Duration and Completion Dates
Task 1. Project Commencement	April 16, 2015 to September 30, 2015
1.1 Issue a Request for Proposal (RFP) – <i>consultant for preparation of technical studies and Tasks 1.4 through 6.2; 43-day RFP period</i>	Opens: April 16, 2015 Ends: May 29, 2015
1.2 Establish a Stakeholder-Technical Advisory Committee (STAC)	July 6, 2015
1.2 Consultant Selection	August 3, 2015
1.4 Prepare the Public Involvement Process	September 8, 2015
1.5 Regional Coordination	April 16, 2015 to April 30, 2017
<u>Deliverables</u>	
1.1 Confirmation of RFP posting	April 16, 2015
1.2 Initial roster of STAC members and prelim meeting schedule	July 31, 2015
1.3 Executed consultant contract	August 21, 2015
1.3 Summary of consultant RFPs received and interviewed	August 21, 2015
1.4 Outreach program	September 30, 2015
1.4 Schedule of community meetings	September 30, 2015
Task 2. Assessment Preparation	August 21, 2015 to April 29, 2016
2.1 Compile Data and Existing Analyses, Determine Data and Information Gaps	September 30, 2015
2.2 Define Planning Area	December 4, 2015
2.3 STAC and Community/Stakeholder Meetings – Planning Area and Assessments	December 11, 2015
2.4 Vulnerability Assessment Preparation	February 8, 2016
2.5 Risk Assessment Preparation	March 14, 2016
2.6 STAC and Community/Stakeholder Meetings – Assessments	April 15, 2016

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<u>Deliverables</u>	
2.1 Gaps analysis	September 30, 2015
2.2 GIS layers for project area and sub-areas	January 29, 2016
2.3 STAC and community meeting reports	January 29, 2016
2.3 Stakeholder outreach reports	January 29, 2016
2.4 Vulnerability Assessment draft	April 30, 2016
2.4 GIS layer for hazard zones	April 30, 2016
2.5 Risk Assessment draft	April 30, 2016
2.6 STAC and community meeting reports	April 30, 2016
2.6 Stakeholder outreach reports	April 30, 2016
Task 3. Adaptation Plan Development	May 2, 2016 to August 31, 2016
3.1 Determine Sea Level Rise Strategies and Adaptation Plan Development	July 29, 2016
3.2 STAC and Community/Stakeholder Meetings – Adaptation Plan	August 21, 2016
<u>Deliverables</u>	
3.1 Adaptation Plan draft	August 31, 2016
3.1 GIS layer for selected adaptation strategies	August 31, 2016
3.1 Draft framework for incorporation into the LCP	August 31, 2016
3.1 Final Planning Area GIS layers, if modified	August 31, 2016
3.1 Final Vulnerability and/or Risk Assessment, if modified	August 31, 2016
2.5 STAC and community meeting reports	August 31, 2016
2.5 Stakeholder outreach reports	August 31, 2016
Task 4. Amendment Drafting	September 1, 2016 to December 23, 2016
4.1 Draft Amendments to the Del Mar LCP	October 28, 2016
4.2 Identify and Prepare Corollary Amendments to the Del Mar Zoning Code and Community (General) Plan	October 28, 2016
<u>Deliverables</u>	
4.1 Draft LCP amendment, including an amended Post-LCP Permit and Appeal Jurisdiction Map (if applicable)	October 28, 2016
4.2 Amended LCP overlay zone maps	October 28, 2016
Task 5. City Public Hearings	November 8, 2016 to April 17, 2017
5.1 Planning Commission	January 13, 2016
5.2 City Council	April 3, 2017
<u>Deliverables</u>	
5.1 Planning Commission Resolution to City Council	December 27, 2016
5.2 City Council Resolution approving the LCPA	April 17, 2017
Task 6. LCPA Submittal to the CCC	April 30, 2017 to TBD
6.1 Submit LCPA package to CCC for review and certification <i>Formal LCPA submittal to the CCC prior to the grant deadline of May 2017. Additional information may be requested by CCC staff prior to completing the LCPA review and scheduling for hearing</i>	April 30, 2017

EXHIBIT B1

6.2 CCC certification hearing <i>Note that additional time may be needed in the event of the following actions by the CCC: 1) follow-up City Council meeting to consider any suggested modifications to the LCPA; 2) resubmittal to the CCC; and 3) follow-up CCC certification hearing</i>	TBD
Task 7. CCC Coordination	April 16, 2015 to April 30, 2017
Coordination with CCC and bi-monthly meetings with CCC San Diego Coast District staff	April 16, 2015 to April 30, 2017

