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Del Mar City Council Meeting Agenda

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

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

Regular Meeting
Monday, April 15, 2024 at 4:30 PM

Dave Druker
Mayor

Terry Gaasterland
Deputy Mayor

Tracy Martinez
Council Member

Dan Quirk
Council Member

Dwight Worden
Council Member

Ashley Jones
City Manager

Leslie E. Devaney
City Attorney

Sarah Krietor
Administrative Services Manager/City Clerk

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

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

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

Remote Participation: Due to technical issues, remote participation will not be offered at this City Council meeting.

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

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

I. CALL TO ORDER/ROLL CALL

II. CITY ATTORNEY CLOSED SESSION REPORT

III. PLEDGE OF ALLEGIANCE

IV. PUBLIC ORAL COMMUNICATIONS

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

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

V. CITY COUNCIL COMMENTS

VI. COMMUNITY ANNOUNCEMENTS

VII. CITY MANAGER'S REPORT

VIII. PRESENTATIONS

1. Presentation by Del Mar Village Association Executive Director Jen Grove of the Regarding Beach Saver Pilot Program

Recommended Action: Receive Presentation from Executive Director Jen Grove of the Del Mar Village Association Regarding Beach Saver Pilot Program

Reference: Clerk's File No. 1404-1

IX. CONSENT CALENDAR

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

2. Approval of Minutes: April 1, 2024 Regular and Special Meeting

Recommended Action: Approve Minutes.

Reference: Clerk's Minutes Book

3. Ratification of List of Demands, dated April 15, 2024

Recommended Action: Ratify the List of Demands.

Reference: Clerk's File No. 201-3

4. Waiver of Reading of Ordinances on Agenda

Recommended Action: Waive Reading of Ordinances.

Reference: Clerk's File No. 401-4

5. Award of Construction Contract to Prestige Paving Company, Inc. for the 20th Street Lifeguard Tower Driveway Project

Recommended Action: Staff recommends that the City Council: 1) Award a $93,750 construction contract to Prestige Paving Company, Inc. (Attachment A) for the 20th Street Lifeguard Tower Driveway Project; 2) Award a $14,875 Task Order to Dudek for Construction Management and Inspection Services (Attachment B); 3) Approve a 10% project contingency of $9,375; 4) Authorize the City Manager to execute the required documents and any contract changes necessary to complete the work; and 5) Amend the Fiscal Year 2023-2024 Operating and Capital Budget as described in the Fiscal Impact Section of this report.

Reference: Clerk's File No. 103-6, 406-1

6. Amendment to the Traffic and Parking Advisory Committee Work Plan

Recommended Action: Councilmembers Dan Quirk and Dwight Worden, as liaisons to the Traffic and Parking Advisory Committee (TPAC), recommend that the City Council approve the revised Fiscal Year (FY) 2024-25 TPAC Work Plan included as Attachment A.

Reference: Clerk's File No. 401-5

7. Second Reading of an Ordinance to Amend the Zoning Code and Certified Local Coastal Program to Increase Density in the Central Commercial and Public Facilities Zones to Implement Housing Element Programs 1C and 1H

Recommended Action: It is recommended that the City Council adopt the Ordinance (Attachment A) to amend the Del Mar Municipal Code (DMMC) Central Commercial (CC) Zone regulations in Chapter 30.22 and Public Facilities (PF) Zone regulations in Chapter 30.31 in the City's Zoning Code and certified Local Coastal Program (LCP) by Zone Code Amendments (ZA24-001/ZA24-002) and

LCP Amendments (LCPA24-001/LCPA24-002) in compliance with the City's certified 6th Cycle Housing Element (2021-2029) to increase the local housing stock capacity as required per California Government Code Section 65863 and Housing Element Program 1C (CC Zone) and Program 1H (PF Zone).

Reference: Clerk's File No. 304-7, 401-4, 401-9

X. COMMISSION AND COMMITTEE INTERVIEWS

8. Design Review Board Interview and Appointment

Recommended Action: Staff recommends that the City Council review the Citizen Interest Forms (Attachment A), interview the applicants, and appoint one resident to serve as a voting member on the Design Review Board for a full four-year term effective April 15, 2024, and expiring on April 30, 2028.

Reference: Clerk's File No. 401-5

XI. PUBLIC HEARING

9. Introduction of Density Bonus Ordinance to Implement State Law and Housing Element Program 1G

Recommended Action: It is recommended that the City Council introduce an Ordinance (Attachment A) to repeal and replace the existing density bonus regulations in Del Mar Municipal Code (DMMC) Density Bonus Chapter 30.90 in compliance with the City's certified 6th Cycle Housing Element (2021-2029) Program 1G and State Density Bonus Law (California Government Code Sections 65915, et seq.)

Reference: Clerk's File No. 304-7, 401-4, 401-9

10. Resolution Approving the Del Mar Projects for Inclusion in the TransNet Local Street Improvement Program of Projects for Fiscal Years 2024-2025 through 2028-2029

Recommended Action: Staff recommends that City Council conduct a public hearing and adopt a Resolution (Attachment A) approving Del Mar projects for inclusion in the TransNet Local Street Improvement Program of Projects as part of the Regional Transportation Improvement Program for Fiscal Years 2024-2025 through 2028-2029.

Reference: Clerk's File No. 1506-1, 901-5

XII. COUNCIL MEETING RECESS

XIII. CITY COUNCIL OTHER BUSINESS

11. San Dieguito Drive Improvements Project Update, Engineer's Report Related to Project Benefits, and Proposition 218 Resolutions

Recommended Action: Staff recommends that the City Council: 1) Receive an update on the San Dieguito Drive Improvements Project and presentation of the Engineer's Report Related to Project Benefits; 2) Adopt a Resolution (Attachment A) Providing Intention to Levy Assessments for Fiscal Year 2024-25, Preliminarily Approving the Engineer's Report, Providing for the Notice of Hearing, and the Mailing of Assessment Ballots for the San Dieguito Drive Improvement District; and 3) Adopt a Resolution (Attachment B) Adopting Procedures for the Proposition 218 Assessment Ballot Proceedings for the San Dieguito Drive Improvement District.

Reference: Clerk's File No. 201-10, 401-7, 801-1

12. Council Consideration to Censure Council Member Daniel Quirk for Personal Violations of the Brown Act, City Council Policies, Del Mar Municipal Code, and Related Misconduct

Recommended Action: Mayor Dave Druker and Council Member Tracy Martinez recommend that the City Council consider adoption of a Resolution (Attachment A) censuring Council Member Daniel Quirk for violations of the Brown Act, City Council Policies, Del Mar City Municipal Code, and related misconduct.

Reference: Clerk's File No. 101-2, 401-1

XIV. REGIONAL ORGANIZATION REPORTS

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

A. 22nd District Agricultural Association Community Relations Committee (Martinez/Worden)
B. Clean Energy Alliance JPA (CEA) Board of Directors (Druker/Worden)
C. CSA-17 Ambulance District Advisory Board (Martinez/Quirk)
D. Fire Governance Board, Solana Beach/Del Mar/Encinitas (Martinez/Druker)
E. League of California Cities – San Diego Chapter (Martinez/Worden)
F. League of California Cities – Coastal Cities Group (Worden)
G. North County Transit District (NCTD) (Martinez/Druker)
H. Regional Solid Waste Association (Worden/Quirk)
I. San Diego Association of Governments Board (SANDAG) (Gaasterland/Martinez/Druker)
J. SANDAG Borders Committee (Gaasterland)

K. SANDAG Regional Planning Committee (Martinez)
L. SANDAG Shoreline Preservation Working Group (Worden/Gaasterland/Martinez)
M. SANDAG LOSSAN Executive Task Force (Druker/Gaasterland)
N. San Diego Metropolitan Wastewater Commission/JPA (Worden/Quirk/Druker)
O. San Dieguito River Valley Regional Open Space Park JPA –Executive Committee (Worden/Quirk)
P. Other Regional Organization Reports

XV. COUNCIL COMMITTEES/SUBCOMMITTEES/COMMUNITY ORG REPORTS

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

A. Arts Advisory Committee (Druker)
B. Clean Water Rate Project
C. Del Mar Community Connections (Martinez/Worden)
D. Del Mar Village Association (Gaasterland/Martinez)
E. Finance Committee (Druker/Worden)
F. Housing Subcommittee (Gaasterland/Martinez)
G. Human Resources Subcommittee (Druker/Worden)
H. Legislative Subcommittee (Gaasterland/Martinez)
I. Measure Q Citizen Oversight Committee (Gaasterland/Quirk)
J. Parks and Recreation Committee (Martinez/Gaasterland)
K. Del Mar Railroad Committee (Druker/Gaasterland)
L. Lagoon Committee (Quirk/Worden)
M. Sea-Level Rise Adaptation Plan Implementation Subcommittee (Gaasterland/Martinez)
N. Shores Advisory Committee
O. Sustainability Advisory Committee (Martinez/Worden)
P. Traffic and Parking Advisory Committee (Quirk/Worden)
Q. Undergrounding Project Advisory Committee (Druker/Gaasterland)
R. Other Committee-Subcommittee Reports

XVI. UPCOMING AGENDA ITEMS

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

May 6, 2024
Second Reading/Adoption of Density Bonus Ordinance
Personnel Rules and Regulations Manual Update
Amendment to the Regional Wastewater Disposal Agreement

Jimmy Durante Boulevard Bluff Repair Project, Structural Engineering and Landscape Architecture Task Order Authorizations
Agreement for State and Federal Legislative Advocacy Services (Tentative)
St. Peters License Agreement (Tentative)
First Reading of Water and Wastewater Rate Ordinances (new rate period begins July 1, 2024)
Camino del Mar Bridge Project Update
City Councilmember Compensation Ballot Measure
UUD 1A Stratford Ct. South Construction Contract Award (Tentative)

XVII. CERTIFICATION

I, Sarah Krietor, Administrative Services Manager/City Clerk for the City of Del Mar, hereby certify that a copy of this agenda was posted at City Hall on the 11th day of April, 2024 at approximately 5:00 p.m.

Sarah Krietor, Administrative Services Manager/
City Clerk

4/11/2024
Date

DEL MAR CITY COUNCIL
SPECIAL MEETING MINUTES
CLOSED SESSION
APRIL 1, 2024
City of Del Mar Town Hall
1050 Camino del Mar, Del Mar, California

CALL TO ORDER
Mayor Druker called the meeting to order at 2:00 P.M.

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

CLOSED SESSION

A) Conference with Legal Counsel - Significant Exposure to Litigation
Number of Cases: Two
Description: 1) Personnel Matter; and 2) Central Commercial and Public Facilities Rezone
Authority: Government Code Section 54956.9(d)(2)
Reportable Action: None. Councilmember Quirk was recused from item A1. Councilmember Druker was recused from item A2 due to living within 500 feet of the subject matter of that discussion.

B) Conference with Legal Counsel - Initiation of Litigation
Number of Cases: One
Description: Regional Housing Needs Assessment (RHNA) Allocation
Authority: Government Code Section 54956.9(d)(4)
Reportable Action: This item was deferred to April 15, 2024 due to the availability of special counsel.

C) Conference with Legal Counsel- Existing Litigation
Lazier v. City of Del Mar
San Diego Superior Court Case No. 37-2024-00009804-CU-WM-CTL
Authority: Government Code Section 54956.9(d)(1)
Reportable Action: None.

ADJOURNMENT
Mayor Druker adjourned the meeting at 4:13 P.M.

_____
Sarah Krietor, Administrative Services Manager/
City Clerk

CITY OF DEL MAR
CITY COUNCIL REGULAR MEETING MINUTES
APRIL 1, 2024
City of Del Mar Town Hall
1050 Camino del Mar, Del Mar California 92014

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

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

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

CITY ATTORNEY CLOSED SESSION REPORT
City Attorney Leslie Devaney reported that there were no reportable actions for the April 1, 2024, City Council Closed Session meeting. She reported that for Item A(1) Councilmember Quirk was recused and that Mayor Druker was recused from Item A(2) due to living within 500 feet of the subject matter of that discussion. She reported Item B was not discussed and was deferred to the April 15, 2024, closed session meeting due to availability of special counsel.

PLEDGE OF ALLEGIANCE
Councilmember Quirk led the Pledge of Allegiance.

PUBLIC ORAL COMMUNICATIONS
Mayor Druker opened public oral communications and the following people spoke:

1) Camilla Rang spoke about the Del Mar Bluff 5 Project construction.
2) Greg Rothnem spoke about the City's Regional Housing Needs Assessment (RHNA) allocation.

Mayor Druker closed public oral communications.

CITY COUNCIL COMMENTS & COMMUNITY ANNOUNCEMENTS
Councilmember Quirk commented on the Federal Bureau of Investigation (FBI) investigation of the San Diego Association of Governments (SANDAG) and City of San Clemente City Council's consideration of a resolution related to sand replenishment at their April 2, 2024, meeting. Councilmember Worden reported on the recent passing of former Del Mar Mayor Al Tarkington and one year anniversary of the Monarch Garden at the Civic Center Plaza. Deputy Mayor Gaasterland provided comments on the construction notice received by residents related to the SANDAG Del Mar Bluff 5 project.

CITY MANAGER'S REPORT
City Manager Ashley Jones reported on the successful Del Mar Recycles event held on March 16, 2024. City Manager Jones also responded to City Council questions and public comment related to the SANDAG Del Mar Bluff 5 project construction schedule and public notice.

PRESENTATIONS

ITEM 1: MAYOR'S STATE OF THE CITY ADDRESS (CLERK'S FILE NO. 101-2)

A State of the City address was provided by Mayor Druker.

There were no public speakers for the item.

CONSENT CALENDAR

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

IT WAS MOVED BY DEPUTY MAYOR GAASTERLAND, SECONDED BY COUNCILMEMBER MARTINEZ TO APPROVE THE CONSENT CALENDAR ITEMS 2 THROUGH 6, 8 AND 10 WITH THE AMENDMENT NOTED AT THE MEETING FOR ITEM 2 (MINUTES), WITH MAYOR DRUKER AND DEPUTY MAYOR GAASTERLAND RECUSED ON ITEM 6, AND COUNCILMEMBER QUIRK VOTING NO ON ITEM 5. (VOTE 5-0, WITH MAYOR DRUKER AND DEPUTY MAYOR GAASTERLAND RECUSED FOR ITEM 6 AND COUNCILMEMBER QUIRK VOTING NO ON ITEM 5.)

Ayes: Mayor Druker, Deputy Mayor Gaasterland, and Councilmembers Martinez, Quirk and Worden; Noes: Councilmember Quirk voted No on Item 5 only; Recuse: Mayor Druker and Deputy Mayor Gaasterland on item 6 only; Absent: 0; Abstain: 0.

ITEM 2: APPROVAL OF MINUTES: MARCH 11, 2024 SPECIAL MEETING – GOALS AND PRIORITIES SETTING WORKSHOP, MARCH 18, 2024 REGULAR MEETING (CLERK'S MINUTES BOOK)

Council approved the minutes with the correction noted at the meeting, on consent.

ITEM 3: RATIFICATION OF LIST OF DEMANDS, DATED APRIL 1, 2024 (CLERK'S FILE NO. 201-3)

Council approved the list of demands, on consent.

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

Council waived the reading of ordinances, on consent.

ITEM 5: APPROVAL OF TASK ORDER AMENDMENT WITH MICHAEL BAKER INTERNATIONAL RELATED TO CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) WORK ON THE SAN DIEGUITO DRIVE IMPROVEMENTS PROJECT (CLERK'S FILE NO. 406-1)

Council comments focused on the process and next steps for the project. Council approved a $25,882 Task Order Amendment (Attachment A) with Michael Baker International for additional utility mark outs and potholing and for the preparation of a CEQA notice of exemption for the San Dieguito Drive Improvement Project; and authorized the City Manager to execute the Task Order Amendment, on consent.

ITEM 6: ACCEPTANCE OF GRANT DEED OF EASEMENTS FOR RETAINING WALLS RELATED TO UTILITY UNDERGROUNDING DISTRICT 1A – STRATFORD COURT SOUTH PROJECT (APN: 300-200-11-00 AND 300-200-31-00) (CLERK'S FILE NO. 1001-2, 1306-1)

Mayor Druker and Deputy Mayor Gaasterland were recused from Item 6 due to living within 1,000 feet of the subject matter of the discussion. Council approved Resolution 2024-10 "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, APPROVING ACCEPTANCE OF RETAINING WALL EASEMENTS ON THE PROPERTIES LOCATED AT 639 AND 717 STRATFORD COURT FOR USE AND OPERATION OF PUBLIC BENEFIT TO THE CITY OF DEL MAR", and authorized the City Manager or their designee to record the Grant Deed of Easements, on consent.

ITEM 7: APPROVAL OF TASK ORDER AMENDMENT WITH UTILITY SPECIALISTS SOUTHWEST, INC. FOR UTILITY UNDERGROUNDING DISTRICT X1A – CREST CANYON PRE-CONSTRUCTION SERVICES (CLERK'S FILE NO. 406-1, 1001-2)

The item was pulled from the Consent Calendar for City Council questions. Council questions focused on the project budget, fiscal impact section of the agenda report, and design costs. Council approved a $104,852 Task Order Amendment with Utility Specialists Southwest, Inc. for additional pre-construction services for UUD X1A; and authorized the City Manager to execute the Task Order Amendment.

IT WAS MOVED BY DEPUTY MAYOR GAASTERLAND, SECONDED BY COUNCILMEMBER MARTINEZ TO APPROVE A $104,852 TASK ORDER AMENDMENT (ATTACHMENT A) WITH UTILITY SPECIALISTS SOUTHWEST, INC. FOR ADDITIONAL PRE-CONSTRUCTION SERVICES FOR UUD X1A; AND AUTHORIZED THE CITY MANAGER TO EXECUTE THE TASK ORDER AMENDMENT. (VOTE 5-0)

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

ITEM 8: RECAP OF THE 2024 CITY COUNCIL GOALS AND PRIORITIES SETTING WORKSHOP AND COUNCIL APPROVED FY 2024-25 CITY WORK PLAN (CLERK'S FILE NO. 401-1)

Council received the written report, including the approved Fiscal Year (FY) 2024-25 City Work Plan reflecting Council feedback from the 2024 City Council Goals and Priorities Setting Workshop, on consent.

PUBLIC HEARING

ITEM 9: CONTINUED FROM MARCH 18, 2024 COUNCIL MEETING - HOUSING-RELATED AMENDMENTS TO THE CENTRAL COMMERCIAL AND PUBLIC FACILITIES ZONES INCLUDING ADOPTION OF A RESOLUTION TO AMEND THE DEL MAR COMMUNITY PLAN AND INTRODUCTION OF AN ORDINANCE TO AMEND THE ZONING CODE AND CERTIFIED LOCAL COASTAL PROGRAM TO IMPLEMENT HOUSING ELEMENT PROGRAMS 1C AND 1H (CLERK'S FILE NO. 304-7, 401-4, 401-9)

DRAFT

Mayor Druker was recused due to living within 500 feet of the subject matter of the discussion. Deputy Mayor Gaasterland led the discussion for the item. An introduction to the item was provided by City Manager Jones. A brief presentation was provided by Principal Planner Amanda Lee. Assistant City Attorney Ralph Hicks was available to answer questions.

Council questions focused on the changes made to the resolution and ordinance related to Shores Park (language read into the record at the March 18, 2024 meeting); amendment read into the record by Principal Planner Amanda Lee to correct a government code reference in the ordinance; protection of public views; height limits; and State density bonus law.

There were no public speakers for the item.

Council discussion focused on pending State legislation; clarification on whether the State density bonus law could be used to override the height limits included in the proposed ordinance; clarification that the ordinance language does not create any issues with The Winston School continuing to operate at the Shores Park site; clarification on the timing for this action related to implementation of the City's density bonus ordinance and Objective Design Standards; appreciation to staff for their work on this program; risks, penalties, and uncertainty associated with decertification of the City's housing element; and recent decertification of the City of Portola Valley's housing element as an example of State enforcement for non-compliance.

IT WAS MOVED BY COUNCILMEMBER WORDEN, SECONDED BY COUNCILMEMBER MARTINEZ TO ADOPT RESOLUTION 2024-12, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA AMENDING THE DEL MAR COMMUNITY PLAN (GENERAL PLAN) GPA 24-001 TO AMEND THE LAND USE DESIGNATIONS FOR CENTRAL COMMERCIAL AND PUBLIC FACILITIES TO ALLOW A DENSITY OF 20 DWELLING UNITS PER ACRE FOR PROJECTS WITH AFFORDABLE HOUSING FOR LOWER INCOME HOUSEHOLDS IN ACCORDANCE WITH PROGRAM 1C (CENTRAL COMMERCIAL) AND PROGRAM 1H (PUBLIC FACILITIES) CONSISTENT WITH THE REQUIREMENTS IN THE CITY'S CERTIFIED 6TH CYCLE HOUSING ELEMENT THAT IS A PART OF THE DEL MAR COMMUNITY PLAN", AND INTRODUCED AN ORDINANCE (ATTACHMENT B) TO AMEND THE DEL MAR MUNICIPAL CODE (DMMC) CENTRAL COMMERCIAL (CC) ZONE REGULATIONS IN CHAPTER 30.22 AND PUBLIC FACILITIES (PF) ZONE REGULATIONS IN CHAPTER 30.31 THAT ARE WITHIN THE CITY'S ZONING CODE AND CERTIFIED LOCAL COASTAL PROGRAM (LCP) BY ZONE CODE AMENDMENTS (ZA24-001/ZA24-002) AND LCP AMENDMENTS (LCPA24-001/LCPA24-002). (VOTE 4-0-1 WITH MAYOR DRUKER RECUSED)

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

ITEM 10: CONSIDERATION OF ENCROACHMENT PERMIT EP24-021 – CONSTRUCTION OF A NEW OPEN TRELLIS IN THE PUBLIC RIGHT-OF-WAY OVER THE EXISTING SIDEWALK CAFÉ AT 1555 CAMINO DEL MAR, SUITE #102 OF THE DEL MAR PLAZA (CLERK'S FILE NO. 802-1)

There were no public speakers for this item. Mayor Druker opened and closed the public hearing and the item was moved to the consent calendar for approval of adoption of Resolution 2024-11, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, APPROVING ENCROACHMENT PERMIT EP24-021 FOR THE CONSTRUCTION OF A NEW OPEN TRELLIS IN THE PUBLIC RIGHT-OF-WAY OVER THE EXISTING SIDEWALK CAFE, ADJACENT TO 1555 CAMINO DEL MAR (APN: 300-030-86), SUITE 102, IN DEL MAR, CALIFORNIA".

CITY COUNCIL OTHER BUSINESS

ITEM 11: OVERVIEW OF DOWNTOWN PEDESTRIAN SAFETY MEASURES AND CONCERNS RELATED TO PEDESTRIAN SAFETY AT 11TH AND 13TH STREETS (CLERK'S FILE NO. 901-2, 901-6, 1101-1)

An introduction to the item was provided by City Manager Jones. A presentation was provided by Public Works Director Joe Bride and the City's contract Traffic Engineer Ryan Zellers from Michael Baker International, Inc. San Diego County Sheriff Captain Chris Lawrence was available to answer questions.

Council questions focused on a request for the Sheriff to provide citation data to the City on a monthly basis; time period for the citation data presented by Captain Lawrence; clarification on the data included in the agenda report; efficacy of flashing stop signs; results of traffic study versus citation data obtained outside of a study; cost of installing flashing stop signs; whether it is difficult to remove flashing stop signs once installed; whether red light cameras could be used at a four way stop sign; whether the Sheriff's ghost car method is effective; mechanism used by Sheriff for tracking vehicle speed; whether push button flashers are allowed at four way stops; and whether the owner of Zel's spoke in opposition of the flashing sign when the item was discussed at the Traffic and Parking Advisory Committee (TPAC) September 2023 meeting.

Mayor Druker opened the item to public comment and the following people spoke:
1) Suren G. Dutia with a donation of time from Julie Maxey-Allison
2) John Imperato, TPAC Chair
3) Greg Rothnem
4) Greg Glassman

Mayor Druker closed the item to public comment.

Council discussion focused on Council's request for monthly citation data; availability of automated stop sign enforcement technology and desire to place researching that on TPAC's work plan; whether a roundabout at 13th Street could be considered in the future; data presented by the City's contract Traffic Engineer; desire for increased traffic enforcement by the Sheriff; desire to change behavior of drivers; consideration to place flashing stop signs in the medians at 11th Street and 13th Street; adding research about potential use of pedestrian flags as a safety enhancement option to the TPAC work plan; history of traffic enforcement and traffic calming measures on Camino del Mar; efficacy and durability of flashers in the pavement; whether the flashing stop signs are programmable; and whether a "No U-Turn" sign should also be considered at 11th Street.

IT WAS MOVED BY DEPUTY MAYOR GAASTERLAND, SECONDED BY COUNCILMEMBER WORDEN TO PUT FLASHING STOP SIGNS NORTH AND SOUTH BOUND AT 11TH AND 13TH STREET IN THE MEDIANS (FOUR TOTAL) AND IT WOULD BE NICE IF THEY ARE PROGRAMMABLE. (VOTE 5-0)

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

IT WAS MOVED BY COUNCILMEMBER QUIRK, SECONDED BY COUNCILMEMBER WORDEN TO REQUEST MONTHLY DATA FROM THE SHERIFF ON ALL MANNER OF CITATIONS ISSUED BY THE SHERIFF DEPARTMENT TO STAFF AND PROVIDED TO THE TRAFFIC AND PARKING ADVISORY COMMITTEE MOVING FORWARD AND GOING BACK TO JULY 2023, IF POSSIBLE. (VOTE 5-0)

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

IT WAS MOVED BY DEPUTY MAYOR GAASTERLAND, SECONDED BY COUNCILMEMBER WORDEN TO REQUEST TPAC TO EVALUATE A NO U-TURN SIGN AT 11TH STREET. VOTE: WITHDRAWN AND ADDED TO TPAC WORKPLAN

Council consensus was for Councilmembers Quirk and Worden, Council liaisons to TPAC, to return to the City Council with a revised TPAC work plan adding three items: 1) assess the feasibility/need for a potential "No U-Turn" sign southbound at 11th Street; 2) investigate automated stop sign enforcement technology; and 3) determine the feasibility of deploying pedestrian crossings flags as an additional pedestrian safety measure.