D. BENCHMARK SCHEDULE

ACTIVITY	COMPLETION DATE
Project Commencement – RFP; STAC; Consultant	September 30, 2015
Prepare Gaps Analysis	September 30, 2015
Define Planning Area	December 4, 2015
Community/Stakeholder Meetings – Planning Area/Assessments	December 11, 2015
Prepare Vulnerability and Risk Assessments	March 14, 2016
Community/Stakeholder Meeting – Assessments	April 15, 2016
Determine SLR Strategies and Develop Adaptation Plan	July 29, 2016
Community/Stakeholder Meeting – Adaptation Plan	August 21, 2016
Draft LCP Amendment Package	October 28, 2016
Planning Commission Hearing	January 13, 2016
City Council Hearing	April 3, 2017
CCC Amendment Submittal	April 30, 2017
CCC Certification Hearing	TBD

E. EVALUATION AND REPORTING

- a. The Grantee shall promptly provide Project reports with payment requests at least every three months, and upon request by the Commission. Project reports are subject to the Coastal Commission Executive Director’s review and approval. The Project report shall include a description of work tasks and deliverables completed to date, and a description of completed benchmarks, or progress toward completing benchmarks. In any event Grantee shall provide the Commission a report showing total final Project expenditures with the final Request for Funds and required closing documents. Grantee shall submit all documentation for Project completion, as applicable, and final reimbursement by the Termination Date
- b. Final payment is contingent upon Commission verification that Project is consistent with the Scope of Work as described in Exhibit B1, together with any Commission approved amendments.
- c. Grantee must report to the Commission in the Project Budget all sources of other funds for the Project.

EXHIBIT B1

F. BUDGET

LABOR COSTS					
<i>Position Title</i>	Hourly Rate (salary plus benefits, incl. fringe benefits- see guidelines [1])	<i># of Hours</i>	<i>OPC Total (# of hours x rate per hour)</i>	<i>Match/ Other Funds</i>	<i>Total (LCP Grant Funds + Match/ Other Funds)</i>
Task 1 – Project Commencement					
Senior Planner	\$49.63	48	\$0	\$2,382	\$2,382
Planning Manager	\$65.35	0	\$0	\$0	\$0
Planning Director	\$81.77	1	\$0	\$82	\$82
City Engineer	\$186.00	0	\$0	\$0	\$0
Total Task 1		49	\$0	\$2,464	\$2,464
Task 2 – Assessment Preparation					
Senior Planner	\$49.63	54	\$0	\$2,680	\$2,680
Planning Manager	\$65.35	8	\$0	\$523	\$523
Planning Director	\$81.77	10	\$0	\$818	\$818
City Engineer	\$186.00	5	\$0	\$930	\$930
Total Task 2		77	\$0	\$4,951	\$4,951
Task 3 – Adaptation Plan Development					
Senior Planner	\$49.63	55	\$0	\$2,730	\$2,730
Planning Manager	\$65.35	7	\$0	\$457	\$457
Planning Director	\$81.77	9	\$0	\$736	\$736
City Engineer	\$186.00	5	\$0	\$930	\$930
Total Task 3		76	\$0	\$4,853	\$4,853
Task 4 – Amendment Drafting					
Senior Planner	\$49.63	48	\$0	\$2,382	\$2,382
Planning Manager	\$65.35	4	\$0	\$261	\$261
Planning Director	\$81.77	1	\$0	\$82	\$82
City Engineer	\$186.00	0	\$0	\$0	\$0
Total Task 4		53	\$0	\$2,725	\$2,725

EXHIBIT B1

LABOR COSTS (con't)					
<i>Position Title</i>	Hourly Rate (salary plus benefits, incl. fringe benefits- see guidelines [1])	<i># of Hours</i>	<i>OPC Total (# of hours x rate per hour)</i>	<i>Match/ Other Funds</i>	<i>Total (LCP Grant Funds + Match/ Other Funds)</i>
Task 5 – City Public Hearings					
Senior Planner	\$49.63	48	\$0	\$2,382	\$2,382
Planning Manager	\$65.35	5	\$0	\$327	\$327
Planning Director	\$81.77	5	\$0	\$409	\$409
City Engineer	\$186.00	0.95	\$0	\$177	\$177
Total Task 5		58.95	\$0	\$3,295	\$3,295
Task 6 – CCC Review and Certification					
Senior Planner	\$49.63	48	\$0	\$2,382	\$2,382
Planning Manager	\$65.35	5	\$0	\$327	\$327
Planning Director	\$81.77	5	\$0	\$409	\$409
City Engineer	\$186.00	0	\$0	\$0	\$0
Total Task 6		58	\$0	\$3,118	\$3,118
Total Labor Costs		371.95	\$0	\$21,406	\$21,406
OTHER DIRECT COSTS					
<i>Expense</i>	<i>Unit Rate/Cost</i>	<i># of Units</i>	<i>OPC Total (# of hours x rate per hour)</i>	<i>Match/Other Funds (Source #2)</i>	<i>Total (LCP Grant Funds + Match/ Other Funds)</i>
Project Supplies					
Postage/Shipping			\$0	\$300	\$300
Supplies/Materials			\$0	\$500	\$500
Total			\$0	\$800	\$800
Travel In State[2]					
Mileage			\$0	\$0	\$0
Hotel, etc.			\$0	\$0	\$0
Total			\$0	\$0	\$0

EXHIBIT B1

OTHER DIRECT COSTS (con't)					
<i>Expense</i>	<i>Unit Rate/Cost</i>	<i># of Units</i>	<i>OPC Total (# of hours x rate per hour)</i>	<i>Match/Other Funds (Source #2)</i>	<i>Total (LCP Grant Funds + Match/Other Funds)</i>
SUBCONTRACTORS [3]					
Task 1 – Project Commencement					
Subcontractor			\$0	\$1,000	\$1,000
Total Task 1			\$0	\$1,000	\$1,000
Task 2 – Assessment Preparation					
Task 2.1 Define the Planning Area					
Subcontractor			\$25,000	\$0	\$25,000
Total task 2.1			\$25,000	\$0	\$25,000
Task 2.2 Comm/Stakeholder Meetings					
Subcontractor			\$3,000	\$1,000	\$4,000
Total task 2.2			\$3,000	\$1,000	\$4,000
Task 2.3 Vulnerability Assessment					
Subcontractor			\$15,000	\$0	\$15,000
Total task 2.3			\$15,000	\$0	\$15,000
Task 2.4 Risk Assessment					
Subcontractor			\$14,000	\$0	\$14,000
Total task 2.4			\$14,000	\$0	\$14,000
Task 2.5 Comm/Stakeholder Meetings					
Subcontractor			\$3,000	\$500	\$3,500
Total task 2.5			\$3,000	\$500	\$3,500
Total Task 2			\$60,000	\$1,500	\$61,500
Task 3 – Adaptation Plan Development					
Task 3.1 SLR Strategies and Adaptation Plan					
Subcontractor			\$40,000	\$43,810	\$83,810
Total task 3.1			\$40,000	\$43,810	\$83,810
Task 3.2 Comm/Stakeholder Meetings					
Subcontractor			\$0	\$10,000	\$10,000
Total task 3.2			\$0	\$10,000	\$10,000
Total Task 3			\$40,000	\$53,810	\$93,810
Task 4 – Amendment Drafting					
Subcontractor			\$0	\$9,000	\$9,000
Total Task 4			\$0	\$9,000	\$9,000

EXHIBIT B1

OTHER DIRECT COSTS (con't)					
<i>Expense</i>	<i>Unit Rate/Cost</i>	<i># of Units</i>	<i>OPC Total (# of hours x rate per hour)</i>	<i>Match/Other Funds (Source #2)</i>	<i>Total (LCP Grant Funds + Match/Other Funds)</i>
Task 5 – City Public Hearings					
Task 5.1 Planning Comm					
Subcontractor			\$0	\$2,000	\$2,000
Total task 5.1			\$0	\$2,000	\$2,000
Task 5.2 City Council					
Subcontractor			\$0	\$2,461	\$2,461
Total task 5.2			\$0	\$2,461	\$2,461
Total Task 5			\$0	\$4,461	\$4,461
Task 6 - CCC Review and Certification					
Task 6.1 LCPA Package and CCC Requests					
Subcontractor			\$0	\$5,523	\$5,523
Total task 6.1			\$0	\$5,523	\$5,523
Task 6.2 CCC Hearing					
Subcontractor			\$0	\$2,500	\$2,500
Total task 6.2			\$0	\$2,500	\$2,500
Total Task 6			\$0	\$8,023	\$8,023
Total subcontractors			\$100,000	\$77,794	\$177,794
Total Direct Costs			\$100,000	\$78,594	\$178,594
OVERHEAD / INDIRECT COSTS[3]			\$0	\$0	\$0
TOTAL PROJECT COST			\$100,000	\$100,800	\$200,000

[1] Amount requested for benefits not to exceed 40% of amount requested for salary or wage.

[2] Travel reimbursement rates are the same as similarly situated state employees.

[3] All subcontractors must be selected pursuant to a competitive bidding process that seeks at least three (3) bids from responsible bidders.

[4] Indirect costs include, for example, a pro rata share of rent, utilities, and salaries for certain positions indirectly supporting the proposed project but not directly staffing it. Amount requested for indirect costs should be capped at 10% of amount requested for "Total Personnel."