REGIONAL ORGANIZATION AND COUNCIL COMMITTEES/SUBCOMMITTEES/COMMUNITY ORGANIZATION REPORTS

City Council representatives reported on the Del Mar Village Association (DMVA); 22nd District Agricultural Association Community Relations Committee; League of California Cities; League of California Cities Coastal Cities Group; Clean Energy Alliance; North County Transit District; Regional Solid Waste Association; Sustainability Advisory Committee; SANDAG Board; Railroad Subcommittee; SANDAG Audit Committee; and SANDAG Planning Committee.

ADJOURNMENT

Mayor Druker adjourned the meeting in memory of Al Tarkington at 7:24 p.m.

_____

Sarah Krietor, Administrative Services Manager/City Clerk

DRAFT

LIST OF DEMANDS

CITY OF DEL MAR
for
City Council Meeting
April 15, 2024

Vendor Payment Checks	$	236,782.15
Voids		(90,524.11)
Electronic Fund Transfers (EFT)		701,470.48
Electronic Wires		-
Total	$	847,728.52

Approved by:

Monica Molina
Finance Manager/Treasurer

Date:
4/9/2024

Approved by:

Dave Druker
Mayor

Date:

Attachments: Check Registers

Bank : gusbnk GENERAL ACCOUNT US BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
8000	3/26/2024	kai01	KAISER PERMANENTE	475311817659	3/13/2024	HEALTH INS APR	16,118.86	16,118.86
	Voucher:	8000						
8001	3/26/2024	hea02	HEALTH NET	BFC29AAPR24	3/15/2024	HEALTH INS APR	32,431.52	32,431.52
	Voucher:	8001						
8002	3/26/2024	pri11	PRINCIPAL FINANCIAL GROUP, PI	1003938-10001AP	3/17/2024	DENTAL B&D APR	5,192.94	5,192.94
	Voucher:	8002						
8003	3/27/2024	sun11	SUN LIFE ASSURANCE CO, OF C	915639-0001APR	3/18/2024	FIREFIGHTER ONLY LIFE INSUR	54.00	54.00
	Voucher:	8003						
8004	3/26/2024	mut01	MUTUAL OF OMAHA	001677520963	3/19/2024	AD&D B&D APR	5,119.39	5,119.39
	Voucher:	8004						
138011	3/29/2024	cap01	CAPF CA PUBLIC SAFETY ADMIN	Ben174686	3/22/2024	CAPF: PAYMENT	208.00	208.00
	Voucher:	138011						

Sub total for GENERAL ACCOUNT US BANK: 59,124.71

6 checks in this report.

Grand Total All Checks: 59,124.71

REVIEWED
By Marilen Santos at 5:04 pm, Mar 28, 2024

Bank : eusbnk EFT GENERAL ACCOUNT US BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
5763	3/29/2024	ace02	ACE UNIFORMS LLC	VS0114955	3/13/2024	UNIFORMS FIRE	400.50	400.50
	Voucher:	5763						
5764	3/29/2024	als02	ALS GROUP USA CORP	522401598	3/21/2024	WATER SAMPLING MAR	496.00	496.00
	Voucher:	5764						
5765	3/29/2024	cdw01	CDW GOVERNMENT	QB67454	3/8/2024	MOBILE DATA COMPUTER (MDC	3,468.43	3,468.43
	Voucher:	5765						
5766	3/29/2024	cha71	CHARTER COMM HOLDINGS LLC	844841006015175	3/14/2024	INTERNET CH MAR	1,259.15	
	Voucher:	5766		844841006015170	3/15/2024	FIBER CONNECTION CS MAR	360.15	
				844841006015174	3/14/2024	METRO ETHERNET CS MAR	360.15	
				844841006015172	3/15/2024	FIBER CONNECTION FIRE MAR	295.84	
				844841006015253	3/14/2024	METRO ETHERNET FIRE MAR	295.84	
				844841006017146	3/13/2024	PUBLIC WIFI PHCC MAR	144.99	
				844841006017484	3/13/2024	INTERNET CS MAR	89.99	
				844841006015173	3/15/2024	INTERNET TV STUDIO MAR	89.98	2,896.09
5767	3/29/2024	cor22	CORVEL CORPORATION	1543709/1546805	1/30/2024	WC - MED JAN	1,532.00	
	Voucher:	5767		1544497	1/23/2024	MED MAINT FEE - JAN	250.00	1,782.00
5768	3/29/2024	cos06	COSCO FIRE PROTECTION INC	1000659047	3/18/2024	QTRLY FIRE SPRINKLER INSP	640.00	640.00
	Voucher:	5768						
5769	3/29/2024	dev02	DEVANEY PATE MORRIS & CAME	9042	2/20/2024	LEGAL FEES JAN	40,155.20	
	Voucher:	5769		9044	2/20/2024	CITY ATTORNEY JAN	13,371.20	
				9043	2/20/2024	CITY ATTORNEY JAN	122.00	53,648.40
5770	3/29/2024	dix01	DIXIELINE LUMBER CO	06-0546826	3/25/2024	CLEANING SUPPLIES CS	342.55	
	Voucher:	5770		06-0546418	3/20/2024	HRDWARE SUPP PW	10.84	353.39
5771	3/29/2024	duk01	DUDEK & ASSOCIATES	12448.11	3/19/2024	WATER / WASTEWTR / PAVING F	11,980.00	11,980.00
	Voucher:	5771						
5772	3/29/2024	lou01	LOUKELTON DISTRIBUTING INC	81112	3/18/2024	JANITORIAL SUPP PW	905.78	
	Voucher:	5772		81094	3/11/2024	JANITORIAL SUPP PW	900.60	1,806.38
5773	3/29/2024	man12	MANERI TRAFFIC CONTROL INC,	20922	3/14/2024	BEACH PARKING SIGNS PW	630.75	630.75
	Voucher:	5773						
5774	3/29/2024	mic11	MICHAEL BAKER INTERNATIONA	1204620	2/16/2024	CITY ENGINEER JAN	35,589.54	35,589.54
	Voucher:	5774						
5775	3/29/2024	mit03	MITSUBISHI ELECTRIC PWR PRC	CPSD-M0016339	2/29/2024	ELECTRIC POWER SUPP PW	3,875.12	3,875.12
	Voucher:	5775						

Bank : eusbnk EFT GENERAL ACCOUNT US BANK (Continued)

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
5776	3/29/2024	pho01	PHOENIX GROUP INFO SYSTEM	022024036	3/21/2024	CITE SRVCS FEB	15,872.75	
	Voucher:	5776		0220241036	3/21/2024	ADMIN CITE SRVCS FEB	536.79	16,409.54
5777	3/29/2024	pru01	PRUDENTIAL OVERALL SUPPLY	132244648	3/22/2024	UNIFORMS PW	76.03	
	Voucher:	5777		132243459	3/15/2024	UNIFORMS PW	73.73	
				132244647	3/22/2024	SHOP TOWELS PW	4.93	154.69
5778	3/29/2024	pru01	PRUDENTIAL OVERALL SUPPLY	132244646	3/22/2024	FLOOR MATS PW	15.47	15.47
	Voucher:	5778						
5779	3/29/2024	san12	SAN DIEGO COUNTY SHERIFF	03192024	3/19/2024	LAW ENF FEB	219,556.66	
	Voucher:	5779		01292024	1/29/2024	CAL-ID PROG JAN-JUN	577.00	220,133.66
						Sub total for EFT GENERAL ACCOUNT US BANK:		354,279.96

Bank : gusbnk GENERAL ACCOUNT US BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
137979	3/29/2024	sbc03	AT&T	9391054486	3/20/2024	TELEPHONE MAR	185.94	185.94
	Voucher:	137979						
137980	3/29/2024	sbc03	AT&T	9391031502	3/20/2024	TELEPHONE MAR	65.68	65.68
	Voucher:	137980						
137981	3/29/2024	sbc03	AT&T	9391026230	3/20/2024	TELEPHONE MAR	58.21	58.21
	Voucher:	137981						
137982	3/29/2024	sbc03	AT&T	9391031506	3/20/2024	TELEPHONE MAR	57.15	57.15
	Voucher:	137982						
137983	3/29/2024	sbc03	AT&T	9391026231	3/20/2024	TELEPHONE MAR	57.15	57.15
	Voucher:	137983						
137984	3/29/2024	sbc03	AT&T	9391026228	3/20/2024	TELEPHONE MAR	29.35	29.35
	Voucher:	137984						
137985	3/29/2024	atk02	ATKINSON, ANDELSON, LOYA, RU	702816	12/31/2023	LEGAL SERVICES DEC	456.38	456.38
	Voucher:	137985						
137986	3/29/2024	cla15	CLAIMS MANAGEMENT ASSOC IN	522126	3/10/2024	CLAIMS ADMIN NOV/DEC	1,486.65	
	Voucher:	137986		522127	3/10/2024	CLAIMS ADMIN DEC/JAN	1,049.40	
				522125	3/10/2024	CLAIMS ADMIN NOV/DEC	914.25	
				522123	3/10/2024	CLAIMS ADMIN NOV	596.25	
				522124	3/10/2024	CLAIMS ADMIN NOV/DEC	564.45	
				522129	3/10/2024	CLAIMS ADMIN JAN	437.25	
				522128	3/10/2024	CLAIMS ADMIN NOV	405.45	
				522122	3/10/2024	CLAIMS ADMIN NOV/DEC	318.00	5,771.70
137987	3/29/2024	cou65	COUNTY OF SAN DIEGO	DEH2005-HUPFP-	2/10/2024	UNIFIED PROG FAC PERMIT	10.00	10.00
	Voucher:	137987						
137988	3/29/2024	cou11	COUNTY OF SAN DIEGO APCD	02403-2017-RI-20	3/5/2024	DISTRICT FEES	585.00	585.00
	Voucher:	137988						
137989	3/29/2024	dep02	DEPARTMENT OF MOTOR VEHIC	DG2L55	3/26/2024	VEH REGISTRATION CS #382	54.00	54.00
	Voucher:	137989						
137990	3/29/2024	dun02	DUNN-EDWARDS PAINTS	2082A05948	3/14/2024	PAINT SUPPLIES	500.20	500.20
	Voucher:	137990						
137991	3/29/2024	mal05	ELEANOR B. MALLORY	03202024	3/20/2024	REFUND REF PHCC	657.00	657.00
	Voucher:	137991						
137992	3/29/2024	fer01	FERRELLGAS LP	2036258158	2/13/2024	PROPANE FIRE	131.95	131.95
	Voucher:	137992						

Bank : gusbnk GENERAL ACCOUNT US BANK (Continued)

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
137993	3/29/2024	glo06	GLOBAL POWER GROUP INC.	94783	3/11/2024	PM MAINT CH GENERATOR	1,231.00	1,231.00
	Voucher:	137993						
137994	3/29/2024	loe01	MARSHALL LOEWENSTEIN	03212024	3/21/2024	REFUND REF CITE 400123618	95.00	95.00
	Voucher:	137994						
137995	3/29/2024	con17	OCCUPATIONAL HEALTH CTRS, C	82467298	3/11/2024	EMPLOYEE TESTING MAR	162.00	162.00
	Voucher:	137995						
137996	3/29/2024	par35	PARADIGM MECHANICAL CORP	6223	3/19/2024	QTRLY MAINT SRVCS CH	2,062.00	2,062.00
	Voucher:	137996						
137997	3/29/2024	por10	PORTABLE STORAGE CORP	157845	3/20/2024	STORAGE CS APR	176.00	176.00
	Voucher:	137997						
137998	3/29/2024	pre06	PRECISION CONCRETE CUTTINC	24-0056	3/15/2024	TRIP HAZARD ASSESMNT	2,801.39	2,801.39
	Voucher:	137998						
137999	3/29/2024	pub07	PUBLIC SAFETY CONSULTING IN	PSC#002/24	2/17/2024	LEGAL SERVICES JAN/FEB	19,652.94	19,652.94
	Voucher:	137999						
138000	3/29/2024	rcp01	RCP BLOCK & BRICK INC.	33069462	3/13/2024	BULK FERTILIZED SOIL PW	513.61	513.61
	Voucher:	138000						
138001	3/29/2024	san135	SAN DIEGO COUNTY WATER AU	03212024	3/21/2024	SDCWA CAP CHRGS - 355 14TH	3,420.00	3,420.00
	Voucher:	138001						
138002	3/29/2024	sdg01	SAN DIEGO GAS & ELECTRIC	0042 2198 4063 2	3/15/2024	UTILITIES FEB	4,437.06	4,437.06
	Voucher:	138002						
138003	3/29/2024	sci01	SCI CONSULTING GROUP	SBS11150	3/18/2024	SAN DIEGUITO DR ASSESSMNT	21,500.00	21,500.00
	Voucher:	138003						
138004	3/29/2024	sig12	SIGNA DIGITAL SOLUTIONS INC	32259392	3/12/2024	COPIER - PW MAR	138.74	
	Voucher:	138004		32259394	3/12/2024	COPIER - CS MAR	45.73	184.47
138005	3/29/2024	sou02	SOUTHCOAST HEATING & AIR CC	1375336	3/19/2024	HVAC SRVCS PW	359.00	359.00
	Voucher:	138005						
138006	3/29/2024	uni25	STAXUP - UNITS LLC	021 18848	3/26/2024	STORAGE CS APR	289.85	289.85
	Voucher:	138006						
138007	3/29/2024	ver12	VERIZON	72815782	1/20/2024	SCADA SECURE CLOUD DEC	128.54	
	Voucher:	138007		72839006	2/20/2024	SCADA SECURE CLOUD JAN	128.54	257.08
138008	3/29/2024	ver03	VERIZON WIRELESS	872374736-00003	3/18/2024	TELEPHONE MAR	230.76	
	Voucher:	138008		872374736-00003	2/18/2024	TELEPHONE FEB	228.26	459.02
138009	3/29/2024	ver03	VERIZON WIRELESS	542070053-00002	3/20/2024	TELEPHONE MAR	167.42	167.42
	Voucher:	138009						

Bank : gusbnk GENERAL ACCOUNT US BANK (Continued)

Check #	Date	Vendor	Invoice	Inv Date	Description	Amount Paid	Check Total
138010	3/29/2024	bon09 ZILMARA MONTECINOS BONNET	03112024	3/11/2024	REFUND REF DEPOSIT PHCC	800.00	800.00
	Voucher: 138010						
138012	3/29/2024	pub07 PUBLIC SAFETY CONSULTING IN	PSC#013/23	11/11/2023	LEGAL SERVICES OCT/NOV	19,953.18	19,953.18
	Voucher: 138012						
					Sub total for GENERAL ACCOUNT US BANK:		87,140.73

50 checks in this report.

Grand Total All Checks: 441,420.69

APPROVED
By Marilen Santos at 2:28 pm, 3/29/24

Bank : eusbnk EFT GENERAL ACCOUNT US BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
5780	3/29/2024	als02	ALS GROUP USA CORP	522401371	3/8/2024	WATER SAMPLING MAR	676.00	676.00
	Voucher:	5780						
5781	3/29/2024	dix01	DIXIELINE LUMBER CO	06-0546407	3/20/2024	OPERATING SUPP PW	61.31	
	Voucher:	5781		06-0545413	3/13/2024	BLDG MAINT SUPP FIRE	45.98	107.29
5782	3/29/2024	man12	MANERI TRAFFIC CONTROL INC,	20921	3/14/2024	PERMA PATCH SUPP PW	489.38	489.38
	Voucher:	5782						
5783	3/29/2024	off03	OFFICE DEPOT	357123104001	3/18/2024	OPERATING SUPP CH	139.02	
	Voucher:	5783		357141390001	3/18/2024	OPERATING SUPP CH	12.54	151.56
5784	3/29/2024	uni29	UNIVERSAL SITE SERVICES INC	104408	2/29/2024	CH GARAGE SWEEPING FEB	160.00	160.00
	Voucher:	5784						

Sub total for EFT GENERAL ACCOUNT US BANK: 1,584.23

Bank : gusbnk GENERAL ACCOUNT US BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
137973	3/29/2024	dai03	DAILY DIRECT MAIL	14614-6	3/18/2024	WTR/WASTEWTR MAILING	2,637.25	2,637.25
	Voucher:	137973						
137974	3/29/2024	bee04	DENNIS L JOBE, DBA BEE CHASE	927422	3/21/2024	BEE REMOVAL MAR	180.00	180.00
	Voucher:	137974						
137975	3/29/2024	fai04	FAILSAFE TESTING LLC	13333	3/4/2024	GROUND LADDER TESTS FIRE	576.36	576.36
	Voucher:	137975						
137976	3/29/2024	fir01	FIRE ETC.	187810	3/11/2024	UNIFORMS FIRE	675.34	675.34
	Voucher:	137976						
137977	3/29/2024	uli02	ULINE	175050133	2/29/2024	OPERATING SUPPLIES PW	175.89	175.89
	Voucher:	137977						
137978	3/29/2024	act03	WILLIAMS SCOTSMAN INC	9020450680	3/15/2024	MOBILE OFFICE PW MAR/APR	156.12	156.12
	Voucher:	137978						
						Sub total for GENERAL ACCOUNT US BANK:		4,400.96

11 checks in this report.

Grand Total All Checks: 5,985.19

3.28.24

Bank : gusbnk GENERAL ACCOUNT US BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
138013	4/1/2024	toy02	TOYOTA OF ESCONDIDO	708217	2/4/2024	2024 TOYOTA TACOMA LFGRDS	55,896.61	55,896.61
	Voucher:	138013						
						Sub total for GENERAL ACCOUNT US BANK:		55,896.61

APPROVED
By Monica Molina at 5:58 pm, Apr 01, 2024

1 checks in this report.

Grand Total All Checks: 55,896.61

Bank : gusbnk GENERAL ACCOUNT US BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
138014	4/2/2024	toy02	TOYOTA OF ESCONDIDO	708217	4/1/2024	2024 TOYOTA TACOMA LFGRDS	54,785.19	54,785.19
	Voucher:	138014						
						Sub total for GENERAL ACCOUNT US BANK:		54,785.19

1 checks in this report.

Grand Total All Checks: 54,785.19

APPROVED
By Adele Crawford at 10:49 am, 4/2/24

Bank : gusbnk GENERAL ACCOUNT US BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
138015	4/3/2024	hom01	HOME DEPOT CREDIT SRVCS	H0660-579396	4/2/2024	LUMBER SUPP PHCC PATIO	4,802.64	4,802.64
	Voucher:	138015						
						Sub total for GENERAL ACCOUNT US BANK:		4,802.64

1 checks in this report.

Grand Total All Checks: 4,802.64

4.3.24

Bank : eusbnk EFT GENERAL ACCOUNT US E

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
5785	4/5/2024	ace02	ACE UNIFORMS LLC	SD0167670	3/19/2024	UNIFORMS FIRE	312.46	312.46
	Voucher:	5785						
5786	4/5/2024	cha71	CHARTER COMM HOLDINGS I	8448410060153!	3/24/2024	VIDEO TRANSPORT/PEG APF	454.06	
	Voucher:	5786		8448410060151	3/15/2024	FIBER CONNECTIONS PW M/	360.15	
				8448410060153!	3/21/2024	PUBLIC WIFI APR	119.98	934.19
5787	4/5/2024	civ02	CIVIC SOLUTIONS INC	103153	2/1/2024	CONSULTING SRVCS JAN	14,310.00	
	Voucher:	5787		103333	3/1/2024	CONSULTING SRVCS FEB	12,892.50	
				103003	1/2/2024	CONSULTING SRVCS DEC	7,425.00	34,627.50
5788	4/5/2024	civ01	CIVICPLUS LLC	296231	5/22/2024	CIVICSEND ANNUAL FEE	1,736.09	1,736.09
	Voucher:	5788						
5789	4/5/2024	cof01	COFFEE AMBASSADOR, INC.	INV45283	3/28/2024	COFFEE - CH	185.66	185.66
	Voucher:	5789						
5790	4/5/2024	cor15	CORONADO MOBILE STORAG	APR-24	4/1/2024	STORAGE CONTRS APR	255.00	255.00
	Voucher:	5790						
5791	4/5/2024	del14	DEL MAR VILLAGE ASSOCIATI	10	4/2/2024	DMVA AGRMNT FEB	18,651.66	18,651.66
	Voucher:	5791						
5792	4/5/2024	dev02	DEVANEY PATE MORRIS & CA	9183	4/3/2024	REIMB ATTORNEY FEES - JAI	24,184.32	24,184.32
	Voucher:	5792						
5793	4/5/2024	dix01	DIXIELINE LUMBER CO	06-0547360	3/27/2024	JG SHED SUPP CS	1,290.51	
	Voucher:	5793		06-0547752	3/29/2024	LFGRD/PRKG ENF SUPP	607.30	
				06-0547383	3/27/2024	BLDG MAINT SUPP CS	184.33	
				06-0547273	3/27/2024	OPERATING SUPP PW	29.35	2,111.49
5794	4/5/2024	lou01	LOUKELTON DISTRIBUTING I	81144	3/25/2024	JANITORIAL SUPP PW	511.72	
	Voucher:	5794		80931	1/22/2024	JANITORIAL SUPP PW	241.75	753.47
5795	4/5/2024	mic11	MICHAEL BAKER INTERNATIC	1207340	3/20/2024	CITY ENGINEER FEB	67,888.64	67,888.64
	Voucher:	5795						
5796	4/5/2024	san56	SAN ELIJO JOINT POWERS, A	01022024	1/2/2024	RECLAIMED WATER NOV/DE	9,914.89	9,914.89
	Voucher:	5796						
5797	4/5/2024	wex01	WEX BANK	0496-00-496745	3/23/2024	GAS & OIL CS MAR	854.66	854.66
	Voucher:	5797						

Sub total for EFT GENERAL ACCOUNT US BANK: 162,410.03

Bank : gusbnk GENERAL ACCOUNT US BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
138016	4/5/2024	ale04	ALESHIRE & WYNDER LLP	84675	3/26/2024	ATTORNEY SRVCS FEB	1,170.00	1,170.00
	Voucher:	138016						
138017	4/5/2024	sbc03	AT&T	9391065056	3/27/2024	TELEPHONE MAR	27.81	27.81
	Voucher:	138017						
138018	4/5/2024	sbc03	AT&T	9391065054	3/27/2024	TELEPHONE MAR	27.79	27.79
	Voucher:	138018						
138019	4/5/2024	sbc03	AT&T	9391065055	3/27/2024	TELEPHONE MAR	27.79	27.79
	Voucher:	138019						
138020	4/5/2024	coa21	COAST NEWS GROUP	00152030	3/15/2024	AD DRB AGENDA	213.75	
	Voucher:	138020		00151939	3/8/2024	AD DRB AGENDA	90.00	303.75
138021	4/5/2024	coa10	COASTAL LIVESCAN SERVICE	43262	3/31/2024	LIVESCAN SRVC MAR	124.00	124.00
	Voucher:	138021						
138022	4/5/2024	air09	GARY AIRES	03272024	3/27/2024	REFUND REF PHCC	876.00	876.00
	Voucher:	138022						
138023	4/5/2024	int22	INTERWEST CONSULTING GF	312778	3/25/2024	CONSULTING SRVCS FEB	2,187.50	2,187.50
	Voucher:	138023						
138024	4/5/2024	hal14	KEVIN HALL	03292024	3/29/2024	REFUND REF CITE 40012458	51.00	51.00
	Voucher:	138024						
138025	4/5/2024	pac05	PACIFIC PIPELINE SUPPLY	S100461796.001	3/21/2024	WATER METER PARTS	182.12	182.12
	Voucher:	138025						
138026	4/5/2024	pat11	PATRIOT ENV LAB SRVCS INC	292367	3/16/2024	FACILITY MAINT 1700 COAST	1,898.00	1,898.00
	Voucher:	138026						
138027	4/5/2024	pub07	PUBLIC SAFETY CONSULTING	PSC#003/24	4/2/2024	LEGAL SERVICES MAR	3,500.00	3,500.00
	Voucher:	138027						
138028	4/5/2024	san06	SAN DIEGO ASSOC. OF GOVE	320006	3/25/2024	SCOUP SAND REPLENISHME	13,800.00	13,800.00
	Voucher:	138028						
138029	4/5/2024	san138	SAN DIEGO ELEVATOR & LIFT	7005	2/26/2024	ANNUAL TESTING	2,550.00	2,550.00
	Voucher:	138029						
138030	4/5/2024	sdg02	SAN DIEGO GAS & ELECTRIC	0092 4576 5583	3/25/2024	UTILITIES FEB	145.19	
	Voucher:	138030		0012 6209 1548	3/29/2024	UTILITIES MAR	92.03	237.22
138031	4/5/2024	the48	SAN DIEGO NEWSPAPER HOL	0011650283	2/29/2024	AD PUBLIC HEARING	685.52	
	Voucher:	138031		0011646294	2/8/2024	AD SIDEWALK CAFE PERMIT	368.60	1,054.12
138032	4/5/2024	str20	STRATFORD SQUARE LLC	03252024	3/25/2024	REFUND REF SIDEWALK CAF	490.00	490.00
	Voucher:	138032						

Bank : gusbnk GENERAL ACCOUNT US BANK (Continued)

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
138033	4/5/2024	ter01	TERMINIX INT CO LTD, PARTN	444518285	3/12/2024	PEST CONTROL SRVCS FIRE	51.00	51.00
	Voucher:	138033						
138034	4/5/2024	t-mo01	T-MOBILE USA INC	980755647	3/21/2024	TELEPHONE MAR	11.90	11.90
	Voucher:	138034						
138035	4/5/2024	ver03	VERIZON WIRELESS	570653198-0000	3/18/2024	TELEPHONE MAR	367.43	367.43
	Voucher:	138035						
138036	4/5/2024	ver03	VERIZON WIRELESS	570653198-0000	3/18/2024	TELEPHONE MAR	232.06	232.06
	Voucher:	138036						
138037	4/5/2024	ver03	VERIZON WIRELESS	872374736-0000	3/18/2024	TELEPHONE MAR	226.49	226.49
	Voucher:	138037						
138038	4/5/2024	ver03	VERIZON WIRELESS	570653198-0000	3/18/2024	TELEPHONE MAR	114.03	114.03
	Voucher:	138038						
138039	4/5/2024	ver03	VERIZON WIRELESS	570653198-0000	3/18/2024	TELEPHONE MAR	38.01	38.01
	Voucher:	138039						
						Sub total for GENERAL ACCOUNT US BANK:		29,548.02

37 checks in this report.