EXHIBIT C

BUDGET DETAIL AND PAYMENT PROVISIONS

1. Request for Funds

- A. For services satisfactorily rendered during the term of this Agreement and upon receipt and approval of the Request for Funds Form described below (also referred to as the "RFF Form"), the Commission agrees to reimburse Grantee for actual expenditures incurred in accordance with the rates specified herein or attached hereto.
- B. Grantee shall submit each RFF form, in triplicate, no more frequently than monthly (except as requested by the Commission) but no less frequently than quarterly (assuming activity occurred within that quarter). RFF forms shall be submitted in arrears to:
- California Coastal Commission
Attn: Hilary Papendick, Executive Division
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219
- C. Each RFF form shall contain the following information:
1. Grantee's name and address as shown in this Agreement.
 2. Date of the RFF form.
 3. Time period covered by the RFF form during which work was actually done.
 4. Agreement number as shown on this Agreement.
 5. Original signature of the Grantee
 6. Itemized costs by tasks and source of funds (Commission and/or OPC, where relevant) as listed in the scope of work for the billing period in the same or greater level of detail as indicated in the Project Budget (see Exhibit B1), with supporting documentation. Only those costs and/or cost categories expressly identified in this Agreement may be reimbursed.
 7. Remaining balance listed by task number from the Scope of Work (see Exhibit B1) including the cumulative expenditures to date, the expenditures during the reporting period, and the unexpended balance of funds under this Agreement.
- D. Attached to the RFF form, the Grantee shall submit a supporting progress report summarizing the work that was completed during the invoice period and the current status of the work for which disbursement is sought, including work by any contractor, and comparing it to the status required by the Scope of Work (budget, timeline, tasks, etc.).
- E. Notwithstanding the foregoing, the Grant Manager of the Commission may request and the Grantee shall provide receipts or other source documents for any other direct expenditure or cost as described in the RFF form, as and when necessary to resolve any issue concerning reimbursement.

EXHIBIT C

- F. The Grantee's failure to fully execute and submit a RFF form, including attachment of supporting documents, may relieve the Commission of its obligation to disburse funds to the Grantee unless and until the Grantee corrects all deficiencies.
- G. Any RFF form that is submitted without the required itemization and documentation will not be authorized. If the RFF form package is incomplete, inadequate or inaccurate, the Commission will inform the Grantee and withhold payment until all required information is received or corrected. Grantee shall submit a RFF form no more frequently than monthly but no less frequently than quarterly (assuming activity occurred within that quarter). Any penalties imposed on the Grantee by a contractor, or other consequence, because of delays in payment will be paid by the Grantee and is not reimbursable under this Agreement.
- H. Grant Funds in this award have a limited period in which they must be expended. Grantee expenditures funded by the Commission must occur before the Termination Date.
- I. Grantee must report to the Commission in the Project Budget all sources of other funds for the Project.
- J. The Grantee shall expend Grant Funds in the manner described in the Work Program approved by the State. Expenditure on items contained in the approved Project Budget may vary by as much as ten percent without prior approval by the State, provided the grantee submits a revised Project Budget prior to requesting disbursement based on such revised budget. In any event, the total amount of the Grant Funds may not be increased, except by written amendment to this agreement.

2. Budget Contingency Clause

- A. It is mutually agreed that if the final Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the Local Coastal Program Local Assistance Grant Program this Agreement shall be of no further force and effect, and the Commission shall have no liability to pay any funds whatsoever to Grantee or to furnish any other consideration under this Agreement and Grantee shall not be obligated to continue performance under the provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this Local Coastal Program Local Assistance Grant Program the Commission shall have the option at its sole discretion to either cancel this Agreement with no liability accruing to the Commission or enter into an agreement amendment with Grantee to reflect the reduced amount.

EXHIBIT C

3. Prompt Payment Clause

Payment will be made no later than 45 days following receipt of properly submitted, undisputed invoices except as otherwise set forth in, and in each case in accordance with, the California Prompt Payment Act, Government Code section 927, *et seq.*

EXHIBIT D

General Terms and Conditions

The General Terms and Conditions (GTC-610, effective as of 6/9/2010) are incorporated into this agreement this Agreement by reference as if attached hereto, and may be viewed at <http://www.dgs.ca.gov/ols/Resources/StandardContractLanguage.aspx>. In the event of a direct conflict between a term of this Agreement and a term of the General Terms and Conditions such that both terms cannot both be complied with, the terms of this Agreement shall prevail except to the extent that it would result in noncompliance with any applicable law.

The term "Contractor" in the General Terms and Conditions shall be interpreted to refer to Grantee.

EXHIBIT E

SPECIAL TERMS AND CONDITIONS

ACKNOWLEDGEMENT

The Grantee shall include an acknowledgement of the use of "California Coastal Commission Local Coastal Program" grant funding in all materials produced as a result of this Agreement. The Commission shall have the right to republish any material generated as a result of this Agreement.

PROJECT EXECUTION

- A. Grantee shall complete the Project before the Termination Date.
- B. Subject to the availability of funds, the Commission hereby grants to the Grantee the sum \$100,000 (Grant Funds) not to exceed the amount stated on the signature page in consideration of and on condition that the sum be expended in carrying out the purposes as set forth in the description of the Project in this Agreement and its attachments and under the terms and conditions set forth in this Agreement.
- C. Prior to the commencement of any Project work, Grantee agrees to submit in writing to the Commission for prior approval any deviation from the original Scope of Work pursuant to Exhibit B1. Changes in the Scope of Work must continue to ensure timely and effective completion of a new or updated Local Coastal Program for certification by the Commission. Any modification or alteration in the Scope of Work on file with the Commission must be submitted to the Commission for approval. Changes to the Scope of Work shall require an amendment to this Agreement (see "Amendments" below).
- D. Grantee shall furnish any and all additional funds that may be necessary to complete the Project.
- E. Grantee shall complete the Project and the invoicing and reporting requirements before the Termination Date unless an extension has been granted by the Commission in writing. Extensions may be requested in writing prior to the Termination Date and will be considered by the Commission at its sole discretion.
- F. Grantee certifies that the Work Program does and will continue to comply with all current laws and regulations which apply to the Project, including, but not limited to, California Coastal Act, health and safety codes, and disabled access laws.
- G. Commission staff will be available to support the development of the Project through regular coordination and assistance. Commission staff support includes regular coordination meetings, timely review of deliverables, and participation in stakeholder advisory groups, as feasible, to ensure timely and successful completion of the Project.

POTENTIAL CONTRACTORS

Nothing contained in this Agreement or otherwise, shall create any contractual relation between the Commission and any contractors, and no contract shall relieve the Grantee of its responsibilities and obligations hereunder. The Grantee agrees to be as fully responsible for the acts and omissions of its contractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the Grantee. The Grantee's obligation to pay its contractors is an independent obligation from the Commission's obligation to make payments to the Grantee. As a result, the

EXHIBIT E

Commission shall have no obligation to pay or to enforce the payments of any moneys to any contractor.

If all or any part of the Project to be funded under this Agreement will be performed by third parties under contract with the Grantee, then the Grantee should, prior to executing an agreement for services, seek the approval of the Grant Manager on the selection of the third party.

TRAVEL REIMBURSEMENT

Travel Reimbursement shall be at the same rates as similarly situated State employees. If any conflicts exist between the Grantee's rates and those applicable to State employees, the State's reimbursement rates shall prevail. Receipts will be required. All travel costs are inclusive within the budgeted amount referenced in this Agreement.

PROPERTY PURCHASED

The Grantee agrees to continue using property purchased under this Agreement for the purposes outlined in this Agreement or similar activities until it is fully consumed (i.e. is either fully distributed, damaged, worn-out, or becomes obsolete).

SETTLEMENT OF DISPUTES

If the Grantee believes that there is a dispute or grievance between Grantee and the Commission arising out of or relating to this Agreement, the Grantee shall first discuss and attempt to resolve the issue with the Grant Manager. If the issue cannot be resolved at this level, the Grantee shall follow the following procedures:

If the issue cannot be resolved directly with the Grant Manager, the Grantee shall submit, in writing, a grievance report together with any evidence to the Chief Deputy Director of the Commission. The grievance report must state the issues in the dispute, the legal authority, or other basis for the Grantee's position and the remedy sought. Within ten (10) days after receipt of the grievance report, the Chief Deputy Director, or its designee, shall meet in person or via phone with the Grantee and the Grant Manager for purposes of resolving the dispute. The decision of the Chief Deputy Director following such a meeting shall be final.

TERMINATION

Except as otherwise set forth in this Agreement, this Agreement may be terminated (a) by the Commission for any reason upon thirty (30) days prior written notice to the Grantee, (b) by Grantee for any reason upon thirty (30) days prior written notice to the Commission subject to the approval of the Commission in its sole discretion, and (c) immediately upon written notice by either party "for cause". The term "for cause" shall mean that either the Grantee or the Commission fails to meet any material terms, conditions, and/or responsibilities of the Agreement.

In the event of a termination, the Grantee shall take all reasonable measures to prevent further costs requiring reimbursement by the Commission. The Commission shall then only be responsible for any reasonable and non-terminable obligations incurred by the Grantee in

EXHIBIT E

the performance of this Agreement up to the date Grantee ceased performing under this Agreement as determined by the Commission, but not to exceed the balance of the total funds which remains unencumbered under this Agreement at the time of termination.