Grand Total All Checks: 191,958.05

MG 4/4/24

Bank : gusbnk GENERAL ACCOUNT US BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
3981	4/5/2024	irs01	IRS, UNITED STATES TREASURY	Ben174915	4/5/2024	FEDERAL TAX: PAYMENT	38,055.70	38,055.70
	Voucher:	3981						
3982	4/5/2024	per01	PERS	Ben174917	4/5/2024	PERS CONTRIBUTIONS: PAYMEI	54,476.35	54,476.35
	Voucher:	3982						
3983	4/5/2024	edd01	EMPLOYMENT DEVELOPMENT D	Ben174919	4/5/2024	STATE TAX: PAYMENT	10,882.39	10,882.39
	Voucher:	3983						
3984	4/4/2024	ida01	IDAHO STATE TAX COMMISSION	Ben174921	4/5/2024	IDAHO STATE TAX COMMISSION	224.35	224.35
	Voucher:	3984						

Sub total for GENERAL ACCOUNT US BANK: 103,638.79

Bank : eusbnk EFT GENERAL ACCOUNT US BANK

Check #	Date	Vendor		Invoice	Inv Date	Description	Amount Paid	Check Total
5798	4/5/2024	mis07	107413 STATE ST BANK & TRUST	Ben174911	4/5/2024	401A PLAN: PAYMENT	523.29	523.29
	Voucher:	5798						
5799	4/5/2024	mis08	303845 STATE ST BANK & TRUST	Ben174903	4/5/2024	MISSION SQUARE 457B: PAYME	16,418.84	16,418.84
	Voucher:	5799						
5800	4/5/2024	mis09	803808 STATE ST BANK & TRUST	Ben174913	4/5/2024	RETIREMENT HEALTH SAVINGS	695.57	695.57
	Voucher:	5800						
5801	4/5/2024	uni21	DEL MAR CITY EMPLOYEES ASS	Ben174905	4/5/2024	DMCEA DUES: PAYMENT	253.00	253.00
	Voucher:	5801						
5802	4/5/2024	nat15	NATIONAL BENEFIT SERVICES, L	Ben174909	4/5/2024	SEC. 125 FLEXIBLE SAVINGS AC	1,308.33	1,308.33
	Voucher:	5802						
5803	4/5/2024	par21	U.S. BANK PARS FFC 674602240	Ben174907	4/5/2024	PUBLIC AGENCY RETIREMENT S	1,441.73	1,441.73
	Voucher:	5803						

Sub total for EFT GENERAL ACCOUNT US BANK: 20,640.76

10 checks in this report.

Grand Total All Checks: 124,279.55

APPROVED
By Denise Garcia at 12:12 pm, 4/4/24

Void Check Posting List

City of Del Mar

Document #: 863908 **Void Date:** 04/02/2024 **Posting #:** 32855 **Group:** dgarcia
Check #: 138013 **Bank code:** gusbnk **Check Date:** 04/01/24
Vendor: toy02 TOYOTA OF ESCONDIDO
Post into: 10/2024 **Check amount:** 55,896.61

Doc Source		Account Number	Description	Amount
disb		B 01.2110.0000	A/P GENERAL	55,896.61 CR
disb	S*	B 01.1100.0000	CASH AND INVESTMENTS	55,896.61 DB
disb	S*	B 72.1160.0000	UNION BANK - GENER	55,896.61 DB
disb	S*	B 72.1100.0000	CASH AND INVESTMENTS	55,896.61 CR
Balance Sheet Totals:		111,793.22 DB	111,793.22 CR	Difference: 0.00

S* = Automatic Summary

Document #: 863974 **Void Date:** 04/02/2024 **Posting #:** 32866 **Group:** dgarcia
Check #: 137838 **Bank code:** gusbnk **Check Date:** 02/26/24
Vendor: civ02 CIVIC SOLUTIONS INC
Post into: 10/2024 **Check amount:** 14,310.00

Doc Source		Account Number	Description	Amount	
disb		B 01.2110.0000	A/P GENERAL	13,737.60	CR
disb		B 55.2110.0000	A/P GENERAL	572.40	CR
disb	S*	B 55.1100.0000	CASH	572.40	DB
disb	S*	B 01.1100.0000	CASH AND INVESTMENTS	13,737.60	DB
disb	S*	B 72.1160.0000	UNION BANK - GENER	14,310.00	DB
disb	S*	B 72.1100.0000	CASH AND INVESTMENTS	14,310.00	CR
Balance Sheet Totals:		28,620.00 DB	28,620.00 CR	Difference:	0.00

Document #: 863978 **Void Date:** 04/02/2024 **Posting #:** 32866 **Group:** dgarcia
Check #: 137947 **Bank code:** gusbnk **Check Date:** 03/22/24
Vendor: civ02 CIVIC SOLUTIONS INC
Post into: 10/2024 **Check amount:** 20,317.50

Doc Source		Account Number	Description	Amount	
disb		B 01.2110.0000	A/P GENERAL	19,504.80	CR
disb		B 55.2110.0000	A/P GENERAL	812.70	CR
disb	S*	B 55.1100.0000	CASH	812.70	DB
disb	S*	B 01.1100.0000	CASH AND INVESTMENTS	19,504.80	DB
disb	S*	B 72.1160.0000	UNION BANK - GENER	20,317.50	DB
disb	S*	B 72.1100.0000	CASH AND INVESTMENTS	20,317.50	CR
Balance Sheet Totals:		40,635.00 DB	40,635.00 CR	Difference:	0.00

S* = Automatic Summary

City of Del Mar
Agenda Report

TO: Honorable Mayor and City Council Members

FROM: Martin Boyd, Project Manager II
Joe Bride, Public Works Director
Diana Martinez, Associate Management Analyst
Via Ashley Jones, City Manager

DATE: April 15, 2024

SUBJECT: Award of Construction Contract to Prestige Paving Company, Inc. for the 20th Street Lifeguard Tower Driveway Project

REQUESTED ACTION/RECOMMENDATION:
Staff recommends that the City Council: 1) Award a $93,750 construction contract to Prestige Paving Company, Inc. (Attachment A) for the 20th Street Lifeguard Tower Driveway Project; 2) Award a $14,875 Task Order to Dudek for Construction Management and Inspection Services (Attachment B); 3) Approve a 10% project contingency of $9,375; 4) Authorize the City Manager to execute the required documents and any contract changes necessary to complete the work; and 5) Amend the Fiscal Year 2023-2024 Operating and Capital Budget as described in the Fiscal Impact Section of this report.

DISCUSSION/ANALYSIS:
The 20th Street lifeguard tower is a City facility accessible off Ocean Front from an existing concrete driveway on the southern half of the 20th Street public beach access. The northern half of the 20th Street public beach access was recently vacated by the adjacent property owner of 2004 Ocean Front, and remains stabilized with crushed gravel. The vacation was a development condition wherein the owner of 2004 Ocean Front was required to transfer fee title ownership of a small portion of their property, which was already encumbered by a City street easement, to the City of Del Mar. The City is now planning to develop the northern half of the 20th Street public right-of-way as an extension of the existing 20th Street lifeguard tower driveway, which will provide more usable area for the City and improved beach access for the public. The improvements include a driveway extension, removable bollards, landscape strip, and improved public beach access.

In accordance with the City's Municipal Code and Public Contract Code, a notice inviting sealed bids was published on March 1, 2024. This was posted to the City's website, the contractor's notification web platform Bidnet.com, and published in the newspaper.

Following the bid solicitation process, five (5) bids were received and opened on April 1, 2024. The verified bid amounts are listed below:

City Council Action:

Bidder	Bid Amount
Portillo Concrete Inc.	$132,050
Fordyce Construction, Inc.	$101,604
A.B. Hashimi, Inc.	$98,650
Ciro's Landscaping, Inc.	$97,805
Prestige Paving Company, Inc.	**$93,750**
For Reference: Engineer's Estimate	*$85,514*

Public Contract Code Section 20162 requires that the City award the contract to the lowest responsive and responsible bidder based on their proposed base bid. Staff evaluated Prestige Paving Company's bid of $93,750 (Attachment C) and determined they are the lowest responsive and responsible bidder.

The City has an agreement in place with Dudek for as-needed general engineering services. Staff recommends issuing Dudek a $14,875 Task Order (Attachment B) to provide construction management and inspection services for this project. Dudek will only bill hours as needed for these services.

The total estimated project expenditures through project completion are $118,000 as listed in Table A below. This amount includes the construction contract with Prestige Paving Company, Inc., construction management and inspection services provided by Dudek, and a 10% project contingency for change orders due to unforeseen field conditions, need for specialty inspections, or any other unanticipated costs during construction.

Table A: Project Expenditures

	AMOUNT
Construction (Prestige Paving Company)	$93,750
Construction Management (Dudek)	$14,875
Project Contingency (10%)	$9,375
Total Project Cost	**$118,000**

Pending City Council approval, the project will begin in May 2024 after the contract is executed and a Notice to Proceed is issued. The project is estimated to be complete by the end of June 2024.

FISCAL IMPACT:
The total fiscal impact of the recommended action as described in this report is $118,000. There is $55,000 available in the approved Project budget, leaving an unfunded amount of $63,000. Council approval of the recommended action will result in an amendment to the Fiscal Year (FY) 2023-2024 Operating and Capital Budget to allocate $63,000 from the General Fund as shown below:

PROJECT	FUND	ACCOUNT	AMOUNT
20th Street Lifeguard Tower Driveway	General Fund	21.7000.7051	$63,000

PRIOR CITY COUNCIL REVIEW:
On October 2, 2023, the City Council approved the Conceptual Design for the 20th Street Lifeguard Tower Driveway Project.

ENVIRONMENTAL IMPACT:
Pursuant to the California Environmental Quality Act (CEQA), the proposed project has been analyzed and determined to be Categorically Exempt pursuant to CEQA Guidelines in accordance with Section 15304 (minor public or private alterations in the condition of land, in that the existing condition is crushed gravel and the proposed project consists of minor grading and construction of a concrete driveway with related minor landscaping), and, in the alternative, that it is Categorically Exempt from CEQA per Guidelines section 15303 (new construction of small structures, as this project also proposes additional new removable bollards at the driveway entrance to preserve public safety access to the lifeguard tower), and, further, determines that none of the exceptions in CEQA Guidelines section 15300.2 apply here because the proposed action does not include a sensitive mapped area, a scenic highway, a hazardous waste site, or a historic resource.

NEXUS TO CITY COUNCIL GOALS & PRIORITIES:
This item is listed as a Tier 2 City Council priority for FY 2023-2024 and FY 2024-2025.

ATTACHMENTS:
Attachment A – Contract with Prestige Paving Company, Inc. for 20th Street Lifeguard Tower Driveway Project
Attachment B – Task Order with Dudek for Construction Management Services
Exhibit A to Attachment B – Dudek proposal
Attachment C – Prestige Paving Company's Bid

CONSTRUCTION CONTRACT BETWEEN THE CITY OF DEL MAR AND PRESTIGE PAVING COMPANY, INC. FOR 20TH STREET LIFEGUARD TOWER DRIVEWAY PROJECT

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

RECITALS

WHEREAS, the City requires a general contractor to construct a Public Works project generally described as the **20TH STREET LIFEGUARD TOWER DRIVEWAY PROJECT** hereinafter referred to as the "Project."

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

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

1. CONTRACTOR'S OBLIGATIONS.

1.1 Contractor shall perform the scope of work shown in the **Attachment A** hereinafter referred to as the "Work", as such term is defined by the Standard Specifications for Public Works Construction, latest version (GREENBOOK).

1.2 The Contractor agrees, at the Contractor's own proper cost and expense, to do all the Work and furnish all the materials, except such as are mentioned in the specifications to be furnished by the City, necessary to construct and complete the Work in a good, workmanlike and substantial manner and to the satisfaction of the City.

1.3 Said Work shall be performed in accordance with the Contract Specifications, Drawings, and Provisions annexed hereto; and in connection with the Reference Standards below:

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

1.4 The Contractor shall maintain throughout the full term of this Contract all professional certifications and licenses required in order to comply with all City, State, and Federal laws in the performance of this Contract.

1.5 The Contractor shall pay wages to the Contractor's employees according to the current "General Prevailing Wage Rates" issued by the Department of Industrial Relations of the State of California. Pursuant to provisions of Section 1773 of the Labor Code of the State of California, the City Council has obtained the general prevailing rate of per diem wages and the general rate for holiday and overtime

work in this locality for each craft, classification, or type of workman needed to execute this Contractor, from Director of the Department of Industrial Relations. These rates are available online with the California Department of Industrial Relations (www.dir.ca.gov). The Contractor shall post a copy of such rates at the job site and shall pay the adopted prevailing wage rates as a minimum. The Contractor shall comply with the provisions of Sections 1725.5, 1771, 1773.8, 1774, 1775, 1776, 1777.5, 1777.6, 1813, and 1815 of the Labor Code.

1.6 The Contractor shall register with the Department of Industrial Relations (DIR) in accordance with California Labor Code sections 1771.1 and 1725.5 and the Contractor shall be subject to compliance monitoring and enforcement by DIR in accordance with California Labor Code section 1771.4.

1.7 Pursuant to and subject to the provisions of Section 1775 of the Labor Code, Contractor shall forfeit to City, as a penalty, the sum of up to two-hundred dollars ($200) for each calendar day, or portion thereof, for each laborer, worker, or mechanic employed, paid less than the stipulated prevailing rates for any Work done under this Contract, by it or by any subcontractor under it, in violation of the provisions of the Contract.

2. SECURITY FOR CONTRACTOR'S PROMISE TO PERFORM.

2.1 For contracts above $25,000, the Contractor shall post and maintain during the full term of this Contract security for Contractor's promise to perform this Contract in the following forms and amounts:

A. The amount of the performance security shall be 100% of bid amount.

B. The form of the security shall be one of the following:

1. Cash;
2. Cashier's check made payable to the City;
3. A certified check made payable to the City;
4. A bond, executed by an approved surety insurer using the Performance Bond form found herein or a substitute form acceptable to and approved by the City, made payable to the City; or
5. The Contractor may elect to deposit securities of a value equivalent to the amount of the performance security in accordance with the provisions of section 22300 of the Public Contract Code. The City will make the final determination as to the value of the posted securities.

2.2 The City shall retain five percent (5%) of each payment due the Contractor under this Contract until completion and acceptance of the Project. The Contractor may elect to deposit securities of a value equivalent to the retention in accordance with the provisions of Section 22300 of the Public Contract Code and thereby become entitled to receive one hundred percent (100%) of the payments, without retention. The City will make the final determination as to the value of the posted

securities. The amount of retention withheld may be reduced, or a portion of withheld retention may be returned, at the sole discretion of the City.

2.3 For contract amounts above $25,000, the Contractor shall file a payment bond using the Payment Bond form found herein or a substitute form acceptable to and approved by the City, in the amount of 100% of bid amount, with and subject to the approval of the Director of Public Works in accordance with Civil Code section 3247.

3. CONTRACT AMOUNT AND SCHEDULE.

3.1 The City agrees to pay and the Contractor agrees to receive and accept the prices set forth in the Bid Schedule attached hereto as **Attachment B** and incorporated by reference as full compensation for furnishing all materials, performing all work, and fulfilling all obligations hereunder. Said compensation shall cover all expenses, losses, damages, and consequences arising out of the nature of the work during its progress or prior to its acceptance, including those for well and faithfully completing the work and the whole thereof in the manner and time specified in the aforesaid contract documents and also including those arising from actions of the elements, unforeseen difficulties or obstructions encountered in the prosecution of the work, suspension or discontinuance of the work, and all other unknowns or risks of any description connected with the work.

3.2 Contractor agrees to complete the Work on 20TH STREET LIFEGUARD TOWER DRIVEWAY PROJECT in a time period not to exceed **SIXTY (60)** calendar days per Section 6-3 of the Standard Specifications for Public Works Construction (GREENBOOK), commencing upon the date stated in the Notice To Proceed issued by the City. Construction shall not commence until the City has approved bonds and insurance.

4. TERMINATION OF CONTRACT.

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

5. STATUS OF THE CONTRACTOR.

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

6. SUBCONTRACTING.

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

7. ASSIGNMENT OF CONTRACT.

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

8. VERBAL AGREEMENT OR CONVERSATION.

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

9. DISPUTES.

9.1 If a dispute should arise regarding the performance of this Contract, the following procedures shall be used to address any question of fact or interpretation not otherwise settled by agreement between the parties. Such questions, if they become identified as part of a dispute between persons operating under the provisions of the Contract, shall be reduced to writing by the complaining party. A copy of such documented dispute shall be forwarded to the other party involved along with recommended methods of resolution which would be of benefit to both parties. The party receiving the letter shall reply to the letter along with a recommended method of resolution within ten (10) days of receipt of the letter.

9.2 If the dispute is not resolved, the aggrieved party shall send a letter outlining the dispute to the City to be resolved.

9.3 If the dispute remains unresolved and the parties have exhausted the procedures of this section, the parties may then seek remedies available to them at law.

9.4 Pursuant to Public Contract Code Sections 20104 and 9204, a claim by the Contractor for a time extension; payment of money or damages arising from Work done by or on behalf of the Contractor pursuant to the Contract which is not

otherwise expressly provided for or the claimant is not otherwise entitled to; or an amount the payment of which is disputed by the City, shall be dealt with as follows:

A. The claim shall be in writing and include the documents necessary to substantiate the claim. Claims must be filed on or before the date of final payment. Nothing in this subdivision is intended to extend the time limit or supersede notice requirements otherwise provided by the Contract for the filing of claims.

B. For all claims, pursuant to Public Contract Code Sections 20104 and 9204:

1. City shall respond in writing to any written claim within forty-five (45) days of receipt of the claim, or may request, in writing, within thirty (30) days of receipt of the claim, any additional documentation supporting the claim or relating to defenses or claims the City may have against the claimant. City shall identify the disputed and undisputed portion(s) of the claim in the written response. If City fails to issue a written statement, the claim is rejected in its entirety.

2. If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the City and the claimant.

3. The City's written response to the claim, as further documented, shall be submitted to the claimant within fifteen (15) days after receipt of the further documentation or within a period of time no greater than that taken by the claimant in producing the additional information, whichever is greater.

4. Pursuant to Public Contract Code section 9204, any payment on any undisputed portion of the claim shall be processed and made within sixty (60) days after the public entity issues its written statement.

C. If the claimant disputes the City's written response, or the City fails to respond within the time prescribed, the claimant may so notify the City, in writing, either within fifteen (15) days of receipt of the City's response or within fifteen (15) days of the City's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon a demand sent by registered or certified mail, the City shall schedule a meet and confer conference within thirty (30) days for settlement of the dispute. Within ten (10) business days after the meet and confer conference, City shall prepare a written statement describing portions of the claim in dispute and the portions of the claim that are disputed. Mediation Prerequisite: If following the meet and conference the claim or any portion remains in dispute, the parties agree that as a condition precedent to the initiation of litigation, the parties shall submit to non-binding mediation. The parties shall mutually agree to a mediator within ten (10) business days after

the City's response following the meet and confer conference. The parties shall make reasonable attempts to mediate within thirty (30) days of the meet and confer conference. Mediation shall be subject to the following rules:

1. The mediation process shall be administered by a neutral organization agreed to by the parties and shall be confidential subject to Evidence Code Sections 1115 –1128 and 1152.

2. The costs for mediation will be shared equally by all parties. The expenses of witnesses shall be paid by the party producing such witnesses.

3. A single mediator shall be selected to mediate the dispute. At least ten (10) days before a scheduled session, each party shall provide the mediator a brief memorandum setting forth its position about the issues that need to be resolved. The brief shall be mutually exchanged between the parties. At the mediation session, the parties will be expected to produce required information for the mediator to understand and evaluate the issues presented.

4. The mediation process shall be considered terminated when: (1) in the mediator's judgment, further efforts at mediation would not contribute to a resolution of the dispute between the parties; or, (2) by the execution of Settlement Agreement, which may be used as the basis for change order or other directive as appropriate; or, (3) written declaration of a party that it will no longer participate in further mediation proceedings.

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

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

10. HOLD HARMLESS.

10.1 The Contractor agrees to indemnify and hold the City; the City's officers, officials, employees and agents; the Engineer; and the Engineer's officers, officials, employees and agents (together, the "City Indemnified Parties"), harmless from, and against any and all liabilities, claims, demands, causes of action, losses, suit damage, expenses and costs, including all costs of defense, expense costs and investigation expenses thereof, arising out of, or in any manner connected directly

or indirectly to the acts, omissions or performance of Work by the Contractor or Contractor's agents, employees, subcontractors, officials, officers or representatives. Upon demand, Contractor shall, at its own expense, defend the City Indemnified Parties from and against any and all such liabilities, claims, demands, causes of action, losses, damages and costs, regardless of whether or not such a claim, loss or liability is caused in part by a party indemnified hereunder.

10.2 By inspecting, approving or accepting the improvements, City shall not have waived the protections afforded herein to the City Indemnified Parties or diminished the obligation of Contractor, who shall remain obligated in the same degree to indemnify and hold the City Indemnified Parties harmless as provided above.

10.3 Contractor's obligation herein does not extend to liabilities, claims, demands, causes of action, losses, damages or costs that arise out of the City Indemnified Parties' sole active negligence or willful misconduct.

11. RESPONSIBILITY FOR DAMAGE.

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

11.2 The Contractor shall maintain vehicle liability, and property damage insurance in the amount of not less than $2,000,000 for one person injured in one accident, and not less than $2,000,000 for two or more persons injured in any one accident, and not less than $2,000,000 with respect to any property damage involved and public general liability insurance in the amount of not less than $2,000,000 each occurrence or in the aggregate.

11.3 Evidence of insurance including Commercial General Liability, Workers' Compensation, and Automobile Liability in compliance with the above requirements shall be furnished to the City by Certificate of Insurance. Such Certificate of Insurance shall be furnished prior to the commencement of Work under the Contract. The insurance policy shall provide that the policy shall remain in force during the life of this Contract and shall not be canceled, terminated, or allowed to expire without thirty (30) days prior written notice to City from the insurance company.

11.4 Such insurance shall be issued by a company or companies approved by the City, licensed and listed with "Insurance Organizations Authorized by the

Insurance Commissioner to Transact the Business of Insurance in the State of California," and shall have a rating of A- or better.

11.5 Insurance coverage in the minimum amounts set forth herein shall not be construed to relieve the Contractor for liability in excess of such coverage, nor shall it preclude the City from taking such other actions as is available to it under any other provision of this Contract or otherwise in law.

11.6 The Contractor shall arrange for the policies to be so conditioned as to cover the performance of any changes or extra Work which may be required under the Contract.

11.7 The costs of this insurance shall be considered as included in the prices paid for the various Contract items of Work and no additional compensation will be allowed, therefore.

11.8 The Contractor shall either: (1) require each of its subcontractors to procure and to maintain Subcontractor's Public Liability and Property Damage Insurance and Vehicle Liability Insurance of the type and in the amounts specified, or (2) insure the activities of its subcontractors in its own policy in like amount.

11.9 The Contractor's policies shall contain an Additional Insured Endorsement naming as additional insured the City and its officers, consultants, agents, and employees while on the Project and acting within the scope of their duties. For any claims related to the Project, Contractor's insurance coverage shall be primary insurance as respects City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by City, its officers, officials, employees, or volunteers shall be in excess of Contractor's insurance and shall not contribute with it.

11.10 Prior to commencement of Work under this Contract, the Contractor shall furnish endorsements from each of the insurance companies.

11.11 The Contractor shall reimburse the City and the Engineer for all costs and expenses, including attorney's fees, incurred by said City and the Engineer, in enforcing the provisions of Section 11.0 of this Contract.

12. NOTICES.

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

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

Prestige Paving Company, Inc.
Attn: Anthony Trujillo
14656 Industry Circle
La Mirada, CA 90638
anthony@prestigepavingcompany.com

CONSTRUCTION CONTRACT BETWEEN THE CITY OF DEL MAR AND PRESTIGE PAVING COMPANY, INC. FOR 20TH STREET LIFEGUARD TOWER DRIVEWAY PROJECT

13. LIQUIDATED DAMAGES; EXTENSION OF TIME.

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

14. PERFORMANCE.

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

15. CONTRACT AUTHORITY OVER PROPOSAL.

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

16. CONTRACT DOCUMENTS.

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

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

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

17. ATTACHMENTS.

The following Contract Documents are attached hereto:

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

18. NON-DISCRIMINATION.

Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, physical or mental disability, medical condition, genetic information, marital status, military or veteran status, gender, gender identity, gender expression, sexual orientation, or any other class protected under state, federal, or local law. Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to any class or category protected under state, federal, or local law and shall make reasonable accommodation to qualified individuals with disabilities. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

19. CALIFORNIA LAW; VENUE/MISCELLANEOUS.

This Contract shall be construed and interpreted according to the laws of the State of California. Any action brought to enforce or interpret any portion of this Contractt shall be brought in the County of San Diego, California. Contractor hereby waives any and all rights it might have pursuant to California Code of Civil Procedure section 394.