On or before the date of termination of this Agreement, whether terminated by the Grantee or the Commission, the Grantee shall provide the Commission with all work, material, data, information, and written, graphic or other work produced, developed or acquired under this Agreement (whether completed or partial), in appropriate, readily useable form.

The Grantee expressly agrees to waive, release and relinquish the recovery of any consequential damages that may arise out of the termination or suspension of this Agreement.

The Grantee shall include in any agreement with any contractor retained for work under this Agreement a provision that entitles the Grantee to immediately suspend or terminate the agreement with the contractor for any reason on written notice.

If the Grantee fails to complete the Project in accordance with this Agreement, or fails to fulfill any other obligations of this Agreement prior to the Termination Date, the Grantee shall be liable for immediate repayment to the Commission of all amounts disbursed by the Commission under this Agreement, plus accrued interest (rate as set forth by the current Pooled Money Investment Account) and any further costs related to the Project. The Commission may, at its sole and absolute discretion, consider extenuating circumstances with regard to Grantee's repayment obligations hereunder. This paragraph shall not be deemed to waive or limit any remedies available to the Commission for breach of this Agreement.

Notwithstanding the foregoing, Grantee acknowledges (and waives any defense based on a claim) that monetary damages may not be an adequate remedy to redress a breach by Grantee hereunder and that a breach by Grantee hereunder may cause irreparable harm to the Commission. Accordingly, Grantee agrees that upon a breach of this Agreement by Grantee, the remedies of injunction, declaratory judgment and specific performance shall be available to the Commission.

WAIVER AND RELEASE

Grantee hereby waives all claims and recourses against the Commission, including the right to contribution for loss or damage to persons or property arising from, growing out of or in any way connected with or incident to this Agreement, except for claims for reimbursement of costs due under this Agreement, recovery of which shall be limited to the total amount properly incurred hereunder and in no event exceed the total amount of Grant Funds provided for hereunder. Grantee acknowledges that it is solely responsible for its compliance with the terms of this Agreement.

EXHIBIT E

REIMBURSEMENT

Complete reimbursement of funds under this Agreement will be dependent upon successful completion of the final deliverable of this Agreement. Grantee agrees that up to 20% of the total amount due hereunder may not be reimbursable until all final deliverables have been completed and delivered by the Grantee.

AMENDMENTS

This Agreement may only be amended by mutual agreement in writing between Grantee and the Commission. Any request by the Grantee for an amendment must state the amendment request and reason for the request, using the Amendment Request form provided in Exhibit E hereto. The Grantee shall make requests in a timely manner and in no event less than sixty (60) days before the effective date of the proposed amendment. No oral understanding or agreement not incorporated into the Agreement in writing is binding on the parties.

Except as otherwise provided herein, the Grantee shall expend Grant Funds in the manner described in the Scope of Work approved by the Commission. In any event, the total amount of the Grant Funds may not be increased, except by written amendment to this agreement.

With the exception of adjustments as discussed above, any subsequent changes or additions to the Work Plan approved by the Commission in writing are hereby incorporated by reference to this Agreement as though set forth in full in this Agreement.

REALLOCATION OF FUNDS

If Grantee fails to meet the performance criteria and Benchmarks in this Agreement, the Executive Director or his designee may immediately and upon written notice cancel this Agreement and re-allocate any unspent funds to one or more of the other approved Grantees whose grant was not fully funded.

Should a Grantee not need the full amount of funds awarded by the Commission, they shall notify the Grant Manager as soon as possible so that any remaining allocated but unspent funds may be redistributed, as feasible. In addition, should Grantee fail to enter into an agreement necessary for its performance hereunder in a timely manner or fail to meet Work Program Benchmarks, the Executive Director or his designee may reallocate funds to supplement an already awarded grant.

DIGITAL SUBMITTAL OF LCPS

Prior to the Executive Director's determination and reporting of certification pursuant to Section 13544 of the California Code of Regulations of a grant-funded LCP project, grantees shall submit LCP documents (text, maps and exhibits) in paper hardcopy as well as an electronic copy in permanent format (such as an Adobe Acrobat .pdf file) and one electronic copy in an editable format (such as in Microsoft Word .doc).

EXHIBIT E

COASTAL COMMISSION SEA LEVEL RISE GUIDANCE

Grantees shall use the Commission's [Draft Sea Level Rise Guidance document](#)⁵ on an interim basis until the Final Guidance is adopted by the Commission, and then shall use the final Sea Level Rise Guidance to inform the development of sea level rise impact assessments, vulnerability assessments, and LCP Land Use Plan and Implementation Plan completion or updates.