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

Contractor certifies that Contractor is aware of the requirements of the Immigration Reform and Control Act of 1986 (8 USC §§ 1101-1525) and has complied and will comply with these requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors, and consultants that are included in this Contract.

21. NO WAIVER.

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

22. SEVERABILITY.

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

23. CONFLICTS BETWEEN TERMS.

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

24. SIGNING AUTHORITY.

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

[SIGNATURES ON THE FOLLOWING PAGE]

CONSTRUCTION CONTRACT BETWEEN THE CITY OF DEL MAR AND PRESTIGE PAVING COMPANY, INC. FOR 20TH STREET LIFEGUARD TOWER DRIVEWAY PROJECT

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

CITY OF DEL MAR,
a municipal corporation

By: _____
Ashley Jones, City Manager

Date: _____

Prestige Paving Company, Inc.
a California Corporation

By: _____
Anthony Trujillo, R. M.O.

Date: _____

APPROVED AS TO FORM:

_____
Leslie E. Devaney, City Attorney

ATTEST:

_____
Sarah Krietor, Administrative Services Manager/City Clerk

CONSTRUCTION CONTRACT BETWEEN THE CITY OF DEL MAR AND PRESTIGE PAVING COMPANY, INC. FOR 20TH STREET LIFEGUARD TOWER DRIVEWAY PROJECT

ATTACHMENT A – SCOPE OF WORK

Contractor shall refer to **20th Street Lifeaguard Tower Driveway Project Specifications and Drawings** for the description of the scope of work to be performed.

CONSTRUCTION CONTRACT BETWEEN THE CITY OF DEL MAR AND PRESTIGE PAVING COMPANY, INC. FOR 20TH STREET LIFEGUARD TOWER DRIVEWAY PROJECT

ATTACHMENT B – BID SCHEDULE

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

Bid Item	Description Of Work	Qty.	Unit	Unit Price	Item Total
	GENERAL				
1	Mobilization, Demobilization and cleanup	1	LS	$5,250	$5,250
2	Implementation of Storm Water Pollution Prevention and Erosion Control	1	LS	$5,000	$5,000
3	Traffic Control Plan, Traffic Control implementation and Construction Staging	1	LS	$1,000	$1,000
4	Clearing & Grubbing (includes demo)	1	LS	$6,000	$6,000
	EARTHWORK				
5	Subgrade preparation, cut and removal	1	LS	$4,500	$4,500
	GENERAL SURFACE IMPROVEMENTS				
6	Wooden dismountable bollards	8	EA	$750	$6,000
7	7.5" PCC driveway	1,580	SF	$30	$47,400
8	4" PCC sidewalk	170	SF	$30	$5,100
	IRRIGATION IMPROVEMENTS				
9	Irrigation system per Landscape plan set	1	LS	$4,500	$4,500
	LANDSCAPE IMPROVEMENTS				
10	Landscape planting per Landscape plan set	1	LS	$4,500	$4,500
11	90-Day landscape maintenance period (Note: this maintenance period is not a part nor included in the Working Days)	1	LS	$4,500	$4,500
				TOTAL:	**$93,750.00**

Total Base Bid (Items 1 through 11) of Project, in Numbers: $93,750

Total Base Bid (Items 1 through 1) of Project, in Words: Ninety three thousand seven hundred fifty Dollars and Zero Cents.

CONSTRUCTION CONTRACT BETWEEN THE CITY OF DEL MAR AND PRESTIGE PAVING COMPANY, INC. FOR 20TH STREET LIFEGUARD TOWER DRIVEWAY PROJECT

ATTACHMENT C - WORKER'S COMPENSATION CERTIFICATE

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

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

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

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

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

CONTRACTOR'S NAME: _____

ADDRESS: _____

BOND NO.: _____

SIGNATURE: _____

PRINT NAME/TITLE OF SIGNER: _____

DATE: _____

CONSTRUCTION CONTRACT BETWEEN THE CITY OF DEL MAR AND PRESTIGE PAVING COMPANY, INC. FOR 20TH STREET LIFEGUARD TOWER DRIVEWAY PROJECT

BOND NO._____

ATTACHMENT D - PERFORMANCE BOND

WHEREAS, the City of Del Mar, a Charter City and municipal Corporation ("City") on the 15th day of April, 2024, awarded to **Prestige Paving Company, Inc.** ("Principal") a contract for the work described as **20TH STREET LIFEGUARD TOWER DRIVEWAY PROJECT;** and

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

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

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

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

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

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

SURETY

By: _____

_____
(Name)

_____
(Title)

PRINCIPAL

By: _____

_____
(Name)

_____
(Title)

By: _____

_____
(Name)

_____
(Title)

_____
Signature of Attorney-in-Fact

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

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

CONSTRUCTION CONTRACT BETWEEN THE CITY OF DEL MAR AND PRESTIGE PAVING COMPANY, INC. FOR 20TH STREET LIFEGUARD TOWER DRIVEWAY PROJECT

ACKNOWLEDGMENT

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

STATE OF CALIFORNIA
COUNTY OF_____)

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

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

WITNESS my hand and official seal.

Signature_____ (Seal)

CONSTRUCTION CONTRACT BETWEEN THE CITY OF DEL MAR AND PRESTIGE PAVING COMPANY, INC. FOR 20TH STREET LIFEGUARD TOWER DRIVEWAY PROJECT

BOND NO._____

ATTACHMENT E - PAYMENT BOND

WHEREAS, the City of Del Mar, a Charter City and municipal Corporation (hereinafter designated as City), on 15th day of April, 2024 awarded to Prestige Paving Company, Inc. (hereinafter designated as the Principal) a contract for the work described as follows:

20TH STREET LIFEGUARD TOWER DRIVEWAY PROJECT

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

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

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

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

It is further stipulated and agreed that the Surety on this bond shall not be exonerated or released from the obligation of this bond by any change, extension of time for performance, addition, alteration or modification in, to, or of any contract, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement

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

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

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

SURETY

By: _____

_____
(Name)

_____
(Title)

PRINCIPAL

By: _____

_____
(Name)

_____
(Title)

By: _____

_____
(Name)

_____

CONSTRUCTION CONTRACT BETWEEN THE CITY OF DEL MAR AND PRESTIGE PAVING COMPANY, INC. FOR 20TH STREET LIFEGUARD TOWER DRIVEWAY PROJECT

(Title)

_____
Signature of Attorney-In-Fact

(Attach required acknowledgements)

ACKNOWLEDGMENT

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

STATE OF CALIFORNIA
COUNTY OF_____)

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

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

WITNESS my hand and official seal.

Signature_____ (Seal)

CITY OF DEL MAR

April 15, 2024

Dudek
Attn: Jason Linsdau/Joseph Monaco
605 3rd Street
Encinitas, CA 92024
jlinsdau@dudek.com

SENT VIA EMAIL

RE: TASK ORDER & NOTICE TO PROCEED FOR CONSTRUCTION MANAGEMENT SERVICES FOR 20th STREET LIFEGUARD TOWER DRIVEWAY PROJECT

This Task Order (TO) and Notice to Proceed (NTP) is issued pursuant to the terms and conditions contained in the as-needed Consulting Services Agreement between the City of Del Mar and Dudek (Consultant), the term for which is November 18, 2019, to November 19, 2024.

Consultant shall execute tasks related to the 20th Street Lifeguard Tower Driveway Project, as described in the Consultant's proposal dated March 29, 2024, and included as Exhibit A to this Task Order. The project cost for this Task Order shall not exceed **$14,875**. The project schedule shall commence upon execution of this Task Order/Notice to Proceed and be completed by June 30, 2024, to the satisfaction of the Public Works Director, in accordance with the proposed Scope of Work included in Exhibit A.

The primary contact for this Task Order and invoicing is Martin Boyd, Project Manager II, who can be reached at mboyd@delmar.ca.us and (858) 375-9531. Please sign and return a copy of this Task Order electronically through OneSpan, the City's electronic document routing program. Please contact Management Analyst Denise Galvan at dgalvan@delmar.ca.us or (858) 704-3657 with any questions about executing this Task Order amendment.

Approved by:

_____

Ashley Jones Date
City Manager

Accepted by:

_____

Joseph Monaco Date
President

cc: Joe Bride, Public Works Director
Martin Boyd, Project Manager II
Diana Martinez, Associate Management Analyst

Exhibit A: Dudek – Proposal for Construction Management and Inspection Services

City of Del Mar

Construction Management and Inspection Services for 20th Street Lifeguard Tower Driveway Project

DUDEK - FEE ESTIMATE

3/29/2024

Task	Description	LABOR HOURS	LABOR HOURS	LABOR SUBTOTAL	DIRECT COSTS	TOTAL BUDGET
	Team Member	Dudek Construction Manager	Dudek Construction Engineer			
	Billable Rate	$180.00	$155.00			
1.0	***Preconstruction Services***					
1.1	Preconstruction Meeting	2	1	$ 515	$ -	$ 515
	Task 1 Subtotal:	***2***	***1***	***$ 515***	***$ -***	***$ 515***
2.0	***Construction Services (60 Calendar Days)***					
2.1	Project Management	12	0	$ 2,160	$ -	$ 2,160
2.2	Daily Inspection	0	48	$ 7,440	$ -	$ 7,440
2.3	Progress Meetings	4	0	$ 720	$ -	$ 720
2.4	RFI Processing	1	0	$ 180	$ -	$ 180
2.5	Submittal Processing	8	0	$ 1,440	$ -	$ 1,440
2.6	Progress Payments	2	0	$ 360	$ -	$ 360
2.7	Change Orders	4	0	$ 720	$ -	$ 720
	Task 2 Subtotal:	***31***	***48***	***$ 13,020***	***$ -***	***$13,020***
3.0	***Project Completion and Closeout***					
3.1	Punch list and Record Drawings	0	4	$ 620	$ -	$ 620
3.2	Prepare Final Change Order and Payment	2	0	$ 360	$ -	$ 360
3.3	Prepare Closeout Documents and Turnover Project Files on Thumb Drive	2	0	$ 360	$ -	$ 360
	Task 3 Subtotal:	***4***	***4***	***$ 1,340***	***$ -***	***$ 1,340***
					NOT-TO-EXCEED GRAND TOTAL:	***$ 14,875***
	Hours Total	37	53			
	Hours per week Avg.	9	13			

Our proposed fee is based on a 2 month total project duration for services based with 1 month of construction. Dudek will bill only actual hours worked per day on a time and material basis.

PROJECT SPECIFICATIONS

for

20TH STREET LIFEGUARD TOWER DRIVEWAY PROJECT

CITY OF DEL MAR

CALIFORNIA

March 2024

PROJECT SPECIFICATIONS

for

20TH STREET LIFEGUARD TOWER DRIVEWAY PROJECT

CITY OF DEL MAR
CALIFORNIA

Prepared by:

City of Del Mar
1050 Camino Del Mar
Del Mar, CA 92014

Prepared Under the Supervision of:

Martin Boyd, Project Manager II

Approved By:

Joe Bride, R.C.E 52107
Public Works Director

February 26, 2024
DATE

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20TH STREET LIFEGUARD TOWER DRIVEWAY

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MODIFICATIONS TO THE STANDARD SPECIFICATIONS FOR PUBLIC WORKS CONSTRUCTION "GREENBOOK"

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BIDDING INFORMATION

AND

BID DOCUMENTS

NOTICE INVITING BIDS

The City of Del Mar, OWNER, invites sealed bids for:

20TH STREET LIFEGUARD TOWER DRIVEWAY PROJECT

The City of Del Mar seeks a bid from qualified contractor for construction of the **20th Street Lifeguard Tower Driveway Project**. The WORK generally consists of construction of a PCC driveway, landscaping & irrigation, and installation of bollards.

RECEIPT AND OPENING OF PROPOSALS: All bids must be submitted in sealed envelopes, bearing on the outside the bidder's name, address, the appropriate State CONTRACTOR's License designation held by the bidder, and marked **"SEALED BID FOR 20TH STREET LIFEGUARD TOWER DRIVEWAY PROJECT."** Sealed proposals will be received at the office of the City Clerk, City of Del Mar, located at 1050 Camino Del Mar, Del Mar, California, **until 2:00 PM., April 1, 2024.** Mailed bids shall be addressed to: **City Clerk at 1050 Camino Del Mar, Del Mar, California 92014** and must be received by bid closing shown above. Proposals which are not properly marked may be disregarded. It is the sole responsibility of the bidder to ensure their bid is submitted in the proper time. Any proposal received after the scheduled closing time for receipt of proposals will be returned to the bidder unopened.

OBTAINING CONTRACT DOCUMENTS: The Contract Documents may be obtained from the City's website https://www.delmar.ca.us/873/Bids and directly through www.bidnetdirect.com/california/cityofdelmar.

OPINION OF PROBABLE CONSTRUCTION COST: The Public Works Director's opinion of probable construction cost for this project is approximately $85,500.

COMPLETION OF WORK: All WORK performed under this contract shall be completed within **60 Calendar Days**, as specified in the Contract.

BID SECURITY: Bid Security shall accompany the bid in the form of a certified or cashier's check, or a Bid Bond made payable to the OWNER in the amount of ten percent of the total bid amount.

PERFORMANCE AND PAYMENT BONDS: For contracts above $25,000, the successful bidder will be required to furnish a Payment Bond made payable to the OWNER in the amount of one hundred percent, and a Performance Bond made payable to the OWNER in the amount of one hundred percent of the contract amount.

DEPARTMENT OF INDUSTRIAL RELATIONS: All bidders are required to register with the California Department of Industrial Relations (DIR) in accordance with Labor Code sections 1771.1 and 1725.5 and are subject to compliance monitoring and enforcement by DIR in accordance with Labor Code section 1771.4.

WAGE RATES: Prevailing wage rate for the locality in which the WORK is to be performed and the construction activity applies to this contract. Not less than these rates shall be paid to all workers employed on the project.

CONTRACTOR'S LICENSING LAWS: CONTRACTOR is required to be licensed under the classification of GENERAL ENGINEERING CONTRACTING, CLASS A, as of the date of submittal of the bid documents and shall maintain such license until final acceptance of the WORK. CONTRACTOR shall also obtain a City of Del Mar business license.

PROJECT ADMINISTRATION: All questions relative to this project prior to the opening of bids shall be directed to Martin Boyd, Project Manager II, for the project listed. It shall be understood, however that no specification interpretations will be made by telephone. Questions shall be in writing and must be delivered at least ten (10) days prior to the date fixed for the opening of bids to 2240 Jimmy Durante Boulevard by hand or email to mboyd@delmar.ca.us.

OWNER: City of Del Mar

BY: J Bride
Joe Bride, Public Works Director

DATE: February 26, 2024

INFORMATION AND INSTRUCTIONS FOR BIDDERS

The Proposal must be executed in accordance with the instructions contained on the forms provided. If the bidder is an individual or a partner, the signature on the Proposal and bid bond must be the same as the name of the bidder shown on other parts of these forms.

DELIVERY OF PROPOSAL: The Proposal shall be delivered by the time and to the place stipulated in the Notice Inviting Bids. It is the bidder's sole responsibility to see that the proposal is received in proper time. Any proposal received after the scheduled closing time for receipt of proposals will be returned to the bidder unopened.

WITHDRAWAL OR REVISION OF PROPOSALS: A bidder may withdraw or revise (by withdrawal of one proposal and submission of another) a proposal, provided that the bidder's request for withdrawal is received at the office designated for receipt of proposals in writing before the time specified for opening bids. Revised proposals must be submitted as specified herein. The request for withdrawal shall be executed by the bidder or the bidder's duly authorized representative. Proposals that have been withdrawn, or received after the time specified for opening bids shall be returned to the bidder unopened. Upon bid opening, all proposed bid amounts shall be maintained and guaranteed by the CONTRACTOR for 120 days.

MODIFICATIONS AND ALTERNATIVE PROPOSALS: Unauthorized conditions, limitations, or provisions attached to a proposal will render it informal and may cause its rejection as being non-responsive. The completed proposal forms shall be without interlineations, alterations, or erasures. Alternative proposals will not be considered unless called for. Oral, telegraphic, or telephonic proposals or modifications will not be considered.

DISCREPANCIES IN BIDS: In the event there is more than one bid item in a bidding schedule, the bidder shall furnish a price for all bid items in the schedule, and failure to do so will render the bid non-responsive and may cause its rejection. In the event there are unit price bid items in a bidding schedule and the "amount" indicated for a unit price bid item does not equal the product of the unit price and quantity, the unit price shall govern and the amount will be corrected accordingly by the OWNER, and the CONTRACTOR shall be bound by said correction. In the event there is more than one bid item in a bidding schedule and the total indicated for the schedule does not agree with the sum of the prices bid on the individual items, the prices bid on the individual items shall govern and the total for the schedule will be corrected accordingly by the OWNER, and the CONTRACTOR shall be bound by said correction.

ADDENDA AND INTERPRETATIONS: The OWNER will not be responsible for any oral interpretation of the meaning of the plans, specifications, or other pre-bid documents. Every request for such interpretation shall be in writing addressed to the person designated for Project Administration in the Notice Inviting Bids, and to be given consideration must be received at least ten (10) days prior to the date fixed for the opening of bids. Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the specifications which, if issued, will be posted on the City's website https://www.delmar.ca.us/873/Bids. All addenda so issued shall become part of the contract documents. It is understood that no "or equal" products will be considered for approval prior to award of contract.

DISQUALIFICATION OF BIDDERS: A bidder shall be considered disqualified for any of the following reasons:

(a) Submitting more than one proposal from the same partnership, firm, or corporation under the same or different name.

(b) Evidence of collusion among bidders. Bidders participating in such collusion shall be disqualified as bidders for any future WORK of the OWNER until any such participating bidder has been reinstated by the OWNER as a qualified bidder.

(c) Proposals in which the contract prices obviously are unbalanced.

A person, firm, or corporation may submit a sub-proposal to more than one bidder or may submit sub-proposals in addition to submitting a proposal as bidder, without being disqualified.

INFORMATION AND INSTRUCTIONS FOR BIDDERS

REJECTION OF PROPOSALS: Proposals may be rejected if they show any alteration of form, additions not called for, conditional bids, incomplete bids, erasures, or irregularities of any kind.

The OWNER reserves the right to reject any irregular proposal and the right to waive any irregularities or technicalities if such waiver is in its best interest and conforms to local laws and ordinances pertaining to the letting of construction contracts.

When a proposal is signed by an agent other than the officer or officers of a corporation authorized to sign contracts on its behalf, or a general partner of a partnership, a "Power of Attorney" must be on file with the OWNER prior to opening bids or shall be submitted with the proposal.

DESIGNATION OF SUBCONTRACTOR: The bidder must complete this form at the time of submitting the Proposal. If no subcontractors are to be designated, enter the word "NONE."

The bidder's attention is directed to the provision of the Specifications which requires the CONTRACTOR to perform with the bidder's own forces contracting WORK amounting to a specified percentage of the total contract price.

BIDDER'S EXAMINATION OF SITE: Before submitting a proposal, the bidder shall carefully examine the drawings, specifications, and other contract documents, and the bidder shall visit the site of the WORK. The submission of a proposal shall be prima facie evidence that the bidder is familiar with existing site conditions and that the bidder has a clear understanding of the requirements of the contract regarding the furnishing of materials and performance of WORK.

Where the bidder feels that additional field data are either necessary or desirable, it shall be the bidder's responsibility to make all examination and field studies necessary for the bidder's own determination of the character of materials that will be encountered in any required excavation and embankment construction operations and to fully determine all cost factors related thereto which shall be included in the bidder's bid price for the WORK.

Such additional field data required by the bidder shall be undertaken at the bidder's expense. The submittal of a bid will be accepted as prima facie evidence that in compliance herewith, the bidder has accurately and fully informed him/herself of all geologic and soils conditions that will influence the cost of performing the WORK and that all such factors were carefully considered by the bidder, prior to making the bidder's bid.

COMPETENCY OF BIDDERS: In selecting the lowest responsible and responsive bidder, consideration will be given not only to the financial standing but also to the general competency of the bidder for the performance of the WORK covered by the proposal. When evaluating the competency of the lowest bidder, consideration will be given to the following matters:

(1) Past projects shall demonstrate a high quality of workmanship and competence including the ability and willingness to meet the requirements of the contract specifications.

(2) The CONTRACTOR must demonstrate a history of successfully completing projects on time and with a minimum of CONTRACTOR initiated delays.

(3) The CONTRACTOR must demonstrate a record of minimal CONTRACTOR initiated change orders.

(4) The CONTRACTOR's history of past litigation and license revocation or suspension will be reviewed.

(5) The record of stop notices filed against the CONTRACTOR will be reviewed, including the relationship with subcontractors.

(6) Recommendations from the OWNERS of previous projects should reflect a good working relationship with the OWNER, regulatory agencies and other CONTRACTOR's.

INFORMATION AND INSTRUCTIONS FOR BIDDERS

Based upon such information as is available, the OWNER may reject any bidder that the OWNER feels is not qualified or competent to perform the WORK to the highest standards.

To this end, each proposal shall be supported by a statement of the bidder's experience as of recent date on the form entitled "INFORMATION REQUIRED OF BIDDER," bound herein. No bid for the WORK will be accepted from a CONTRACTOR who does not hold an active CONTRACTOR's license in good standing applicable to the type of WORK bid upon at the time of opening bids.

Pursuant to Public Contract Code section 6109, neither CONTRACTOR nor any of CONTRACTOR's subcontractors shall be eligible to perform WORK under this CONTRACT if they are ineligible pursuant to California Labor Code sections 1777.1 and 1777.7.

BID SECURITY: Each bid shall be accompanied by a certified or cashier's check, or a bidder's bond in the amount of not less than 10 percent of the maximum amount of the bid; the check or bond made payable to the order of the OWNER. Said check or bond shall be given as a guarantee that the bidder will, within ten days after being requested to do so by the OWNER enter into a contract and provide the required bonds if awarded the WORK. If the bidder to whom the WORK has been awarded and to whom the request has been made refuses or fails to enter into said contract and provide the required bonds within the specified time, the check shall be forfeited to the OWNER for the principal and surety on the bond shall be liable to the OWNER for the principal amount thereof in accordance with its terms. If the lowest responsible bid is not accepted by the OWNER within the time specified under "Award of Contract," or for such further period of time as may be agreed upon in writing between the OWNER and the bidder concerned, or if the bidder to whom the contract is awarded executes and delivers to the OWNER the required contract documents, the amount of the certified or cashier's check will be returned to the bidder. Attention is directed to the requirement noted on contract bonds that the Attorney-in-Fact attach a certified copy of the Power of Attorney. If the bidder elects to furnish a bid bond as the bidder's bid security, the bidder shall use the bid bond form bound herein, or one conforming substantially to it in form and acceptable to the OWNER.

RELIEF OF BIDDER: If the bidder claims a mistake was made in the bidder's bid, the bidder shall give the OWNER written notice within five (5) days after the opening of bids of the alleged mistake, specifying in the notice in detail how the mistake occurred. Relief will be granted only for clerical errors and at the OWNER's discretion.

RETURN OF BID SECURITY: Within 10 calendar days after award of the contract, the OWNER will return the bid securities accompanying such of the proposals as are not considered in making the award. All other bid securities will be held until the contract has been finally executed. They will then be returned to the respective bidders whose proposals they accompany.

AWARD OF CONTRACT: Award of a contract, if it be awarded, will be **based on the lowest responsible and responsive bidder for the Base Bid**. Due to a limit of available funds, the entire project may not be awarded. The complete Bid Schedule will be awarded in its entirety if a bid is within the funds available. However, the City reserves the right to add or delete and items of WORK listed in the Bid Schedule by increasing and/or reducing the quantities in accordance with Section 3- Changes in Work of the Standard Specifications. Should the City choose to add or delete any items of WORK, the lump sum prices for the remaining WORK shall not be adjusted or modified and the total project bid amount will be revised accordingly. The remaining amount shall then become the total project bid amount for all remaining portions of WORK and shall be the total contract amount awarded for the project. The City shall have sole discretion in selection of which items of WORK, if any, will be modified in the best interest of the City and within the amount of funds budgeted for the project. Bidder's experience and additional information requested on the form "INFORMATION REQUIRED OF BIDDER," bound herein, also will be evaluated. OWNER reserves the right to reject any or all bids, to waive any informality in a bid, and to make awards in the interest of the OWNER. The low bidder may be required to submit, prior to award, additional financial statements and resumes of previous WORK.

INFORMATION AND INSTRUCTIONS FOR BIDDERS

CANCELLATION OF AWARD: The OWNER reserves the right to cancel the award without liability of the bidder, except return of proposal guaranty, at any time before a contract has been fully executed by all parties and is approved by the OWNER.

EXECUTION OF CONTRACT: The bidder to whom award is made shall execute a written contract with the OWNER on the form of agreement provided, shall secure all insurance and shall furnish all certificates and bonds required by the specifications within 10 calendar days after receipt of the contract from the OWNER. Failure or refusal to enter into a contract as herein provided or to conform to any of the stipulated requirements in connection therewith shall be just cause for annulment of the award and forfeiture of the proposal guarantee. If the successful bidder refuses or fails to execute the contract, the OWNER may award the contract to the second lowest responsible bidder. If the second lowest responsible bidder refuses or fails to execute the contract, the OWNER may award the contract to the third lowest responsible bidder. On the failure or refusal of such second or third lowest bidder to execute the contract, each such bidder's bid securities shall be likewise forfeited to the OWNER.

CONTRACT BONDS: The CONTRACTOR shall furnish two good and sufficient bonds in the amounts specified in the "NOTICE INVITING BIDS." One of the said bonds shall guarantee the Faithful Performance of the said contract by the CONTRACTOR; and the other of the said bonds shall secure the payment of claims for labor and material; both as required by the State Contract Act. Bonds issued by a surety who is listed in the latest version of U.S. Department of Treasury Circular 570, who is authorized to issue bonds in California, and whose bonding limitation shown in said circular is sufficient to provide bonds in the amount required by the Contract shall be deemed to be approved unless specifically rejected by the OWNER. Bonds from all other sureties shall be accompanied by all of the documents enumerated in Code of Civil Procedure 995.660(a). The Bidder shall pay all bond premiums, costs, and incidentals.

WORKER'S COMPENSATION CERTIFICATE: A "CONTRACTOR's Certificate Regarding Worker's Compensation" is included as part of the Contract Documents, in accordance with the Labor Code. The CONTRACTOR must complete this certificate before commencing the performance of the WORK of this contract.

NOTICE TO PROCEED: Upon execution of the contract, the OWNER will return to the CONTRACTOR one set of completed documents and will issue Notice to Proceed within 10 days, authorizing the CONTRACTOR to proceed with the WORK and establishing the date of commencement of the Contract Time. The CONTRACTOR shall begin WORK within 10 days following the date of commencement stated in the Notice to Proceed.

BUSINESS LICENSES: Prior to the start of WORK, the CONTRACTOR and all subcontractors shall obtain Business Licenses from the City Finance Department. The process for obtaining and fees for City business licenses are described in Greenbook Modifications Part 1 – General Provisions,Section 2-2 - Permits and Licenses

PROPOSAL
TO THE CITY OF DEL MAR
FOR CONSTRUCTION OF
20TH STREET LIFEGUARD TOWER DRIVWAY PROJECT

PROPOSAL SUBMITTED BY:

Name of Bidder Prestige Paving Company, Inc.

Business Address 14656 Industry Circle, La Mirada CA 90638

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

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

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

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

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

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

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

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I/We agree to construct the City of Del Mar 20TH STREET LIFEGUARD TOWER DRIVWAY Project, for the price listed on this proposal sheet.

BASE BID SCHEDULE

Bid Item	Description Of Work	Qty.	Unit	Unit Price	Item Total
GENERAL					
1	Mobilization, Demobilization and cleanup	1	LS	$5,250	$ 5,250
2	Implementation of Storm Water Pollution Prevention and Erosion Control	1	LS	$ 5,000	$ 5,000
3	Traffic Control Plan, Traffic Control implementation and Construction Staging	1	LS	$1,000	$1,000
4	Clearing & Grubbing (includes demo)	1	LS	$ 6,000	$ 6,000
EARTHWORK					
5	Subgrade preparation, cut and removal	1	LS	$ 4,500	$4,500
GENERAL SURFACE IMPROVEMENTS					
6	Wooden dismountable bollards	8	EA	$750	$ 6,000
7	7.5" PCC driveway	1,580	SF	$ 30	$47,400
8	4" PCC sidewalk	170	SF	$ 30	$ 5,100
IRRIGATION IMPROVEMENTS					
9	Irrigation system per Landscape plan set	1	LS	$ 4,500	$ 4,500
LANDSCAPE IMPROVEMENTS					
10	Landscape planting per Landscape plan set	1	LS	$ 4,500	$ 4,500
11	90-Day landscape maintenance period (Note: this maintenance period is not a part nor included in the Working Days)	1	LS	$ 4,500	$ 4,500
				TOTAL:	$93,750.00

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Total Base Bid of Project in Numbers $93,750.00

Total Base Bid of Project in Words:

ninety three thousand seven hundred fifty Dollars

and no Cents

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

BID SCHEDULE NOTES:

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

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

The CONTRACTOR is required to maintain and guarantee bid prices for a period of 330 days after bid opening.

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

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

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

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

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DESIGNATION OF SUBCONTRACTORS

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

Description of Work to be Performed	Percent of Total Contract	Subcontractor's Name and Address	Subcontractor's License Number
None	0%	N/A	N/A

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GENERAL INFORMATION REQUIRED OF BIDDER

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

(1) Contractor's name and address: Prestige Paving Company, Inc.
14656 Industry Circle, [redacted] La Mirada, CA 90638

(2) Contractor's telephone number: 714-400-4927

(3) Contractor's license: Primary classification: C12

State License No.: 1110800 Expiration date: 10/31/25

Supplemental classifications held, if any: A

(4) Name of person who inspected site(s) of proposed WORK for your firm:

Name: Anthony Trujillo Date of Inspection: 3/28/24

(5) Upon request, submit the experience resume for the person who will be designated chief construction superintendent.

(6) Upon request, submit a general description of the plan to accomplish the WORK and a proposed schedule.

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EQUIPMENT/MATERIAL SOURCE INFORMATION

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

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

	Equipment/Material	Manufacturer/Supplier
1.	Skid steer	Bobcat
2.	Dump Truck	International
3.	Skip Loader	New Holland
4.	Crew Truck	RAM
5.	Roller	CAT
6.		
7.		

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PUBLIC CONTRACT CODE SECTION 10162 QUESTIONNAIRE

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

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

YES _____ NO ✓

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

PUBLIC CONTRACT CODE SECTION 10232 STATEMENT

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

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

CONTRACTOR certifies that CONTRACTOR is aware of the requirements of the Immigration Reform and Control Act of 1986 (8 USC Sections 1101 - 1525) and will comply with these requirements, including but not limited to verifying the eligibility for employment of all agents, employees, subcontractors and consultants that are included in this Contract.

AFFIDAVIT OF NONCOLLUSION

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

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

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

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

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

SIGNATURE

4/1/2024
DATE

ALL- PURPOSE
CERTIFICATE OF ACKNOWLEDGMENT

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

State of California }

County of San Bernardino }

On March 29, 2024 before me, Tina Downey, Notary Public
(Here insert name and title of the officer),

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

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

WITNESS my hand and official seal.

Tina Downey
Notary Public Signature

(Notary Public Seal)

TINA DOWNEY
Notary Public - California
San Bernardino County
Commission # 2383319
My Comm. Expires Nov 21, 2025

ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages ____ Document Date____

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
- ☐ Corporate Officer
  (Title)
- ☐ Partner(s)
- ☑ Attorney-in-Fact
- ☐ Trustee(s)
- ☐ Other ____

2015 Version www.NotaryClasses.com 800-873-9865

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknolwedgents from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he/she/they,~~ is /~~are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
  - Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
  - Indicate title or type of attached document, number of pages and date.
  - Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

AmTrust North America
An AmTrust Financial Company

THE INSCO DICO GROUP

2591 Dallas Parkway, Suite 105
Frisco, TX 75034
Phone: (972) 870-0400 • Toll Free (800) 530-5592

BOND REQUEST FORM

(For Bid, Performance, Payment & Contract Bonds)

Agent/Producer Name: Patriot Risk - Salandi

Agent/Producer #: 201161

(Please Print or Type **Exactly** as it will appear on the bond)

Principal: Prestige Paving Company Inc,	Phone Number: (951) 270-2999

Obligee: (Project owner, city, state, government agency, etc.)
City of Del Mar

Job Title & Description:
20th Street Lifeguard Tower Driveway Project

Job Location: 20th Street Lifeguard Tower Del Mar CA			**Invitation/Solicitation #:** N/A
Start Date: April	**Completion Date:** September	**Penalties:** $250	**% of Work Sublet**

Major Subcontractors:
Conctete-Prestige Striping Services

COMPLETE THIS SECTION IF YOU ARE REQUESTING A BID BOND

Bid Date: 4/1 Warranty Period/Term: 1 year

Bid Estimate: $ 85,500 Bid Bond %: 10%

COMPLETE THIS SECTION IF YOU ARE REQUESTING A PERFORMANCE/PAYMENT BOND

Contract Amount: $ Payment Bond Amount: $

Performance Bond Amt: $ Warranty Period/Term:

Other Bids: 2nd Low: $ 3rd Low: $ Eng. Est.: $

Please include: Copy of Contract & Award Letter

SCHEDULE OF INCOMPLETE PROJECTS

Contract Description:	Start Date:	Complete Date:	Orig. Contract Price:	Cost to Complete:
N/A			$	$
N/A			$	$
N/A			$	$
N/A			$	$
Totals:			$	$

Additional Comments:
What bond forms do we need to use - Obligee/Owner? General Contractor? Surety?

INCLUDE SPECIFIED BOND FORM, IF APPLICABLE

INSCO INSURANCE SERVICES, INC., UNDERWRITING MANAGER FOR:
DEVELOPERS SURETY AND INDEMNITY COMPANY • INDEMNITY COMPANY OF CALIFORNIA

ID-1255-1420 (Rev. 03/14)

This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

ATTACHMENT C

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: 8202672-977490

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, David S. Jacobson; Scott Salandi; Leonard E. Ziminsky

all of the city of Irvine state of CA each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 3rd day of December, 2019.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: _____
David M. Carey, Assistant Secretary

State of PENNSYLVANIA
County of MONTGOMERY ss

On this 3rd day of December, 2019 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.

COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Teresa Pastella, Notary Public
Upper Merion Twp., Montgomery County
My Commission Expires March 28, 2021
Member, Pennsylvania Association of Notaries

By: _____
Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV – OFFICERS: Section 12. Power of Attorney.
Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII – Execution of Contracts: Section 5. Surety Bonds and Undertakings.
Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation – The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization -- By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, Assistant Secretary, The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original power of attorney of which the foregoing is a full, true and correct copy of the Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seals of said Companies this 29th day of March 2024

By: _____
Renee C. Llewellyn, Assistant Secretary

LMS-12873 LMIC OCIC WAIC Multi Co_062018

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.

CALIFORNIA ACKNOWLEDGMENT CIVIL CODE § 1189

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

State of California
County of Los Angeles }

On 4/1/24 (Date) before me, Esly Brayllam Gabriel Herrera, Notary Public. (Here Insert Name and Title of the Officer)

personally appeared Anthony A. Trujillo (Name(s) of Signer(s))

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

ESLY BRAYLLAM GABRIEL HERRERA
Notary Public - California
Los Angeles County
Commission # 2473417
My Comm. Expires Nov 22, 2027

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

WITNESS my hand and official seal.

Signature _____ (Signature of Notary Public)

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

ej

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name:	Signer's Name:
☐ Corporate Officer – Title(s):	☐ Corporate Officer – Title(s):
☐ Partner – ☐ Limited ☐ General	☐ Partner – ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian or Conservator	☐ Trustee ☐ Guardian or Conservator
☐ Other:	☐ Other:
Signer is Representing:	Signer is Representing:

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PROPOSAL
TO THE CITY OF DEL MAR
FOR CONSTRUCTION OF
THE 20TH STREET LIFEGUARD TOWER DRIVEWAY PROJECT

GUARANTY/BID BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned,

Prestige Paving Company, Inc.

as Principal and The Ohio Casualty Insurance Company
as Surety, are held and firmly bound unto the **CITY OF DEL MAR,** as **OWNER** in the penal sum of (10% of bid) ten percent of the amount bid---------- Dollars, ($ 10%) for each payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, our heirs, executors, administrators, successors and assigns.

Signed this 29th day of March, 20 24.

The condition of the above obligation is such that whereas the Principal has submitted to **THE CITY OF DEL MAR**, a certain bid, attached hereto and hereby made a part hereof to enter into a contract in writing, for the

20TH STREET LIFEGUARD TOWER DRIVWAY

NOW THEREFORE,

(a) If such Bid shall be rejected, or

(b) If said Bid shall be accepted and the Principal shall execute and deliver a Contract in the Form of Contract attached hereto (properly completed in accordance with said Bid) and shall furnish a bond for his faithful performing labor or furnishing materials in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said Bid,

Then this obligation shall be void, otherwise the same shall remain in force and effect, it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein states.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its bond shall be in no way impaired or affected by any extension of the time within which the City may accept such Bid, and said Surety does hereby waive notice of any such extension. The Surety agrees that if the City commences litigation to collect amounts due under this bond, the Surety shall pay, in addition to the amount of the Bond, all reasonable attorney fees and costs incurred by the City.

PROPOSAL
TO THE CITY OF DEL MAR
FOR CONSTRUCTION OF
THE 20TH STREET LIFEGUARD TOWER DRIVEWAY PROJECT

GUARANTY/BID BOND

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

Prestige Paving Company, Inc.

By: _____

The Ohio Casualty Insurance Company

By: _____
Scott Salandi, Attorney-in-fact

SEAL

ATTORNEY-IN-FACT
ACKNOWLEDGMENT OF SURETY

STATE OF: _____

COUNTY OF: _____

On this _____ day of _____, 20___

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

_____

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

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

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

_____
Notary Public in and for the County of

_____
State of California

BIDDER'S SIGNATURE CERTIFICATE

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

BIDDER: Prestige Paving Company, Inc.
(Legal Name of Bidder)

by: _____ R.M.O.
(Signature) (Title)

Dated April 1st, 2024 at La Mirada CA

Business Address: 14656 Industry Circle, La Mirada CA 90638

Telephone: 714-400-4927

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

City of Del Mar
Agenda Report

TO: Honorable Mayor and City Council Members

FROM: Councilmembers Dan Quirk and Dwight Worden, Council Liaisons to the Traffic and Parking Advisory Committee
Prepared by Kseniia Izgarskaia, Senior Management Analyst

DATE: April 15, 2024

SUBJECT: Amendment to the Traffic and Parking Advisory Committee Work Plan

REQUESTED ACTION/RECOMMENDATION:
Councilmembers Dan Quirk and Dwight Worden, as liaisons to the Traffic and Parking Advisory Committee (TPAC), recommend that the City Council approve the revised Fiscal Year (FY) 2024-25 TPAC Work Plan included as Attachment A.

DISCUSSION/ANALYSIS:
On March 18, 2024, the City Council reviewed and approved work plans for all advisory committees for the upcoming FY 2024-25.

On April 1, 2024, the City Council received a presentation from staff summarizing existing downtown pedestrian safety measures and concerns at 11th and 13th Streets. Council discussed options for additional traffic calming measures and approved placing flashing stop signs in the medians at 11th and 13th Streets as recommended by the City's Traffic Engineer.

Council also requested that the following additional items be referred to TPAC for further review/recommendation and added to their FY 2024-25 work plan: assess the feasibility/need for a potential "No U-Turn" sign southbound at 11th Street; investigate automated stop sign enforcement technology; and determine the feasibility of deploying pedestrian crossings flags as an additional pedestrian safety measure. In accordance with City policy, amendments to advisory committee work plans must be approved by the City Council. Proposed redline changes to the FY 2024-25 TPAC work plan are shown in redline in Attachment B.

FISCAL IMPACT:
There is no fiscal action to be taken by the City Council related to this agenda item.

ATTACHMENTS:
Attachment A – Amended FY 2024-25 TPAC Work Plan
Attachment B – Redlined Amended FY 2024-25 TPAC Work Plan

City Council Action:

CITY OF DEL MAR

TRAFFIC AND PARKING ADVISORY COMMITTEE
FY 2024-2025 COUNCIL APPROVED WORK PLAN

The Traffic and Parking Advisory Committee, in coordination with staff and Council liaisons, prepared the following proposed FY 2024-2025 Work Plan, which was approved by the Committee at the January 16, 2024, meeting. The work plan was approved by the City Council on March 18, 2024.

Item #1*:* ***Speed Survey & Traffic Studies***

- **Description:** Speed Survey and traffic studies of major arterial segments as selected by TPAC.
- **Subcommittee:** N/A
- **Resources Requested:** Approximately $18k plus 60 staff hours.
- **Additional Information:** N/A
- **Priority**: Medium

Item #2*:* ***Review and Advise City Council on Coastal Development Permit Citywide Paid Parking Facilities and New Low Income Beach Parking Pass Program Monitoring***

- **Description:** Required by the City's California Coastal Commission Coastal Development Permit; condition of approval. Program evaluation.
- **Subcommittee:** N/A
- **Resources Requested:** Monitoring is ongoing; 10 staff hours for TPAC.
- **Additional Information:** N/A
- **Priority**: High

Item #3: ***Investigate "No U-Turn" at Southbound Camino del Mar and 11th Street***

- **Description:** Evaluate the necessity and effectiveness of placing a "No U-Turn" sign southbound on Camino del Mar and 11th Street and report back to City Council with a recommendation.
- **Subcommittee:** N/A
- **Resources Requested:** 8 hours of staff time and $1,000 in consulting fees
- **Additional Information:** N/A
- **Priority**: High

Item #4: ***Investigate Automated Stop Sign Enforcement Technology***

- **Description:** Research available technology and solutions for automated stop sign enforcement (e.g., Redflex red light camera enforcement technology on traffic signals) and provide a report and recommendation to City Council on the committee's findings.
- **Subcommittee:** Yes
- **Resources Requested:** 8 hours of staff time and $200 in consulting fees
- **Additional Information:** N/A
- **Priority**: High

Item #5: *Investigate Use of Pedestrian Crossing Flags*

- **Description:** Research the use of pedestrian crossing flags as a mechanism to increase pedestrian safety; seek feedback from communities who have implemented these programs, including successes, durability, best practices, and maintenance; and provide a report and recommendation to City Council.
- **Subcommittee:** Yes
- **Resources Requested:** 8 hours of staff time and $200 in consulting fees
- **Additional Information:** N/A
- **Priority**: High

CITY OF DEL MAR

TRAFFIC AND PARKING ADVISORY COMMITTEE
FY 2024-2025 COUNCIL APPROVED WORK PLAN

The Traffic and Parking Advisory Committee, in coordination with staff and Council liaisons, prepared the following proposed FY 2024-2025 Work Plan, which was approved by the Committee at the January 16, 2024, meeting. The work plan was approved by the City Council on March 18, 2024.

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- **Description:** Required by the City's California Coastal Commission Coastal Development Permit; condition of approval. Program evaluation.
- **Subcommittee:** N/A
- **Resources Requested:** Monitoring is ongoing; 10 staff hours for TPAC.
- **Additional Information:** N/A
- **Priority**: High

Item #3: *Investigate No U-Turn at Southbound Camino del Mar and 11th Street*

- **Description:** Evaluate the necessity and effectiveness of placing a "No U-Turn" sign southbound on Camino del Mar and 11th Street and report back to City Council with a recommendation.
- **Subcommittee:** N/A
- **Resources Requested:** 8 hours of staff time and $1,000 in consulting fees
- **Additional Information:** N/A
- **Priority**: High

Item #4: *Investigate Automated Stop Sign Enforcement Technology*

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- **Subcommittee:** Yes
- **Resources Requested:** 8 hours of staff time and $200 in consulting fees
- **Additional Information:** N/A

Priority: High

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- **Description:** Research the use of pedestrian crossing flags as a mechanism to increase pedestrian safety; seek feedback from communities who have implemented these programs, ~~including~~ including successes~~success of use~~, durability, best practices, and maintenance ~~and benefits~~; and provide a report and recommendation to City Council.
- **Subcommittee:** Yes
- **Resources Requested:** 8 hours of staff time and $200 in consulting fees
- **Additional Information:** N/A
- **Priority**: High

City of Del Mar
Agenda Report

TO: Honorable Mayor and City Council Members

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

DATE: April 15, 2024

SUBJECT: Second Reading of an Ordinance to Amend the Zoning Code and Certified Local Coastal Program to Increase Density in the Central Commercial and Public Facilities Zones to Implement Housing Element Programs 1C and 1H

REQUESTED ACTION/RECOMMENDATION:
It is recommended that the City Council adopt the Ordinance (Attachment A) to amend the Del Mar Municipal Code (DMMC) Central Commercial (CC) Zone regulations in Chapter 30.22 and Public Facilities (PF) Zone regulations in Chapter 30.31 in the City's Zoning Code and certified Local Coastal Program (LCP) by Zone Code Amendments (ZA24-001/ZA24-002) and LCP Amendments (LCPA24-001/LCPA24-002) in compliance with the City's certified 6th Cycle Housing Element (2021-2029) to increase the local housing stock capacity as required per California Government Code Section 65863 and Housing Element Program 1C (CC Zone) and Program 1H (PF Zone).

DISCUSSION/ANALYSIS:
The proposed amendments to the Del Mar Community Plan, Zoning Code, and certified Local Coastal Program (LCP) are required to implement the City's 6th Cycle Housing Element (2021-2029) commitments identified in Program 1C (Central Commercial) and Program 1H (Public Facilities). The amendments will allow 20 dwelling units per acre (du/ac) density in the CC Zone and PF Zone subject to specific criteria and context specific factors that are applicable to the respective zones. The intent of this State-mandated action is to facilitate production of affordable housing for lower income households. The density of 20 du/ac would allow multi-unit residential development in the CC and PF Zones for projects that include a lower income-housing component (units for very low-income and low-income households). The affordable units would be required to be built on-site without an alternative option to pay an in-lieu fee.

Allowing a base zone density of up to 20 dwelling units per acre will make certain properties eligible to apply for processing of a density bonus project per State Density Bonus Law (DBL).

City Council Action:

The State DBL does not supersede or lessen the effect of the Coastal Act. The proposed amendments do not modify development standards, including maximum building height. This includes the existing CC Zone development standard of a maximum height limit of 26 feet above grade on both sides of Camino del Mar and 14 feet above the adjacent curb on the west side of Camino del Mar, which will apply to future development in compliance with the Coastal Act and certified LCP policies and regulatory protections for public scenic views. The City's existing LCP Land Use Plan Policy IV-24 specifically requires preservation of views of the Pacific Ocean from Camino del Mar and uses the existing 14-foot height limit on the west side of Camino del Mar as a measure to protect public scenic views and identifies a goal to preserve existing views and view corridors from public vantage points to the maximum extent possible without preventing reasonable use of private property.

Proposed future development will require a Coastal Development Permit (CDP), which will consider the site-specific context and compliance with the certified LCP. There are seven required findings for approval (DMMC Section 30.75.140), which require conformance with the certified LCP including the policies and regulations that protect public scenic views through regulation of maximum structure height. Further, the certified LCP includes DMMC Section 30.75.260 (Special Regulations), which specifies that no CDP or exemption shall be issued or authorized for development that exceeds 26 feet in height or does not conform to the lot coverage development standards of the underlying zone. If applicable, a permit for a Density Bonus project may be denied if the City makes a finding that: 1) the request for concessions or incentives would not result in identifiable and actual cost reductions to provide for affordable housing; 2) the request would have a specific adverse impact on public health, safety, the environment, or historic resources; or 3) the request would be contrary to federal or state law (i.e., Coastal Act).

On February 21, 2024, the Planning Commission voted 3-0 (with Commissioners McGreal and Grewal recused) to recommend approval to the City Council of the staff recommendation to: 1) approve the CEQA environmental determination, 2) adopt an amendment to the Del Mar Community Plan, and 3) adopt amendments to the Zoning Code and Local Coastal Program with a stipulation of applying the maximum height of the certified LCP based on the local topography that slopes down east to west, existing public scenic views, and the need to maintain the existing pedestrian scale in accordance with the Del Mar Community Plan and certified LCP. The intent was to account for the unique circumstances in the CC zone (i.e., small-scale pedestrian-oriented character and public scenic views throughout the zone due to topography that slopes down towards the South Beach shoreline to the west) and commit to continue to hold development, including Density Bonus projects, to the existing height limits in the certified LCP.

On March 18, 2024, the City Council held a noticed public hearing that was continued to April 1, 2024. On April 1, 2024, the City Council adopted a Resolution to the amend the land use designations for the CC Zone and the PF Zone in the Del Mar Community Plan and introduced an Ordinance to amend the CC Zone and the PF Zone land use and zoning designations in the Local Coastal Program and Zoning Code. The amendments also clarified that housing

will not be an allowed use on the Shores Park properties. Timely City Council action to adopt the Ordinance on April 15, 2024, is needed to maintain compliance with State law and avoid potential enforcement actions of the 6th Cycle Housing Element.

Additional background regarding the proposed amendments can be accessed in the following links to the City Council Agenda reports for March 18 and April 1, 2024:
https://www.delmar.ca.us/DocumentCenter/View/9230/Item-8---CC-PF-Zone-Amendments

https://www.delmar.ca.us/AgendaCenter/ViewFile/Agenda/_04012024-3423

HOUSING IMPACT:
The amendments will increase the City's housing capacity by creating sites allowing 20 dwelling units per acre to facilitate future development of affordable housing in accordance with the certified 6th Cycle Housing Element. Housing Element Program 6B (Affirmatively Furthering Fair Housing) identifies that, "the City is committed to implement a suite of actions to create new opportunities for housing mobility and relocation to and within Del Mar with a goal of creating 100 additional housing opportunities beyond the City's Regional Housing Needs Allocation (RHNA) to improve housing choice and affordability options for moderate income, lower income, and special needs households." As required by the 6th Cycle Housing Element, the proposed amendments are among the specified actions to be taken to create these additional new housing opportunities.

In HCD's approval of the 6th Cycle Housing Element, it requires the City to create and maintain adequate sites for affordable housing within the first three years of the housing cycle (by April 2024). As site capacity for housing is increased through General Plan, Zoning, and LCP amendments, it allows the City to utilize the new housing opportunity sites created to meet future Housing Element requirements.

The new housing opportunity sites may also be used to address the "no net loss" State housing rules that apply in circumstances when certain housing sites require replacement housing (Government Code Section 65863). Pursuant to the State's rules for no net loss, a local jurisdiction must ensure that development opportunities remain available throughout the Housing Element planning period to accommodate the City's Regional Housing Needs Allocation (RHNA). If a local jurisdiction approves development on a parcel identified in the Housing Element Sites Inventory with fewer units than shown in the Housing Element, the jurisdiction must either make findings that the Housing Element's remaining sites have sufficient capacity to accommodate the remaining unmet RHNA by each income category or identify and make available sites to accommodate the remaining unmet RHNA. The City monitors entitlement and permitting activities throughout the housing cycle to ensure there are adequate sites to align with the Housing Element.