COORDINATION OF SEA LEVEL RISE PLANNING WORK

Sea level rise work completed under the Local Coastal Grant Program shall be coordinated regionally to the extent feasible with other jurisdictions and entities working on sea level rise projects within the same county or broader regional area relevant for sea level rise adaptation, such as the watershed, littoral cell, or area with similar geologic characteristics. Coordination includes early coordination meetings among the different entities, sharing of technical analyses and lessons learned, and consideration of regional adaptation policies.

SAFEGUARDING CALIFORNIA PLAN ACTIONS AND PRINCIPLES

Grant-funded work shall also be guided by the [Safeguarding California Plan for Reducing Climate Risk](#)'s recommended climate change preparedness actions and principles,⁶ as listed below, and as described in the adopted [2014 Ocean Protection Council Resolution](#) to support implementation of the *Safeguarding Plan*.⁷ The *Plan* states that projects or programs implemented with state funds should:

- Encourage innovative design of new structures and infrastructure in areas vulnerable to sea level rise, storms and erosion and priority should be given to green or nature-based solutions that use natural processes and habitats to reduce risk from flooding and erosion.
- Reduce risk from climate impacts to the coast and ocean, by implementing the *Safeguarding Plan*'s recommendation to incorporate climate risk considerations into all relevant decision-making, including related to infrastructure, in such a way that it:
 - Encourages iterative approaches;
 - Protects California's most vulnerable populations;
 - Achieves multiple benefits from efforts to reduce climate risks and prioritizes green infrastructure solutions;
 - Integrates climate risk reduction with emissions reductions to the fullest extent possible; and

⁵ California Coastal Commission 2014. Available.
http://www.coastal.ca.gov/climate/slr/guidance/CCC_Draft_SLR_Guidance_PR_10142013.pdf. Accessed 19 September 2014

⁶ California Natural Resources Agency 2014. Available.
http://resources.ca.gov/docs/climate/Final_Safeguarding_CA_Plan_July_31_2014.pdf. Accessed 19 September 2014.

⁷ Ocean Protection Council 2014. Available:
http://www.opc.ca.gov/webmaster/ftp/pdf/agenda_items/20140827/Item5 OPC_Aug2014_Exhibit_1_Safeguarding_Resolution_ADOPTED.pdf. Accessed 19 September 2014.

EXHIBIT E

- Develops metrics and indicators to track progress on efforts to reduce climate risk.
- Adhere to the *Safeguarding Plan* principles:
 - Use the best available science to identify risks and adaptation strategies;
 - Understand that an effective strategy for preparing for climate risks should evolve as new information is available;
 - Involve all relevant stakeholders;
 - Establish and maintain strong partnerships across all levels of government, tribes, businesses, landowners, and non-governmental organizations;
 - Give priority to strategies that also achieve benefits other than climate risk reduction benefits, including additional benefits to public health, the economy, environmental justice, and conservation of natural resources; and
 - Ensure that strategies to reduce climate risk are coordinated, to the extent possible, with the state's efforts to reduce GHG emissions and other local, national and international efforts.

AUDIT REQUIREMENTS AND FINANCIAL

Commission projects are subject to audit by the State annually and for three (3) years following the payment of Grant Funds. Accordingly, Grantee shall maintain orderly, accurate and complete documents and records of all financial accounts, costs, disbursements, receipts and other matters relating to this Agreement consistent with the policies outlined in the Exhibit C, hereto, for the Project and shall make them available to the State or the Commission for auditing, inspecting and copying at reasonable times. Grantee shall also retain such documents and records for three (3) years after final payment and one (1) year following an audit. The documents for audit should be retained onsite.

Grantee shall use applicable generally accepted accounting principles unless otherwise agreed to by the Commission in writing.

If Grantee stated in the Work Plan that other sources of funding will be used to complete the Project, the Grantee shall establish internal systems to track expenditures of matching or in-kind funds on a regular basis and will make the documentation available to the Commission upon request.

WORK PRODUCT

The Grantee agrees that all data, plans, drawings, specifications, surveys, studies, and other written or graphic work produced in the performance of this Agreement, herein referred to as "materials" are subject to the rights of the Commission as set forth in this section. The Commission shall have the right to reproduce, publish, and use all such work, or any part thereof, in any manner and for any purposes whatsoever and to authorize others to do so.

Grantee agrees that it shall use the materials developed with Grant Funds only for the purpose for which the Grant Funds were requested and no other use of the materials shall be permitted except as otherwise agreed to in an Amendment.

EXHIBIT E

Grantee must certify the materials developed with Grant Funds under this Agreement shall remain available for public review. This Agreement shall not prevent the transfer of the materials from the Grantee to a Public Agency if the successor Public Agency assumes the obligations imposed by this Agreement.