Adoption of the CC/PF amendments will confirm the City's existing capacity to develop seven lower income units on two City-owned vacant sites per the 6th Cycle Housing Element, and will identify new opportunities for lower income housing. This includes potential for 154 to 243

total dwelling units through Density Bonus projects in the CC zone (a portion of which would be required to be lower income units), and the potential for an additional 86 units in the PF zone that have not been relied upon as sites for the 6th Cycle Housing Element or any prior housing cycle.

FISCAL IMPACT: There is no fiscal action to be taken by the City Council for this agenda item.

ENVIRONMENTAL IMPACT: Section Six of the Ordinance (Attachment B) identifies the California Environmental Quality Act (CEQA) determination for the project per CEQA Guidelines Section 15162 based on substantial evidence in the record that the certified 6th Cycle Housing Element Final Program Environmental Impact Report (PEIR) covers the proposed actions and no further environmental document is required. The 6th Cycle Housing Element Final Program Environmental Impact Report (PEIR) and associated Mitigation, Monitoring, and Reporting Program was certified by the City Council on October 5, 2020 (State Clearinghouse (SCH) No. 2020029064). The Final PEIR is available at: www.delmar.ca.us/DocumentCenter/View/7171/Final-PEIR-91020

These amendments have been analyzed and it has been determined that they would not result in significant effects on the environment or an increase in the severity of effects on the environment as previously analyzed and identified in the Final PEIR. Pursuant to CEQA Guidelines Section 15162, no further environmental documentation is necessary. The 15162 CEQA Analysis prepared for this project is available for review in Report Attachment B.

NEXUS TO CITY COUNCIL GOALS AND PRIORITIES:
Implementation of the identified zoning actions in compliance with the City's 6th Cycle Housing Element is a Tier 1 (Highest) City Council priority work plan item that is required per State law and the Housing Element to be completed by April 2024.

ATTACHMENTS:
Attachment A – Ordinance to Amend the City's Zoning Regulations/Certified LCP
Attachment B – CEQA 15162 Analysis

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, AMENDING THE DEL MAR MUNICIPAL CODE (ZONING CODE) CHAPTER 30.22 CENTRAL COMMERCIAL (CC) ZONE REGULATIONS AND CHAPTER 30.31 PUBLIC FACILITIES (PF) ZONE; AND THE CITY'S CERTIFIED LCP ALL RELATING TO IMPLEMENTATION OF THE 6TH CYCLE HOUSING ELEMENT PROGRAMS 1C (CC ZONE) AND 1H (PF ZONE)

WHEREAS, the City of Del Mar is a charter City and State Housing law applies to all general law and charter cities in the State of California; and

WHEREAS, the State legislature declared that "Housing is a statewide concern", that California faces a housing crisis, and that local jurisdictions are mandated to comply with applicable State housing laws; and

WHEREAS, the City of Del Mar Community Plan is the General Plan for the City of Del Mar and has an overall goal to "preserve and enhance the special character of Del Mar", this includes maintaining the "village-like community of substantially single family residential character, a picturesque and rugged site, and a beautiful beach" as well as preserving and enhancing "Del Mar's special residential character and small town atmosphere with its harmonious blending of buildings and landscape in proximity to a beautiful shoreline"; and

WHEREAS, the City's certified Housing Element is one of many required components that is part of the Del Mar Community Plan consistent with State laws applicable to General Plans; and

WHEREAS, the certified Housing Element identifies programs and resources required for the preservation, improvement, and production of housing to meet the existing and projected needs of its population which requires the creation of additional affordable housing stock; and

WHEREAS, the certified Housing Element for the 6th Cycle years 2021-2029 requires the City to accommodate a regional housing need allocation (RHNA) of 163 housing units, comprised of 37 very-low income units, 64 low-income units, 31 moderate-income units, and 31 above moderate-income units and an additional 12 low income unit "carryover" from the 5th Cycle planning period (2013-2021) for a total obligation of 175 units including 113 lower income units as well as 100 additional opportunities for moderate income households, lower income households, and special needs households; and

WHEREAS, the proposed amendments to the Del Mar Community Plan, Zoning Code, and Local Coastal Program (LCP) are required per State law to be adopted by April 2024 to implement the City's 6th Cycle Housing Element commitments identified in

Program 1C (Central Commercial), Program 1H (Public Facilities), and Program 6B (Fair Housing) in order to maintain compliance with State law and avoid decertification of the Housing Element; and

WHEREAS, amending the existing Central Commercial (CC) Zone and Public Facilities (PF) Zone to allow a density of 20 dwelling units per acre will maintain adequate sites to meet the City's affordable housing obligations and provide additional opportunities beyond RHNA for moderate income households, lower income households, and special needs households in compliance with State law; and

WHEREAS, the City has made and continues to make progress toward its housing programs and housing production targets in its certified Housing Element; and

WHEREAS, adoption of this Ordinance is a necessary action to continue progress towards production of affordable housing in a way that minimizes impacts to local neighborhoods; and

WHEREAS, the California Department of Housing and Community Development (HCD) indicated in its May 31, 2023, Housing Element certification letter that the City must continue the timely and effective implementation of all Housing Element programs to maintain its status of having a certified Housing Element, and HCD has the authority to revoke the City's Housing Element compliance if the City's actions do not comply with State law or the Housing programs are not timely implemented; and

WHEREAS, over the past decade State laws have continued to reduce local and impose regulatory schemes that conflict with local procedures that typically require discretionary review, public participation, and public hearings; and

WHEREAS, to-date State housing laws have not preempted the California Coastal Act, which at the local level is implemented by the City's certified LCP; and

WHEREAS, the City of Del Mar is located entirely within the "Coastal Zone" boundary and is therefore subject to full compliance with the California Coastal Act; and

WHEREAS, State Density Bonus Law (DBL) is one example of a State law that still applies the Coastal Act protections for environmental resources, public scenic views, coastal access, and public safety in coastal hazard areas to ensure they will not be compromised by housing development; and

WHEREAS, proposed Density Bonus projects must comply with current State DBL, the California Coastal Act, and the City's certified LCP and may be approved at a density above the maximum set in the Del Mar Community Plan, Zoning Code, and LCP if a certain number of units are income-restricted and reserved for affordable housing (very low, low, and moderate-income households); and

WHEREAS, State DBL provides that the California Coastal Act is not superseded, in any way altered, or lessened by its application (Cal. Gov. Code. Sec. 65915) and applicants must provide reasonable documentation to explain how requests for incentives will reduce development costs to build a project and demonstrate how waiver requests would physically preclude development of a project; and

WHEREAS, the City has significant coastal resources that require protection under the Coastal Act, including but not limited to, the protection of scenic public coastal views which are found throughout the community, preservation of public access and recreation opportunities that must be assured including public access to the beach, viewpoints, and trail connections to the bluffs, lagoons, and open space preserve areas along the shoreline, and protection of environmentally sensitive habitat areas and coastal resources such as coastal bluffs, sandstone bluffs, wetlands, lagoons, river inlets, and protected tree species native to the City including Torrey Pines and Monterrey Cypress trees; and

WHEREAS, in order to effectively implement applicable State housing laws, the City must harmonize the Coastal Act and the City's LCP policies and regulations with the State's housing laws to ensure protection of sensitive coastal habitats and resources, public coastal view sheds, coastal parking for public access, and public health and safety; and

WHEREAS, City staff engaged in public outreach to encourage public participation in formulating these draft regulations, which included articles posted on the City's website, multiple announcements made in the City's weekly updates, and multiple announcements made during public meetings including the Planning Commission and City Council meetings; and

WHEREAS, the Notice of Availability and Notice of Planning Commission public hearing for the Amendments to the Community Plan, Zoning Ordinance, and LCP was posted in the Del Mar Times on January 25, 2024, and individual mailed notices, including notices to local tribes per Assembly Bill (AB 52), were sent to all interested parties; and

WHEREAS, City staff provided responsive information to the San Pasqual Band of Mission Indians upon their request on March 4, 2024, for information related to mitigation, monitoring, and reporting protocols to protect environmental resources, including tribal cultural resources; and

WHEREAS, on February 13, 2024, the Planning Commission recommendation hearing item was adjourned to a duly noticed special meeting to resume the public hearing on February 21, 2024, due to technical audio issues; and

WHEREAS, during the February 21, 2024, noticed public hearing, the Planning Commission recommended the City Council approve the CEQA determination and adopt the amendments with a stipulation of applying the maximum height of the certified LCP based on the local topography that slopes down east to west, existing public scenic views,

and the need to maintain the existing pedestrian scale in accordance with the Del Mar Community Plan and certified LCP; and

WHEREAS, the Planning Commission review focused heavily on the fact the amendments will allow a base zone density of up to 20 dwelling units per acre, which will make certain properties eligible to apply for processing of a density bonus project per State Density Bonus Law; and

WHEREAS, the Planning Commission's recommendation accounted for the unique circumstances in the CC Zone (i.e., small-scale pedestrian oriented character and public scenic views throughout the zone due to topography that slopes down towards the South beach shoreline to the west) and expresses that the City must continue to hold development, including Density Bonus projects, to the existing height limits in the LCP which are a maximum of 26 feet above grade and a maximum of 14 feet above the curb elevation on the west side of Camino del Mar; and

WHEREAS, on February 29, 2024, the notice of City Council public hearing was published in the Del Mar Times and mailed notices were sent to all interested parties including those who participated through the Planning Commission hearing on February 21, 2024; and

WHEREAS, on March 18, 2024, the City Council held a duly noticed public hearing and voted to continue the item date certain to the City Council meeting on April 1, 2024, and provided direction to staff that the Ordinance be revised to reflect that, consistent with the zoning designation, the Public Facilities land use designation in the certified Local Coastal Program will not allow residential use on the Shores Park site (APNs 300-200-01, 300-200-02, 300-200-22, 300-200-23); and

WHEREAS, on March 19, 2024, a Notice of Continuation was posted on the City website and in the public notice display at City Hall; and

WHEREAS, no additional public notice is required because the announcement continuing the item date certain to April 1, 2024, was stated for the record during the noticed public hearing on March 18, 2024; and

WHEREAS, adoption of this Ordinance (allowing 20 dwelling units per acre density in the Central Commercial and Public Facilities Zones, subject to specific criteria and context specific factors) will amend the Del Mar Municipal Code Title 30 Zoning Code and certified Local Coastal Program to implement the 6th Cycle Housing Element commitments in order to maintain compliance with State law and avoid decertification of the Housing Element.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Del Mar, California, based on substantial evidence in the whole of the administrative record, hereby finds and declares the following:

1. The foregoing Findings with the above stated Recitals are true and correct and are incorporated by reference into this action.

2. The General Plan Amendment (amending the Del Mar Community Plan land use designations for Central Commercial and Public Facilities) adopted by separate Resolution and the amendments to the Local Coastal Program and Zoning Code (Del Mar Municipal Code Title 30) in this Ordinance are consistent with State law requirements (Government Code Section 65860) that require the land use and zoning designations for a site to be consistent.

3. The CC Zone applies to the majority of land within the City's Village Center, which is a pedestrian-oriented downtown that runs along Camino del Mar between 9th Street and 15th Street. This area is Del Mar's principal commercial, visitor-serving, small-scale, pedestrian oriented downtown, which includes scenic blue water ocean views. The existing regulations limit building height to 26 feet above grade and a maximum of 14 feet above the curb elevation on the west side of Camino del Mar. The applicable Community Plan and LCP policies reflect the community vision to maintain the unique, small-town character and strong community identity through building design and height limits, which preserve ocean views and promote an open space small-town atmosphere.

4. Within the CC Zone, there is one developed multi-tenant commercial property known as "Stratford Square" that is located at 1438 Camino del Mar in the Historic Preservation Overly Zone. The property is a non-vacant commercial property that is small in size at 0.21 acres (9,375 sf). While the property may become eligible to process a Density Bonus project per State DBL as a result of the density increase to 20 dwelling units per acre, any proposed development would be required to be consistent with State and Federal law, including provisions for protection of historic resources and the public health and safety.

5. The PF zone applies to ten public facilities, all of which are City-owned with the exception of the Del Mar Library (County-owned) and U.S. Post Office (Federally-owned). A Sites Analysis identified housing development potential for nine public facilities in the PF Zone including: the vacant 10th Street and 28th Street lots in the City's 6th Cycle Housing Element, the Del Mar Civic Center, Del Mar Library, United States Post Office, and four water towers (Pine Needles, Crest, 11th Street, and Zuni). Shores Park was explicitly excluded as a potential site for housing in the certified 6th Cycle Housing Element.

6. Within the PF Zone, there is one vacant property at 28th Street that is located within the floodplain identified by the Federal Emergency Management Agency (FEMA) as subject to periodic inundation due to flooding as identified by best available science, are being exacerbated by climate change and sea level rise (existing and projected). Applicable federal, state, and local regulations ensure that new development in the floodplain will be appropriately sited and constructed so as to avoid hazards to those who will occupy the development; and to avoid damage or

hazards to the surrounding area. On a citywide basis, the City is addressing projected flood conditions to minimize flood risk through adaptation mitigation measures. These measures are consistent with the adopted City of Del Mar Sea Level Rise Adaptation Plan (Environmental Science Associates October 2018). Currently, the City has an existing system of shoreline protection along the shoreline in the North Beach neighborhood, which has been maintained in accordance with the Beach Preservation Initiative and the Beach Overlay Zone policies and regulations in the City's certified Local Coastal Program. In addition, the City has a Sand Compatibility Opportunistic Use Program in place to facilitate sediment management and maintenance of a wide beach and is in process of preparing a conceptual plan for a living levee, vegetated berm system, to provide flood adaptation along the banks of the San Dieguito River in accordance with the City's adopted Sea Level Rise Adaptation Plan and the Coastal Act. All new development, including the City-owned vacant 28th Street parcel, must demonstrate how the proposed development will implement adaptation measures to minimize flood damage and avoid flood hazards in accordance with the City's certified LCP and the California Coastal Act Chapter 3, Article 6, Section 30253(a) (Cal. Pub. Res. Code Section 30253(a)).

7. There are no known environmentally sensitive coastal resources or environmentally sensitive habitat areas in the CC Zone or PF Zone. Protection of these natural habitats and environmentally sensitive resources is a cornerstone of the Coastal Act found in the California Coastal Act Chapter 3, Article 6, Section 30240 (Cal. Pub. Res. Code Section 30240). State Density Bonus law specifically provides that coastal resource protections found in the California Coastal Act are not to be superseded or its effects lessened.

8. Within the CC Zone and PF Zone and surrounding neighborhoods there are public scenic view corridors to coastal resources that are protected under the California Coastal Act. Consistent with the Coastal Act Chapter 3, Article 6, Section 30251, these scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect views to and along the ocean and scenic coastal areas. (See: Cal. Pub. Res. Code Sec. 30251). New development in highly scenic areas such as those designated in the California Coastline preservation and Recreation Plan prepared by the Department of Parks and Recreation and by local government shall be subordinate to the character of its setting. (See: cal. Pub. Res. Code Section 30251).

9. State DBL does not supersede or lessen the effect of the California Coastal Act. (Cal. Gov. Code. Sec. 65915(m). Density Bonus project development may not obstruct the public scenic and visual qualities of the City's coastal areas. To be consistent with the mandates of the California Coastal Act, building restricted easements are enforced and certain height restrictions, including the existing certified height limit of 26 feet above grade and a maximum of 14 feet above the

curb elevation on the west side of Camino del Mar, may be placed on Density Bonus project development to ensure protection of public scenic coastal vistas.

10. Application of the existing height in the certified LCP for the CC Zone will implement the Del Mar Community Plan and certified LCP Land Use Plan policies to maintain pedestrian scale and preserve public scenic views that exist throughout the CC Zone due to the topography which slopes from the hill above to the east of the CC Zone down toward the south beach shoreline located west of the CC Zone.

NOW THEREFORE, BE IT FURTHER RESOLVED, the City Council of the City of Del Mar hereby ordains as follows:

SECTION ONE: That the title of DMMC Section 30.22.031 for the CC Zone be amended to state "Allowance for Multi-Dwelling Unit Residential Use" and that the section be amended as follows:

30.22.031 Allowance for Multi-Dwelling Unit Residential Use

A. Multiple dwelling unit residential use (0-20 dwelling units per acre) is an allowed use in the CC zone for mixed use projects that include an affordable housing component for lower income households. The minimum amount of affordable housing units included in a project must be calculated in accordance with Chapter 24.21 and provided on site. Any fractional unit obligation shall be rounded up.

B. Proposed multiple dwelling unit development shall maintain a pedestrian-oriented, predominately retail village character, with attractive walkways and courts which encourage social interaction.

C. Project design shall minimize bulk and mass and consider and include design features to preserve privacy on neighboring residential properties.

D. Project design shall consider and include design features to preserve views to the ocean and shall maintain public scenic views and public access protections consistent with the certified Local Coastal Program.

SECTION TWO: That DMMC Section 30.22.032 for the CC Zone be amended as follows:

30.22.032 Allowable Uses in Non-Street Frontage Building Spaces

The following are, pursuant to existing zoning regulations, permitted uses in non-street frontage building spaces but do not qualify as Street-Frontage Building Spaces:

A. Any use allowed in Street-Frontage Building Spaces, as identified in this Chapter.

B. Offices, including Professional, Medical, Real Estate and Financial Institutions.

C. Multiple dwelling unit residential use in compliance with Section 30.22.031.

SECTION THREE: That DMMC Section 30.31.020 (PF Zone Allowed Uses) be amended as follows:

30.31.020 Allowable Uses

The following uses are allowable in the PF Zone:

A. Public schools.

B. Private schools that are open to the public and whose primary function is providing educational programs for pre-school students and students in grades K through 12.

C. City, county, state and federal buildings and uses, including:
Administrative offices
Fire and police stations
Public works buildings
Public meeting rooms or chambers
Libraries
Postal offices
Public parking facilities
Public parks and playgrounds

D. Utility structures, such as: Pump stations and water tanks

E. With the exception of the Shores Park site (APNs 300-200-01, 300-200-02, 300-200-22, 300-200-23), multiple dwelling unit residential (at a density of 0-20 dwelling units per acre or the maximum number of dwelling unit specified for the parcel in the certified Housing Element, whichever is greater) that includes affordable housing for lower income households shall be an allowed use in the PF zone. State law defines a lower income household as people or families whose gross income does not exceed 80 percent of Area Median Income (AMI) and includes low income, very low income, and extremely low-income households.

1. Proposed multiple dwelling unit residential development shall comply with the maximum height and setbacks specified in Section 30.31.070 and with the maximum floor area and lot coverage applicable to adjacent properties with a common boundary in accordance with the certified Local Coastal Program.

2. Project design shall minimize bulk and mass and consider and include design features to preserve privacy on neighboring residential properties.

3. Project design shall consider and include design features to preserve views to the ocean and shall maintain public scenic views and public access protections consistent with the certified Local Coastal Program.

SECTION FOUR: That the City's certified Local Coastal Program Land Use Plan Chapter II Land Use Development policies for the South Beach District and the Village Center District be amended as follows:

C. LAND USE DEVELOPMENT GOALS AND POLICIES - BY DISTRICT

The City of Del Mar is comprised of residential areas with several commercial areas interspersed. The majority of the City's commercial uses are focused along Camino del Mar between Paseo de las Flores to the north and 9th Street to the south.

The following descriptions and policies have been grouped in relation to the individual districts within the City. These separate districts and their respective boundaries are illustrated on Figure II-B. Figure II-A contains the specific land use designations assigned to property throughout the City and a corresponding identification of the activities and uses allowed in each of the land use designations.

The following policies for specific geographic areas (districts) shall be implemented in concert with the Land Use Designation Map and the general development policies cited above in Section II-B. While the numbered sections below include descriptions of the general boundaries of separate land use designation areas, the Land Use Map (Figure IIA) should be consulted for a determination of boundary lines.

[No change to #1 through 4]

5. South Beach District:

The South Beach district contains a portion of Seagrove Park which is designated as PP (Public Parkland). The Shores Park is designated as PF (Public Facilities) and is developed with a public park, private school, and local non-profit uses and accessory off-street parking. To the south of the school site, the area along the west side of Camino del Mar is designated for VC (Visitor Commercial) with the same restrictions on use as described for the VC designation in the North Beach District. The remainder of the South Beach District is designated for residential uses as follows:

That portion of the district bounded by 15th Street on the north, 9th Street on the south, the AT & SF Railway right-of-way on the west and the Village Center District on the east is designated for R2 (High Density) at a maximum density of 12.5 du/ac. A one block area to the east is designated for RC (Residential Commercial) which allows a mix of residential and commercial uses on each site, provided that no more than 40% of the floor area on site is devoted to commercial uses. Further to the south, the area is designated as RMS (Medium Density Multiple-South) which allows a maximum density of 10.9 du/ac. While the district does allow the development of higher density residential

projects, the approval of such projects shall be granted only when they are found to be consistent with the general and specific policies of this Land Use Plan. These policies are intended to minimize traffic and parking impacts associated with such development and to ensure that those higher density projects are aesthetically pleasing.

[No change to #6 through 8]

9. Village Center District

This area is designated primarily as Central Commercial (CC) and is Del Mar's principal commercial, visitor serving and professional area. The Village Center is a pedestrian-oriented downtown that is intended to group housing, retail services, and commercial services with facilities for civic and community activities. It extends along both sides of Camino del Mar, beginning at 9th Street and reaching north to 15th Street. The District contains the site of the U.S. Post Office, City Hall, and City of Del Mar's branch of the County of San Diego Library designated as PF (Public Facilities) on the Land Use Map.

Multiple specific plan areas are also included in the Village District. The Specific Plan for the Del Mar Hotel, (HSP west side of Camino del Mar at 15th Street) generally limits the uses on the site to a hotel, timeshare and short term rental units and associated retail uses. The Specific Plan for the Del Mar Plaza, (PSP east side of Camino del Mar at 15th Street) generally limits the uses on site to restaurant and retail uses with a small percentage allowed for office use. The 941 Camino del Mar Specific Plan (941SP east side of Camino del Mar at 10th Street) generally limits the uses to a combination of restaurant, retail, short term rental, and residential uses. Each of the Specific Plan areas devotes a portion of the property to public and quasi-public use. Each of these specific plans was voter approved and requires a recorded Development Agreement between the City and the developer/property owner. Where a particular conflict arises between the provisions of a valid and recorded Development Agreement and any policies of this Land Use Plan that have been subsequently adopted, the former shall continue to be binding and shall supersede the subsequently adopted policies of this Land Use Plan. Subsequent development agreements or amendments to existing Development Agreements shall be consistent with the Land Use Plan in effect at the time.

The CC (Central Commercial) designation encompasses the majority of land within the Village District. The CC designation allows for a variety of commercial uses aimed at serving the needs of both residents and visitors to the area. Due to the City's popularity as a visitor-destination point, the majority of the property in the CC Zone has been developed with uses that serve both residents and visitors. The Central Commercial area allows pedestrian oriented retail activities, commercial services and a limited number of offices; and multiple dwelling unit residential (0-20 dwelling units per acre) that includes affordable housing for lower income households and is designed consistent with the policy intent to retain a pedestrian-oriented downtown and compliance with the certified Local Coastal Program. State law defines a lower income household as people or families whose gross income does not exceed 80 percent of Area Median Income (AMI) and includes low income, very low income, and extremely low-income households.

In order to facilitate the demand for more goods and services, the following policies have been developed to better utilize the commercially designated land in the Village Center District.

a. In the Village Center District, large single purpose businesses, and businesses catering to an automotive public (drive-through banks, drive through food stands, etc.) shall be discouraged.

b. In the Village Center District, building designs which incorporate a unique and small-town character shall be encouraged and building designs which are based on a corporate identity or logo shall be discouraged.

c. In the Village Center District, retail enterprises whose primary purposes are to satisfy the needs of the community and enhance the quality and convenience of life in Del Mar shall be encouraged.

d. In the Central Commercial portion of the Village Center District, retail uses shall be encouraged over office uses for floor area located at the street level of structures fronting Camino del Mar.

e. While some office space is desirable, it shall be concentrated in the southern portion of the Village Center District.

f. In addition to a variety of commercial businesses, the Village Center District should have a Community Center, complete with Council Chambers, City Hall, Library and Communications Center; attractive walkways, and a variety of open spaces such as courts and landscaped areas.

g. Pedestrian-oriented streetscape which promotes social interaction, pedestrian use and a strong community identity shall be encouraged in the Village Center District.

h. In the Village Center District, structures shall be in keeping with the pedestrian scale and village character of the community.

i. In the Village Center District, structures shall be of an architectural style which retains a low scale intensity of development, utilizes designs which preserve ocean views, and promotes an open space small-town atmosphere.

[No change to #10]

SECTION FIVE: That the City's certified Local Coastal Program Land Use Plan Map "Land Use Designations/Allowed Uses" descriptions for the CC Zone and the PF Zone be amended as follows:

LAND USE DESIGNATIONS/ALLOWED USES

[No change to R1-40 through CVPP]

CC - Retailing of goods and dispensing of services, (exclusive of drive-through). Shops, Delis, Restaurants, Cafes, florists, Hardware, Offices, Financial institutions, Pharmacies, Gasoline service stations*, Bars*, Cocktail lounges*, Theatres*, Vet clinics*, Hotels/Motels*, and multiple dwelling unit residential (0-20 dwelling units per acre) that includes affordable housing for lower income households. State law defines a lower income household as people or families whose gross income does not exceed 80 percent of Area Median Income (AMI) and includes low income, very low income, and extremely low-income households.

[No change to BC through PP]

PF - Public schools; City, County, State and Federal buildings; Utility structures; and with the exception of the Shores Park site (APNs 300-200-01, 300-200-02, 300-200-22, 300-200-23), multiple dwelling unit residential (at a density of 0-20 dwelling units per acre or the maximum number of dwelling unit specified for the parcel in the certified Housing Element, whichever is greater) that includes affordable housing for lower income households. State law defines a lower income household as people or families whose gross income does not exceed 80 percent of Area Median Income (AMI) and includes low income, very low income, and extremely low-income households.

[No change to 941 SP through PSP]

SECTION SIX:

Pursuant to the California Environmental Quality Act (CEQA), the proposed actions have been the subject of prior environmental analysis in the 6th Cycle Housing Element Update Final Program Environmental Impact Report (SCH No. 2020029064) certified by the City Council on October 5, 2020 (Resolution 2020-52), which analyzed and disclosed anticipated impacts of future housing development. Refer to the Final 6th Cycle PEIR: www.delmar.ca.us/DocumentCenter/View/7171/Final-PEIR-91020

No new or substantially greater impacts would result. As such, pursuant to CEQA Guidelines Sections 15162, and based on the review of the entire record, including without limitation, the Final PEIR referenced above, the proposed action does not require a subsequent EIR or further environmental review.

SECTION SEVEN:

Pursuant to the certified 6th Cycle Housing Element, these amendments are being adopted prior to April 2024 to implement Housing Element Program 1C (Central Commercial Zone), Program 1H (Public Facilities Zone), and Program 6B (Affirmatively Furthering Fair Housing) to ensure the City's certified Housing Element continues to be maintained in compliance with State law. HCD indicated in its May 31, 2023, Housing Element certification letter that the City must continue the timely and effective

implementation of all Housing Element programs to maintain its status of having a certified Housing Element, and that HCD has the authority to revoke the City's Housing Element compliance if the City's actions do not comply with State law or the Housing programs are not timely implemented.

SECTION EIGHT:
This Ordinance was introduced by the City Council on April 1, 2024.

SECTION NINE:
The City Clerk is directed to prepare and have published a summary of this Ordinance no less than five days prior to the consideration of its adoption and again within 15 days following adoption indicating votes cast.

SECTION TEN:
If any section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION ELEVEN:
Upon adoption, the Ordinance will be submitted to the California Coastal Commission for certification as a Local Coastal Program Amendment. The Ordinance will take effect and be in force on the date that the Coastal Commission takes action to unconditionally certify the Local Coastal Program Amendment.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council held on the 15th day of April 2024.

_____
Terry Gaasterland, Deputy Mayor
City of Del Mar

APPROVED AS TO FORM:

_____
Leslie E. Devaney, City Attorney
City of Del Mar

ATTEST AND CERTIFICATION:

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
CITY OF DEL MAR

I, SARAH KRIETOR, Administrative Services Manager/City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY, that the foregoing is a true and correct copy of Ordinance No.____, which has been published pursuant to law, and adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the 15th day of April, 2024, by the following vote:

AYES:

NOES:

RECUSE:

ABSENT:

ABSTAIN:

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

3.13.2024

15162 Analysis: CC Zone and PF Zone Amendments

The proposed project involves amendments to the City of Del Mar General Plan (Del Mar Community Plan), Municipal Code, and certified Local Coastal Program (LCP) relating to the Central Commercial (CC) Zone and Public Facilities (PF) Zone to allow residential development at a density of 20 dwelling units per acre. The amendments are required to implement two housing programs (Program 1C and Program 1H) in the City's 6th Cycle Housing Element. The purpose is to create zoning capacity for future development of multi-unit projects that include affordable housing for lower income households.

CEQA Determination

The City as lead agency has determined, pursuant to CEQA Guidelines Section 15162 and based on substantial evidence in light of the whole record that no subsequent or supplemental EIR is required to be prepared for the project. The following analysis was prepared to substantiate this determination.

On October 5, 2020, the 6th Cycle Housing Element Final Program Environmental Impact Report (PEIR) and Mitigation, Monitoring, and Reporting Program (MMRP) was certified by the City Council (State Clearinghouse (SCH) No. 2020029064) covering environmental analysis for the City's Housing Element plan and implementation programs. This Final PEIR analyzed the potential for affordable housing on parcels in the CC zone and the PF zone, including the two City-owned 10th Street and 28th Street vacant parcels that are listed in the City's Housing Element sites inventory.

The 6th Cycle Final PEIR, including the MMRP, is available for review at: www.delmar.ca.us/DocumentCenter/View/7171/Final-PEIR-91020

Pursuant to CEQA Guidelines Section 15162, no subsequent or supplemental EIR is required, in that no substantial evidence has been submitted demonstrating that substantial changes are proposed involving new significant effects or an increase in the severity of previously identified effects; no substantial changes have occurred with respect to the circumstances under which implementation of the Housing Element programs are being adopted; and no new information has demonstrated that new significant effects will occur. Future development in the CC Zone and PF Zone will be subject to additional CEQA analysis at the project level as applicable, and at a minimum will be required to comply with the 6th Cycle PEIR MMRP mitigation measures and the objective standards of the City's certified LCP. In circumstances where State Housing law may impose ministerial permit processing, each Administrative Coastal Development Permit decision would require a finding that the proposed development is consistent with the requirements of the certified Local Coastal Program including the following protections for coastal resources:

- Public access and public recreation policies of Coastal Act Chapter 3, which require preservation of on-street parking to ensure public access to the shoreline will be maintained and account for the prioritization of coastal dependent uses over residential use in commercial zones in certain circumstances;
- Beach Overlay Zone and Setback Seawall Zone provisions and Chapter 3 Policies of Coastal Act relating to shoreline protection;
- Provisions for protection of public scenic views in accordance with the LCP Land Use Plan policies IV-22 through IV-27; and
- Provisions for protection of wetlands and environmentally sensitive habitat areas, which include the City's very high fire hazard severity areas.

CC Zone Analysis

The Program 1C housing strategy to create additional housing capacity in the CC Zone was analyzed in the 6th Cycle Housing Element PEIR. There are 56 parcels in the CC Zone, which were grouped into 39 potential housing sites to reflect locations where contiguous lots are held under the same ownership.

Other than the change in density to allow up to 20 dwelling units per acre, there will be no change to the existing development standards. The existing height limit will continue to apply which is a maximum of 26 feet above grade and an additional height limitation on the west side of Camino del Mar of 14 feet maximum above the curb elevation. The analysis identified that there are existing non-conforming structures in the CC zone that are as high as 30 feet above grade on the east side of Camino del Mar (across from the Civic Center) and that on the west side of Camino del Mar the existing structures generally conform to a maximum 14 feet above the curb elevation on Camino del Mar.

Initially, staff identified only 14 sites in the CC Zone that may be eligible for State Density Bonus law (DBL). However, following Planning Commission's review, seven additional small sites were added to the list of eligible sites to account for State DBL rules that provide for rounding up of the allowable unit count to the nearest whole number (e.g., rounding up 4.2 units to 5 units) instead of traditional rounding to the nearest whole number. As a result, staff identified 18 sites in the CC zone with development potential at four units or less (20 du/ac), and that the remaining 21 potential housing sites would allow 5 units or more per lot and therefore may be eligible to process Density Bonus projects per State DBL. See tables below.

The 21 potential density bonus sites are spread along the east and west sides of the Camino del Mar commercial corridor and include three sites in the 900 block, two sites in the 1000 block, five small sites in the 1100 block, three sites in the 1200 block, three sites in the 1300 block, four sites in the 1400 block, and one site on 15th Street. The range of housing capacity on these sites at a base density of 20 dwelling units per acre would be 5 to 17 dwelling units (pre-density bonus) with a combined housing capacity ranging between 154-243 units. New development would be required to reserve a percentage of the units as deed restricted lower income. Future housing development in the CC Zone will be subject to additional CEQA analysis at the project level as applicable, and at a minimum will be required to comply with the 6th Cycle PEIR MMRP mitigation measures and the objective standards of the City's certified LCP.

Dwelling Unit (du) Potential in CC Zone – May be Eligible to Process Density Bonus Project at 20 du/acre					
	Site	**Lot Size**	**Side of CDM**	**Base Density Units** (pre-density bonus)	**With Max 50% Density Bonus**
1	915 Camino del Mar/300 9th Street	0.39 acres (16,908 sf)	East	8 dus	12 dus
2	910 Camino del Mar	0.34 acres (14,941 sf)	West	7 dus	11 dus
3	APNs 300-172-13, -14 (vacant) 10th Street/Camino del Mar	0.44 acres (19,166 sf)	West	9 dus	14 dus
4	1011 Camino del Mar	0.65 acres (28,353 sf)	East	13 dus	20 dus
5	1047 Camino del Mar	0.51 acres (22,188 sf)	East	11 dus	17 dus

6	1135 Camino del Mar	0.30 acres (13,195 sf)	East	6 dus	9 dus
7	1110 Camino del Mar	0.30 acres (13,392 sf)	West	6 dus	9 dus
8	1104 Camino del Mar	0.21 acres (9,461 sf)	West	5 dus	8 dus
9	1101-1105 CDM	0.23 acres (10,216 sf)	East	5 dus	8 dus
10	1125 Camino del Mar	0.24 acres (10,475 sf)	East	5 dus	8 dus
11	1201 Camino del Mar	0.45 acres (19,649 sf)	East	9 dus	14 dus
12	1219-1229 CDM	0.32 acres (14,222 sf)	East	7 dus	11 dus
13	1234 Camino del Mar	0.33 acres (14,739 sf)	West	7 dus	11 dus
14	1310-1312 CDM	0.24 acres (10,650 sf)	West	5 dus	8 dus
15	1330-1342 CDM	0.24 acres (10,779 sf)	West	5 dus	8 dus
16	1327-1349 CDM and 317 14th Street	0.84 acres (36,377 sf)	East	17 dus	26 dus
17	1401 Camino del Mar	0.25 acres (11,029 sf)	East	5 dus	8 dus
18	1431 Camino del Mar	0.44 acres (19,165 sf)	East	9 dus	14 dus
19	1404 Camino del Mar	0.33 acres (14,244 sf)	West	7 dus	11 dus
20	1438 Camino del Mar	0.21 acres (9,375 sf)	West	5 dus	8 dus
21	201-211 15th Street	0.21 acres (9,300 sf)	N/A	5 dus	8 dus

Sites in CC Zone – Not Eligible to Process Density Bonus Project per State Density Bonus Law (DBL)
(Minimum Base Density of 5 Dwelling Units per Project is Required per DBL)

	Site	**Lot Size**	**Unit Potential (20 du/ac)**
1	318 9th Street	0.19 acres (8,453 sf)	3 dus
2	240 9th Street	0.19 acres (8,420 sf)	3 dus
3	944 Camino del Mar	0.19 acres (8,488 sf)	3 dus
4	1130 Camino del Mar	0.16 acres (6,992 sf)	3 dus
5	1140 Camino del Mar	0.09 acres (3,980 sf)	1 du
6	APN 300-092-15 (vacant)	0.09 acres (4,081 sf)	1 du
7	243 12th Street	0.19 acres (8,580 sf)	3 dus
8	1237 Camino del Mar	0.19 acres (8,454 sf)	3 dus
9	1247 Camino del Mar	0.13 acres (5,938 sf)	2 dus
10	1202 Camino del Mar	0.18 acres (8,151 sf)	3 dus
11	1212 Camino del Mar	0.14 acres (6,081 sf)	2 dus
12	1226 Camino del Mar	0.14 acres (6,122 sf)	2 dus
13	1302 Camino del Mar	0.14 acres (6,063 sf)	2 dus

14	1328 Camino del Mar	0.07 acres (3,412 sf)	1 du
15	1412, 1414 Camino del Mar	0.16 acres (7,100 sf)	3 dus
16	1424 Camino del Mar	0.16 acres (7,100 sf)	3 dus
17	221 15th Street	0.14 acres (6,230 sf)	2 dus
18	215 15th Street	0.07 acres (3,100 sf)	1 du

PF Zone Analysis

The Program 1H housing strategy confirms available housing capacity on publicly-owned sites in the PF Zone, excluding the Shores Park site (APNs 300-200-01, 300-200-02, 300-200-22, 300-200-23). The amendments would create nine potential housing sites for small multi-unit development. Each site was previously analyzed in accordance with CEQA in the 6th Cycle Housing Element PEIR as identified above. All future housing development on these sites would be subject to additional CEQA analysis at the project level and the City's typical discretionary design review permit/coastal development permit process.

The 6th Cycle Housing Element identified these two sites for development of seven lower income units:

- **28th Street Vacant lot** (3 small lower income units) – This vacant lot is located in the Floodplain Overlay Zone and Coastal Commission Appeals boundary and would be required to implement all applicable mitigation measures identified in the 6th Cycle Housing Element PEIR; and
- **10th Street Vacant lot at Civic Center complex** (4 small lower income units) – There are no environmentally sensitive resources in this location. Future development would be required to implement all applicable mitigation measures identified in the 6th Cycle Housing Element PEIR.

The additional seven PF zone sites were not identified as housing sites in the 6th Cycle Housing Element. Future development on these sites would be subject to additional CEQA analysis at the project level:

- **Del Mar Library** - up to 5 units on 0.27 acres (11,924 sf)
- **U.S. Post Office** - up to 15 units; 0.79 acres (34, 372 sf)
- **Pine Needles Water Tower** – up to 4 units; 0.20 acres (8,728 sf)
- **Crest Water Tower** – up to 6 units; 0.31 acres (13,708 sf)
- **11th Street Water Tower** – up to 15 units; 0.77 acres (33,513 sf)
- **Zuni Water Tower** – up to 12 units; 0.63 acres (27,479 sf)
- **Additional lots at Civic Center Complex** (300-093-15, -16, and -18) – up 29 units (1.46 acres)

6th Cycle Housing Element PEIR MMRP Mitigation Measures

The 6th Cycle PEIR MMRP is available here: www.delmar.ca.us/DocumentCenter/View/7171/Final-PEIR-91020. These mitigation measures would be applied to future housing projects to minimize the potential for impacts related to the following potentially significant issue categories: biological resources, cultural resources, geology and soils/paleontological resources, hazards/hazardous materials, noise and vibration, and tribal cultural resources. Future development would also be subject to compliance with the objective standards of the City's certified LCP and additional project-specific mitigation if applicable.

City of Del Mar
Agenda Report

TO: Honorable Mayor and City Council Members

FROM: Denise Galvan, Management Analyst
Sarah Krietor, Administrative Services Manager/City Clerk
Via Ashley Jones, City Manager

DATE: April 15, 2024

SUBJECT: Design Review Board Interview and Appointment

REQUESTED ACTION/RECOMMENDATION:
Staff recommends that the City Council review the Citizen Interest Forms (Attachment A), interview the applicants, and appoint one resident to serve as a voting member on the Design Review Board for a full four-year term effective April 15, 2024, and expiring on April 30, 2028.

DISCUSSION/ANALYSIS:
The Design Review Board (DRB) evaluates planning applications for their consistency with the provisions of the Del Mar Community (General) Plan, Zoning Ordinance and the applicable design review standards included in the Design Review Ordinance (DRO).

There is one voting member vacancy on the DRB due to Amy Isackson's term expiration on February 4, 2024. The City advertised the vacancy and received Citizen Interest Forms from Henrik Jensen and Steve Mitgang (Attachment A). Both applicants have indicated that they meet the requirements of the Del Mar Municipal Code (DMMC) Section 2.38.020 (Attachment B) to serve as voting members on the DRB.

Staff recommends that the City Council review the Citizen Interest Forms, interview the applicants, and vote to appoint one applicant to serve on the DRB as a voting member for a full four-year term beginning on April 15, 2024, and expiring on April 30, 2028.

Pursuant to Council Policy 200 "Committees – City Council Advisory Committees, Boards and Commissions" (Attachment C), an applicant must receive three affirmative votes in order to be appointed. If three affirmative votes are not received, the Council can choose to vote again or to direct staff to reopen the vacancy to solicit additional interest.

If the vacancy is filled, the DRB will have two remaining ex-officio, non-voting member vacancies that City staff will continue to advertise.

ATTACHMENTS:
Attachment A - Citizen Interest Forms
Attachment B - Del Mar Municipal Code Section 2.38.020
Attachment C - City Council Policy 200

City Council Action:

DEL MAR CITIZEN INTEREST FORM

Received
on 4/5/2024 12:04 pm

I. APPLICANT INFORMATION

Jensen	Henrik	W
Last Name	First Name	Middle Initial

[redacted] Del Mar, CA 92014

Home Street Address* City, State

**Applicants are required to provide a physical residency address. Mailing addresses or Post Office boxes will not be accepted. The City will maintain all residency addresses strictly confidential.*

Business Street Address (if applicable) City, State

[redacted] [redacted]

Home Phone Number Business Phone Number E-mail Address

II. APPLICATION DETAILS

I am interested in serving on the following Committees, Board(s) or Commission(s) in order of preference (indicate 1st, 2nd choice, etc.):

___ Arts Advisory Committee
___ Parks and Recreation Committee
_X_ Design Review Board
___ Planning Commission
___ Finance Committee
___ Sustainability Advisory Committee
___ Lagoon Committee
___ Traffic and Parking Advisory Committee
___ Measure Q Citizen Oversight Committee
___ Undergrounding Project Advisory Committee
___ Other(s) (please indicate):_____

Qualifications for appointment and/or reasons for application (attach additional pages as needed):

I am Professor Emeritus from UCSD, where I was appointed as a full professor with a specialty in 3d geometry and lighting simulation. I have worked with lighting companies and architects throughout my career to render buildings, simulate nighttime lighting in cities, and to ensure high quality daylighting in buildings. I would like to help ensure that Del Mar is developed in a way that respects the unique beauty of the city.

Education:

M.Sc. and PhD from the Technical University of Denmark
Research Associate at MIT and Stanford University

THIS IS A PUBLIC RECORD SUBJECT TO DISCLOSURE.
Note: Personal information may be withheld from public view as allowed by law

Relevant Experience (job or volunteer etc.):

I have 30+ years of experience working with lighting simulation and 3d geometry. My speciality is understanding why things look the way they do. Throughout my career I have worked with designers, architects, lighting engineers on simulating buildings including computing daylighting factors and isolux contours for buildings, simulating the night sky, computing the light emitted by lamps, color and material appearance,

Name all of the Del Mar Committees/Boards/Commissions that you now serve on:

None

Please name all the Boards/Commissions/Committee/Task Forces that you have served on in the past, and if you can, the dates of your service:

None in Del Mar. As Professor at UCSD I served on numerous committees in the CS department at UCSD including the building and hiring committee (2002 - 2018).

Optional: Please list three Del Mar residents who can provide a reference:**

NAME	STREET NAME (no house number)	Phone Number
Glynn Bolitho	11th street	[redacted]
Bill Engel	15th street	
Tracy Weaver	19th street	

***Due to Brown Act limitations that restrict communications between Councilmembers regarding upcoming actions of the City Council, please do not include a current sitting Councilmember as a reference for your appointment.*

Residency

	Month	Year
I have been a resident of California since:	August	1999
I have been a resident of San Diego County since:	October	2002
I have been a resident of Del Mar since:	June	2023

What part of town do you live in? Geographic diversity is desirable and will be taken into account. Check the neighborhood map to verify your neighborhood.

- ☐ North Bluff
- ☐ North Beach
- ☐ South Beach
- ☑ Village Center
- ☐ South Bluff
- ☐ South Hills
- ☐ North Hills
- ☐ Valley

Are you a full-time or part-time resident of Del Mar? ☑ Full-time ☐ Part-time

Is Del Mar your primary place of residence? ☑ Yes ☐ No

Are you a registered voter in Del Mar? ☑ Yes ☐ No

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Note: Personal information may be withheld from public view as allowed by law

III. COMMITTEE SPECIFIC QUESTIONS

The following are additional questions related to specific committees. Please answer the questions only for the committee(s) you are applying for.

1. **Arts Advisory Committee**

Membership on the Arts Advisory Committee is set by category. Which membership category do you best fit in? Select all that apply. (Note that City staff, consultants, and vendors are precluded from serving on the Arts Advisory Committee.)

- ☐ Resident with an art background
- ☐ Resident without an art background
- ☐ Business Owner- Art related business
- ☐ Del Mar Foundation Representative
- ☐ Del Mar Village Association Representative
- ☐ Ex-Officio (non-voting) – with Art related expertise
- ☐ Other (please explain): _____

Describe your experience and skills as they relate to the world of community art and fine art.

Why in your opinion is public art valuable to the Del Mar community?

What is your public art philosophy?

2. **Finance Committee**

The Finance Committee is looking for applicants with financial expertise and background.

Please describe your experience reviewing financial reports, conducting financial studies or any related experience. Please include any experience specific to public entities.

What aspects of the City's finances most interest you and why?

3. **Measure Q Citizen Oversight Committee**

Membership on the Measure Q Citizen Oversight Committee is set by category. Which membership category do you best fit in? (Select all that apply)

- ☐ Current (or within past 5 years) Finance Committee Member
- ☐ Business Community Member
- ☐ At-large Resident Member
- ☐ Other (please explain): _____

4. **Traffic and Parking Advisory Committee**

Which membership category do you best fit in? (Select all that apply)

- ☐ Business representative (can be a non-resident)
- ☐ Resident
- ☐ Other (please explain): _____

Do you have any special expertise or experience related to traffic and parking? If yes, please explain:

5. **Parks and Recreation Committee**

The Parks and Recreation Committee is looking for applicants with an interest in the City's parks and open spaces.

Please describe your personal or professional experience related to parks, open spaces, trails, public recreation or any similar experience.

What aspects of the City's parks and recreation most interest you and why?

6. **Lagoon Committee**

The Lagoon Committee is looking for applicants interested in the preservation of the lagoon and surrounding area.

What aspect(s) of being on the Lagoon Committee most interest you and why?

7. **Shores Advisory Committee**

The Shores Advisory Committee is looking for applicants interested in the Shores Park property and planning process.

What aspects of being on the Shores Advisory Committee most interest you and why?

Please describe your vision for the future of Shores Park.

8. **Sustainability Advisory Committee**

The Sustainability Advisory Committee members are community leaders on environmental issues.

In what ways would you like to contribute to a more sustainable world either in your personal life or on a broader community level?

Please describe any outreach or public education efforts you have participated in related to environmental issues or in other areas. Do you have skills or experience in outreach that you could bring to the Sustainability Advisory Committee?

9. **Undergrounding Project Advisory Committee**

The Undergrounding Project Advisory Committee is seeking applicants with an interest in the citywide undergrounding project.

Is your utility service undergrounded? What involvement did you have, if any?

What aspects of being on the Utility Undergrounding Advisory Committee most interest you?

10. Design Review Board and/or Planning Commission

Briefly describe your qualifications and experience as it relates to serving on the Design Review Board or Planning Commission. The required qualifications for each can be found in the Del Mar Municipal Code (DMMC) Chapters 2.34 and 2.38. You will be able to provide more information at a City Council public meeting during an open interview process.

I have worked with Bokal & Sneed on designing several houses for Del Mar. I have participated in numerous CPP 1, CPP 2, and DRB meetings. I have lived in the 92014 zip code for 9 years. I have read and respect the design review ordinance for Del Mar.

11. **For All Committees: Thank you for completing the Citizen Interest Form. Is there anything else you would like to add to your application for the City Council to consider?**

IV. SIGNATURE AND ACKNOWLEDGEMENT

Please review the important information below before signing and submitting your application. Please note that recommendations for appointments to City advisory committees (other than the Planning Commission and Design Review Board) are made by the Council Liaisons to that Committee. The appointments are then placed on the consent calendar for consideration for approval by the full City Council at the next available City Council meeting. For reasons of privacy, the individual candidates are not discussed at the meeting.

Additionally, the Del Mar Conflict of Interest Code requires that members of the Design Review Board, Planning Commission, and Finance Committee file Conflict of Interest Statements with the Administrative Services Department in conformance with the Fair Political Practices Commission and the City's Conflict of Interest Code. Other advisory committee members are not required to file Conflict of Interest Statements.

By signing below, you are acknowledging that you have reviewed the Committee webpage for which you are applying and that you understand the conflict of interest filing requirement, if applicable. Part of your service may include ethics and anti-harassment training upon appointment and bi-annually. Visit the City's Conflict of Interest Code webpage to learn more about the requirement.

By submitting this application, you are signing under penalty of perjury that the information you are providing, is true and correct to the best of your knowledge.

[redacted]
Signature

April 5, 2024
Date

Within three (3) business days you will receive a confirmation email that your application is received. If you have questions, please email cityclerk@delmar.ca.us or call (858) 755-9313 and a staff member will get back to you promptly.

THIS IS A PUBLIC RECORD SUBJECT TO DISCLOSURE.
Note: Personal information may be withheld from public view as allowed by law

DEL MAR CITIZEN INTEREST FORM

RECEIVED
By Kizgarskaia at 8:01 am, 4/5/24

I. APPLICANT INFORMATION

Mitgang	Steve	R
Last Name	First Name	Middle Initial

[redacted] Del Mar, CA

Home Street Address* City, State

**Applicants are required to provide a physical residency address. Mailing addresses or Post Office boxes will not be accepted. The City will maintain all residency addresses strictly confidential.*

Business Street Address (if applicable) City, State

[redacted] [redacted]

Home Phone Number Business Phone Number E-mail Address

II. APPLICATION DETAILS

I am interested in serving on the following Committees, Board(s) or Commission(s) in order of preference (indicate 1st, 2nd choice, etc.):

___ Arts Advisory Committee

__X_ Design Review Board

___ Finance Committee

___ Lagoon Committee

___ Measure Q Citizen Oversight Committee

___ Other(s) (please indicate):_____

___ Parks and Recreation Committee

___ Planning Commission

___ Sustainability Advisory Committee

___ Traffic and Parking Advisory Committee

___ Undergrounding Project Advisory Committee

Qualifications for appointment and/or reasons for application (attach additional pages as needed):

- I have lived in the Del Mar for 30 years and am sensitive to the special aspects of what Del Mar is and means to both residents and visitors. I have lived in Del Mar proper since July, 2023
- My wife and I just went through the DRB process to start and complete our new home on Crest. Hence, I am very familiar with the various needs of the city and as a resident related to the process of building a home in the area and adjacent to a sensitive area.
- I have a degree in Architecture from UC Berkeley and have run many complex projects in business. And many real estate projects also including sensitive areas.
- I have a very positive reputation in the business community as someone who has built many successful companies and am thought to be a great listener who can uniquely understand the needs of multiple constituents, and always treat people with candor and transparency.