If the use of the materials is changed to a use that is not permitted by the Agreement, or if the materials are sold or otherwise disposed of, at the Commission's sole discretion, an amount equal to (1) the total amount of the Grant Funds, or (2) the proceeds from the sale or other disposition, whichever is greater, shall be promptly reimbursed to the Commission by Grantee.

WAIVERS GENERALLY

No term or provision hereof will be considered waived by either party, and no breach excused by either party, unless such waiver or consent is in writing and signed on behalf of the party against whom the waiver is asserted. No consent by either party to, or waiver of, a breach by either party, whether expressed or implied, will constitute consent to, waiver of or excuse of any other, different or subsequent breach by either party.

EXECUTIVE DIRECTOR'S DESIGNEE

The Executive Director shall designate a Commission staff Grant Manager who shall have authority to act on behalf of the Executive Director with respect to this Agreement. Grantee shall be notified of such designation in writing.

INSURANCE

Throughout the term of this Agreement, for the life of any asset funded by the grant monies awarded pursuant to this Agreement, or for any period of project implementation after the termination date of this Agreement, the Grantee shall maintain self-insurance, as specified in this section, against claims for injuries to persons or damage to property that may arise from or in connection with any activities by the Grantee or its agents, representatives, employees, volunteers, or contractors associated with the Project undertaken pursuant to this Agreement.

If the Grantee provides funds to any contractor to accomplish any of the work of this Agreement or provides grant funds to any contractor to carry out a project under this Agreement, the Grantee shall first enter into an agreement with each contractor requiring it to obtain and maintain liability and property-damage insurance, as specified in this section, against claims for injuries to persons or damage to property that may arise from or in connection with any activities by the contractor, or its agents, representatives, employees, or volunteers, associated with the project undertaken pursuant to this Agreement. As an alternative, with the written approval of the Executive Director, the contractor may satisfy the coverage required by this section in whole or in part through its participation in a "risk management" plan, self-insurance program or insurance pooling arrangement, or any combination of these, if consistent with the coverage required by this section. Required insurance shall be maintained from the commencement date through the Termination Date of any work undertaken by the contractor under the approved Scope of Work.

EXHIBIT E

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

- a. Insurance Services Office ("ISO") Commercial General Liability coverage (occurrence Form CG 0001) or ISO Comprehensive General Liability form (1973) or comparable with Broad Form Comprehensive General Liability endorsement.
- b. Automobile Liability coverage - ISO Form Number CA 0001, Code 1 (any auto).
- c. Workers' Compensation insurance as required by the Labor Code of the State of California.

2. Minimum Limits of Insurance. Grantee shall maintain coverage limits no less than:

- a. General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the activities under this Agreement or the general aggregate limit shall be twice the required occurrence limit.
(Including operations, products and completed operations, as applicable)
- b. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.

3. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the Executive Director.

4. Required Provisions. Each insurance policy required by this section shall be endorsed to state that coverage shall not be canceled by either party, except after thirty days' prior written notice by certified mail, return receipt requested, has been given to the Executive Director. The general liability and automobile liability policies are to contain, or to be endorsed to contain, the following provisions:

- a. The State of California, its officers, agents and employees are to be covered as insured with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Grantee; and with respect to liability arising out of work or operations performed by or on behalf of the Grantee including materials, parts or equipment furnished in connection with such work or operations.
- b. For any claims related to this Agreement, the Grantee's insurance coverage shall be primary insurance with respect to the State of California, its officers, agents and employees.
- c. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

5. Acceptability of Insurers. Insurance shall be placed with insurers admitted to transact business in the State of California and having a current Best's rating of "B+:VII" or better or,

EXHIBIT E

in the alternative, acceptable to the Commission and approved in writing by the Executive Director.

6. Verification of Coverage. The Grantee shall furnish the Grant Manager with original certificates and amendatory endorsements effecting coverage required by this clause. All certificates and endorsements are to be received and approved by the Grant Manager before work commences. The Commission reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage, at any time.

7. Premiums and Assessments. The Commission is not responsible for premiums and assessments on any insurance policy.

EXHIBIT F

AMENDMENT TEMPLATE

Amendment to _____

1. This amendment (the "Amendment") is made by _____ and _____, parties to the agreement _____ dated (the "Agreement").

2. As of (date), the Agreement is amended as follows:

3. Except as set forth in this Amendment, the Agreement is unaffected and shall continue in full force and effect in accordance with its terms. If there is conflict between this amendment and the Agreement or any earlier amendment, the terms of this amendment will prevail.

Signed and Agreed:

Representative of _____

By: _____

Printed Name: _____

Title: _____

Dated: _____

Representative of Coastal Commission:

By: _____

Printed Name: _____

Title: _____

Dated: _____