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Education:

AB Architecture UC Berkeley 1983

Relevant Experience (job or volunteer etc.):

- Recent Del Mar home build on Crest Rd., within a sensitive bluff and fire zone. My own DRB experience will help create empathy with various constiuents.
- Each start up I led in San Diego (4) has had various real estate needs and processes that range from complete newly built structures to major retrofits. One was in a bluff sensitive area.
- I have built two homes from scratch in the last 20 years.
- I have worked with various departments within the city related to our build process: planning, public works, finance, etc.
-

Name all of the Del Mar Committees/Boards/Commissions that you now serve on:

- None

Please name all the Boards/Commissions/Committee/Task Forces that you have served on in the past, and if you can, the dates of your service:

NA

Optional: Please list three Del Mar residents who can provide a reference:**

NAME	STREET NAME (no house number)	Phone Number
Jay Thomas	377 Belaire St	[redacted]
Tina Thomas	136 22nd St	

***Due to Brown Act limitations that restrict communications between Councilmembers regarding upcoming actions of the City Council, please do not include a current sitting Councilmember as a reference for your appointment.*

Residency

Month Year

I have been a resident of California since:	July	1970
I have been a resident of San Diego County since:	July	1991
I have been a resident of Del Mar Heights/Mira Montana since 1991 and Crest Rd July 2023	July Crest Rd July	1991 2023

What part of town do you live in? Geographic diversity is desirable and will be taken into account. Check the neighborhood map to verify your neighborhood.

- ☐ North Bluff
- ☐ North Beach
- ☐ South Beach
- ☐ Village Center
- ☐ South Bluff
- ☐ South Hills
- ☒ North Hills
- ☐ Valley

Are you a full-time or part-time resident of Del Mar? ☒ Full-time ☐ Part-time

Is Del Mar your primary place of residence? ☒ Yes ☐ No

Are you a registered voter in Del Mar? ☒ Yes ☐ No

III. COMMITTEE SPECIFIC QUESTIONS

The following are additional questions related to specific committees. Please answer the questions only for the committee(s) you are applying for.

1. **Arts Advisory Committee**

Membership on the Arts Advisory Committee is set by category. Which membership category do you best fit in? Select all that apply. (Note that City staff, consultants, and vendors are precluded from serving on the Arts Advisory Committee.)

- ☐ Resident with an art background
- ☐ Resident without an art background
- ☐ Business Owner- Art related business
- ☐ Del Mar Foundation Representative
- ☐ Del Mar Village Association Representative
- ☐ Ex-Officio (non-voting) – with Art related expertise
- ☐ Other (please explain): _____

Describe your experience and skills as they relate to the world of community art and fine art.

Why in your opinion is public art valuable to the Del Mar community?

What is your public art philosophy?

2. **Finance Committee**

The Finance Committee is looking for applicants with financial expertise and background.

Please describe your experience reviewing financial reports, conducting financial studies or any related experience. Please include any experience specific to public entities.

What aspects of the City's finances most interest you and why?

3. **Measure Q Citizen Oversight Committee**

Membership on the Measure Q Citizen Oversight Committee is set by category. Which membership category do you best fit in? (Select all that apply)

- ☐ Current (or within past 5 years) Finance Committee Member
- ☐ Business Community Member
- ☐ At-large Resident Member

☐ Other (please explain): _____

4. **Traffic and Parking Advisory Committee**

Which membership category do you best fit in? (Select all that apply)

☐ Business representative (can be a non-resident)
☐ Resident
☐ Other (please explain): _____

Do you have any special expertise or experience related to traffic and parking? If yes, please explain:

5. **Parks and Recreation Committee**

The Parks and Recreation Committee is looking for applicants with an interest in the City's parks and open spaces.

Please describe your personal or professional experience related to parks, open spaces, trails, public recreation or any similar experience.

What aspects of the City's parks and recreation most interest you and why?

6. **Lagoon Committee**

The Lagoon Committee is looking for applicants interested in the preservation of the lagoon and surrounding area.

What aspect(s) of being on the Lagoon Committee most interest you and why?

7. **Shores Advisory Committee**

The Shores Advisory Committee is looking for applicants interested in the Shores Park property and planning process.

What aspects of being on the Shores Advisory Committee most interest you and why?

Please describe your vision for the future of Shores Park.

8. **Sustainability Advisory Committee**

The Sustainability Advisory Committee members are community leaders on environmental issues.

In what ways would you like to contribute to a more sustainable world either in your personal life or on a broader community level?

Please describe any outreach or public education efforts you have participated in related to environmental issues or in other areas. Do you have skills or experience in outreach that you could bring to the Sustainability Advisory Committee?

9. **Undergrounding Project Advisory Committee**

The Undergrounding Project Advisory Committee is seeking applicants with an interest in the citywide undergrounding project.

Is your utility service undergrounded? What involvement did you have, if any?

What aspects of being on the Utility Undergrounding Advisory Committee most interest you?

10. **Design Review Board and/or Planning Commission**

Briefly describe your qualifications and experience as it relates to serving on the Design Review Board or Planning Commission. The required qualifications for each can be found in the Del Mar

Municipal Code (DMMC) Chapters 2.34 and 2.38. You will be able to provide more information at a City Council public meeting during an open interview process.

- I have lived in the Del Mar for 30 years (Mira Montana Dr. In the Heights) and am sensitive to the special aspects of what Del Mar is and means to both residents and visitors. I have lived in Del Mar proper since July, 2023
- My wife and I just went through the DRB process to start and complete our new home on Crest. Hence, I am very familiar with the various needs of the city and as a resident related to the process of building a home in the area and adjacent to a sensitive area.
- I have a degree in Architecture from UC Berkeley and have run many complex projects in business. I have led real estate projects also including sensitive areas.
- I have personally designed and built two homes. The home on Crest Rd was designed by Brian Church.
- I have a very positive reputation in the business community as someone who has built many successful companies and am thought to be a great listener who can uniquely understand the needs of multiple constituents, and always treat people with candor and transparency.

11. **For All Committees: Thank you for completing the Citizen Interest Form. Is there anything else you would like to add to your application for the City Council to consider?**

I appreciate the needs of complex processes and constituents and have a great reputation as a strong communicator and leader. Having just gone through the DRB process, I can be empathetic to the questions and issues being raised and also help create focus and streamline process where appropriate.

IV. SIGNATURE AND ACKNOWLEDGEMENT

Please review the important information below before signing and submitting your application. Please note that recommendations for appointments to City advisory committees (other than the Planning Commission and Design Review Board) are made by the Council Liaisons to that Committee. The appointments are then placed on the consent calendar for consideration for approval by the full City Council at the next available City Council meeting. For reasons of privacy, the individual candidates are not discussed at the meeting.

Additionally, the Del Mar Conflict of Interest Code requires that members of the Design Review Board, Planning Commission, and Finance Committee file Conflict of Interest Statements with the Administrative Services Department in conformance with the Fair Political Practices Commission and the City's Conflict of Interest Code. Other advisory committee members are not required to file Conflict of Interest Statements.

By signing below, you are acknowledging that you have reviewed the Committee webpage for which you are applying and that you understand the conflict of interest filing requirement, if applicable. Part of your service may include ethics and anti-harassment training upon appointment and bi-annually. Visit the City's Conflict of Interest Code webpage to learn more about the requirement.

By submitting this application, you are signing under penalty of perjury that the information you are providing, is true and correct to the best of your knowledge.

[redacted]

Signature

April 4, 2024
Date

Del Mar Municipal Code – Design Review Board Membership

2.38.020 - Membership.

A. The Design Review Board shall consist of seven members who are registered voters of the City of Del Mar and maintain residency within the City's municipal boundaries. Residency shall be maintained for no less than six months prior to appointment and if a Board Member ceases to reside within the City during their membership on the Design Review Board, the appointment of such person shall be deemed to have been terminated. For the purposes of this section, residency shall mean someone who maintains residence and is physically present in the City of Del Mar for no less than six months per calendar year.

B. Members shall serve staggered, four-year terms.

C. The members shall be persons who, by experience, training, education, or occupation, have demonstrated talent and interest in developing the aesthetics of environmentally sensitive design within the framework of practical considerations.

D. The Design Review Board shall also include an eighth, ex-officio member and an ex-officio alternate, both appointed to a two-year term by a majority of the City Council.

1. The ex-officio member and alternate shall be appointed based on their professional experience in architecture, landscape architecture, planning or urban design.

2. The ex-officio member, or alternate, shall assist the Design Review Board members in their deliberations as to whether an application for a Design Review Permit is consistent with the applicable standards of review. As requested, the ex-officio member, or alternate, shall also assist the members in a determination of the existence of feasible design alternatives. However, neither the ex-officio member, nor alternate, shall participate in the votes on applications.

3. The ex-officio member, or alternate, shall not be counted for purposes of determining the existence of a quorum of the Design Review Board.

4. The ex-officio member and alternate should preferably be residents of the City but neither is required to be a resident of the City.

5. The ex-officio alternate shall serve in the absence of the ex-officio member.

6. The ex-officio member and alternate shall comply with all City of Del Mar Conflict of Interest regulations.

(Ord. No. 767; Ord. No. 785; Ord. No. 793; Ord. No. 825; Ord No. 931 , § 1, 9-18-2017)

	CITY OF DEL MAR CITY COUNCIL POLICY BOOK		
200	CITY COUNCIL ADVISORY COMMITTEES, BOARDS AND COMMISSIONS	DATE REVISED: BY RESOLUTION: PAGES:	04/04/2022 2022-25 PAGE 1 OF 6

POLICY:

A. Vacancies

It is the City Council policy to advertise vacancies of the City Council advisory committees, Design Review Board, and Planning Commission on the City website for a minimum of 10 calendar days, and at least once in the Del Mar Weekly and/or through CivicSend eblast. Upcoming vacancies may also be announced by the City Manager or Council Members at City Council meetings. The deadline for interested citizens to file a Citizen Interest Form (application) is by the close of business (4:30 p.m.) on a Friday.

B. Council Appointments to City Council Advisory Committees

1. It shall be the policy of the City Council to direct its liaisons to each Council advisory committee to make recommendations to the full Council regarding appointments to City Council advisory committees.

2. If by the application deadline, the number of applications received by the City for such committees is equal to the number of vacancies, or less than the number of vacancies when recruiting for multiple vacancies, the Council liaisons to the specific committee shall determine whether to extend the deadline or review the Citizen Interest Form(s) and/or interview the applicant(s), and make a recommendation to Council that the applicant(s) be appointed to serve on the committee.

3. If by the application deadline, the number of applications received by the City for such committees is more than the number of vacancies, then the Council liaisons to the specific committee shall review the Citizen Interest Forms and/or interview the applicant(s). Council liaisons shall then make a recommendation to Council as to which applicant(s) should be appointed to serve on the committee. If the Council liaisons determine the applicants are not qualified or do not meet the needs of the committee, the application period may be reopened by the Council liaisons in order to solicit additional interest.

4. If the Council liaisons to a committee cannot agree on a recommendation for appointment(s), they shall direct staff to prepare an agenda report for the next available City Council meeting where the City Council will vote on the appointment without discussion. Three affirmative votes are needed in order for the City Council to make an appointment. If an applicant does not receive the necessary votes, the Council may re-vote or may direct staff to reopen the vacancy to solicit additional interest.

5. Applicants nominated to serve on a Council advisory committee are encouraged, but not required, to attend the City Council meeting when the City Council is scheduled to consider their appointment to serve on the Committee.

6. In the event that there is only one Council liaison to an advisory committee, the Mayor will act as the second Council liaison for the purposes of reviewing Citizen Interest Forms to recommend to the City Council for appointment.

7. Prior to the City Council meeting where the Council will vote on an appointment, any Council member can request an un-redacted copy of all qualified Citizen Interest Forms in order to review applicant information and contact interested applicant(s) prior to the meeting if so desired.

8. In accordance with Del Mar Municipal Code Chapter 2.30 "Commissions, Boards and Committees: General Provisions", it shall be the City Council's policy to select for appointment the candidates who received three affirmative votes by the City Council. In the case where a candidate does not receive three affirmative votes, the Council may re-vote or direct the City Clerk to re-advertise the vacancy.

9. When there are open vacancies for City Council advisory committees, other than Planning Commission or Design Review Board, the City Clerk will bring forward to the City Council the names of the candidates, the number of vacancies, and the liaison recommendation(s). The City Council will then vote on the recommendation to fill the vacancies. When the Council liaisons to a committee agree on a recommendation for appointment, the item will be included on the consent calendar. When the Council liaisons to a committee do not agree on the recommendation for appointment, the item will be brought forward as a Council Business item as described in Section B(4) of this policy.

10. If the spouse or significant other of a City Council member is an applicant to fill a vacancy on an advisory committee, the City Council member must recuse themselves from voting on that appointment.

C. Council Appointments to the Design Review Board and Planning Commission

1. The City Council shall make appointments to the Planning Commission and Design Review Board in accordance with the membership requirements of Chapter 2.34 "Planning Commission" and 2.38 "Design Review Board" of the Del Mar Municipal Code, respectively.

2. It shall be the policy of the City Council to hold interviews for appointments to the Planning Commission and Design Review Board only when applications received for such commission or board exceed the number of vacancies.

3. Interviews shall be public and televised as part of the City Council meeting.

4. If, by the application deadline, the number of applications received by the City for such board or commission equals or is less than the number of vacancies, then there shall be an automatic extension of time to accept applications.

5. Prior to the City Council meeting where the Council will vote on an appointment, an un-redacted copy of all qualified Citizen Interest Forms will be provided to the full City Council in order to allow the full Council to review applicant information and contact interested applicant(s) prior to the meeting if so desired.

6. In accordance with Del Mar Municipal Code Chapter 2.30 "Commissions, Boards and Committees: General Provisions", it shall be the City Council's policy to select for appointment the candidates who received three affirmative votes by the City Council. In the case where a candidate does not receive three affirmative votes, the Council may re-vote or direct the City Clerk to re-advertise the vacancy.

7. When there are advertised vacancies for Planning Commission or Design Review Board, the City Clerk will bring forward to the City Council the names of the candidates and the number of vacancies. After interviewing candidates in a public forum, the City Council will vote on the candidates to fill the vacancies. The City Clerk will read aloud the vote of each Council member.

8. Because of conflicts of interest which might exist, or which might give the appearance to the public of existing, and in order to preserve public confidence in the City's vital planning processes and avoid questions of fairness and bias, prejudice or influence, the immediate family member, of a City Council member, Design Review Board Member or Planning Commissioner may not serve or be appointed to serve simultaneously on the Design Review Board or Planning Commission. For purposes of this policy, immediate family member is defined as an individual's parent, child, spouse, significant other, or sibling living.

9. In accordance with Section C(8) of this policy, should an immediate family member of a Design Review Board Member or Planning Commissioner be elected to serve on the City Council, said Board Member or Commissioner shall be required to resign from their position no later than the day prior to the day the City Council member's term of office commences.

D. City Advisory Committee Membership Categories

1. Subject to the membership limits set forth in Section E(6) of this policy, the City Council may designate seat(s) for ex-officio members in a committee's charter. Ex-officio members are non-voting subject matter experts who may be residents or non-residents.

2. Subject to the membership limits set forth in Section E(6) of this policy, the City Council may designate membership categories for business representatives in a committee's charter. Business representatives are business owners or operators whose business has a physical entity within the City of Del Mar and who have a current City of Del Mar business license.

E. Concurrent Committee Assignments, Term Limits and Length, Membership Size and Rotation of Chair and Vice Chair

1. It shall be the policy of the City Council to limit the number of concurrent appointments that any one individual has to City Council advisory committees, Design Review Board, and Planning Commission. The limit of concurrent appointments shall be two. If an individual has two concurrent appointments, they will not be eligible to serve on ad hoc committees, except in special circumstances as determined by the Council or Council liaisons.

2. The number of consecutive terms an individual may serve on a committee is two, as further described in Section E(5) below. However, the City Council has the flexibility to make an exception if they feel it is to the benefit of the committee to re-appoint an individual for a third term. Committee members who would like to continue to serve another term once their appointed term has expired must re-apply by filing a Citizen Interest Form prior to the advertised deadline for applications. Former committee members must wait one year from the expiration of their second consecutive term before being appointed to the same committee.

3. The term length for all City Council advisory committees shall be three years. Terms will expire on the last day of the month.

4. The term length for voting members of the Planning Commission and Design Review Board shall be four years, in accordance with Del Mar Municipal Code Sections 2.34.020 and 2.38.020, respectively. The term length for ex-officio members on the Design Review Board shall be two years, in accordance with Del Mar Municipal Code Section 2.38.020.

5. In order to ensure that terms remain appropriately staggered, individuals appointed to fill an unexpired vacancy shall finish the remainder of the term of the vacating committee member. If the balance of the vacant term is less than six (6) months, it shall not count as a term towards the two-consecutive-term limit.

6. All City advisory committees have a maximum committee membership of seven (7) to nine (9) total members, including ex-officio members, at the recommendation of the committee's Council liaisons and approval of the full City Council. If a committee membership size is to be reduced via attrition, attrition shall not affect members who complete their first term and are eligible and wiling to serve a second term. However, such members must be recommended for reappointment by the committee's Council liaisons, and their reappointment shall be confirmed by the full Council at a Council meeting.

7. It shall be the policy of the City Council that the members of each advisory committee appoint a chair, vice chair and secretary at the last meeting of the calendar year, with the new chair serving at the first meeting of the new year, and that the these positions rotate annually among all the committee members. It is recommended that the vice chair assist with committee responsibilities and provide for a succession plan for chairing the committee. In the event a committee does not have volunteers to serve as chair and vice chair, then the committee has the flexibility to allow consecutive appointments to the chair/vice chair or secretary positions, i.e. rotation of such positions among the members is not required if there are no volunteers to serve in those positions. At the discretion of the committee, the vice chair and secretary positions may be filled by the same committee member.

8. It shall be the policy of the City Council that the members of the Design Review Board and Planning Commission appoint a chair and vice chair at the last meeting of the calendar year, with the new chair serving at the first meeting of the new year, and that the these positions should rotate annually among all the members. The functions of a secretary for the Design Review Board and Planning Commission, such as preparing minutes, will be managed by City staff.

F. Incumbents to Serve Until New Appointments Confirmed

It shall be the policy of the City Council to allow an incumbent on a City Council advisory committee, Design Review Board, or Planning Commission, whose term has expired to continue to officially serve until the vacancy is filled or three months has passed, whichever occurs sooner.

G. Attendance Policy for Boards, Commissions, and Committees

In accordance with Del Mar Municipal Code Chapter 2.30, if a member of a City advisory committee, Design Review Board, or Planning Commission is absent from three regular, adjourned, or special meetings within a 12-month period without cause, the term of said member is automatically vacated. Council liaisons to the commission, board, or committee shall determine whether the absence was for cause. If an advisory committee, which does not include the Design Review Board or Planning Commission, does not have two Council liaisons, then the Mayor and the Deputy Mayor shall act as liaisons to that commission, board, or committee for this purpose. If the liaisons do not agree about whether the absences were without cause so as to warrant removal, the item will be presented to the full City Council to make the determination.

H. Formation and Dissolution of Boards, Commissions, and Committees

1. New committees must be formed by Resolution of the City Council and must include a committee charter detailing, the committee mission/purpose, type of committee (standing or ad-hoc), membership requirements, conflict of interest requirements, and open meeting requirements.

2. If the newly formed committee is an ad-hoc committee, the Resolution and charter should include a sunset date. The sunset date can be extended by Council action, if necessary.

3. Committees may be dissolved by Resolution of the City Council at any time or during the annual review of the City Council Local Appointments. Ad hoc committees shall automatically be dissolved on their sunset date unless extended in advance by the City Council.

I. City Council Review of City Board, Commission, and Committee System

At least every four (4) years the City Council shall establish a subcommittee or alternative process to review the City's boards, commission and committee system to provide recommendations to improve committee efficiencies to the City Council. However, the City Council may, in its discretion, elect to review the City's boards, commission and committee system outside of the four (4) year review as it deems necessary.

City of Del Mar
Agenda Report

TO: Honorable Mayor and City Council Members

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

DATE: April 15, 2024

SUBJECT: Introduction of Density Bonus Ordinance to Implement State Law and Housing Element Program 1G

REQUESTED ACTION/RECOMMENDATION:
It is recommended that the City Council introduce an Ordinance (Attachment A) to repeal and replace the existing density bonus regulations in Del Mar Municipal Code (DMMC) Density Bonus Chapter 30.90 in compliance with the City's certified 6th Cycle Housing Element (2021-2029) Program 1G and State Density Bonus Law (California Government Code Sections 65915, et seq.)

BACKGROUND:
The proposed amendment is required to implement the City's 6th Cycle Housing Element (2021-2029) Program 1G commitment to demonstrate compliance with State Density Bonus Law (DBL). The City is required to implement the current State DBL in effect. The proposed Ordinance specifies how the City processes density bonus projects in compliance with State DBL.

On March 12, 2024, the Planning Commission voted unanimously to recommend approval of the CEQA environmental determination; and adopt the proposed amendments to repeal and replace the Density Bonus regulations in DMMC Chapter 30.90. The Commissioners acknowledged the City must implement State DBL and expressed a desire for density bonus projects to minimize impacts to neighbors and preserve scenic views like other development. Their discussion covered the following topic areas:

- Harmonizing of State DBL and Coastal Act during permit reviews
- Methodology for calculation of lower income units in a project (pre-density bonus)
- Concept of deviations from design and development standards that may be granted
- Potential site-specific design alternatives (i.e., smaller units, reduced bulk and mass)
- Waivers that may be granted to make affordable housing physically feasible to build
- Public scenic view protections in the certified Local Coastal Program (LCP)

State DBL was enacted in 1979 to help address California's shortage of affordable housing. In return for including affordable units in a development, developers are given an increase in density over a local jurisdiction's zoned density. The DBL generally provides for certain projects to increase density above the maximum set under the applicable land use and zoning designations in the General Plan (Del Mar Community Plan), Zoning Code, and Local Coastal Program (LCP).

City Council Action:

The density bonus a developer is able to receive is identified in DBL as a sliding scale (ranging between a 5% and 50% bonus) based on the percentage of units in the project that will be dedicated as affordable and the depth of the affordability of the units (very low, low, or moderate income). Qualifying projects may also receive reductions in required development standards such as floor area ratio, setbacks, parking, and height when those standards would physically preclude the project from achieving the density allowed by DBL. The concept is that the "bonus" units can increase the feasibility of residential and mixed-use projects that include income-restricted units for moderate and/or lower income households.

State DBL applies to affordable and special needs housing projects, including mixed-use development, new subdivisions, senior housing, transitional foster youth, disabled veterans or homeless persons, lower income students in a student housing development, and/or common interest ownership developments. Project applicants may request density bonuses, concessions, incentives, waivers, and reductions in development standards to help offset the financial burden of constructing affordable units. Qualifying projects must include five or more units. Most DBL projects in Del Mar are anticipated to be mixed-income projects with lower income units that will be income-restricted (for at least 55 years in a recorded document).

State DBL has been amended numerous times by the legislature (amended 10 times between 2018 and 2023), which rendered the City's existing regulations (DMMC Chapter 30.90) inconsistent with State law. In the interim, the City must continue to process projects in accordance with the current State DBL in effect. Failure to adopt an Ordinance does not relieve the City from complying with DBL.

Housing law trends at the State level have continued to reduce local control and impose requirements that at times conflict with local procedures (i.e., discretionary review, public participation, and public hearings). Because coastal cities are uniquely situated, State DBL does not preempt the Coastal Act. Projects must comply with the State DBL and the Coastal Act to ensure coastal resource protections are not adversely impacted. This may involve harmonizing the California Government Code housing laws and resource protection mandates of the Coastal Act. In the circumstance where there is a direct conflict between the resource protection elements of the Coastal Act and State housing laws, the courts have consistently maintained that coastal resource protections are superior to that of housing laws. For example, the City may deny requested increases in height where in conflict with public scenic view protections in the certified LCP.

Currently, the City has two zones that allow a density of 20 dwelling units per acre (du/ac): North Commercial (NC) and Professional Commercial (PC). The City is in process of amending the Central Commercial (CC) and Public Facilities (PF) zones to allow 20 du/ac, which is considered the minimum density that can facilitate production of lower income housing units in a jurisdiction the size of Del Mar. However, increased density through DBL does not always make affordable housing feasible. The City learned from consultant studies (June 2022/January 2023) that an allowance for 20 du/ac density does not necessarily mean a project will be feasible to produce affordable housing. Lower income units have exponentially higher costs to build and operate. To help close the financing gap between market rate and affordable unit production, developers

typically seek opportunities for at-grade construction of multi-unit townhomes (two to three story) on sites without environmental constraints and rely on public contributions (i.e., tax credits and other incentives).

Implementation of State Density Bonus Law in Del Mar

The City regulates and implements density bonus projects in accordance with the State DBL and the Coastal Act, including existing protections for environmentally sensitive resources, coastal access, public scenic views, and public safety in the City's certified LCP. The City is not able to impose local laws in conflict with these State laws. However, in accordance with California Government Code Sections 65915(d)(1) & (e)(1), if an applicant submits a development proposal that includes specific incentives or concessions, the City can deny the incentive or concession by making written findings based on substantial evidence, of any of the following:

- The concession or incentive does not result in identifiable and actual cost reductions to provide for affordable housing costs, or for rents for the targeted units;

- The concession or incentive would have a specific adverse impacts to the public health and safety, environment, or historic resources and property listed in the California Register of Historic Resources, and for which there is no feasible method to satisfactory mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households;

- Would be contrary to federal or state law, including the Coastal Act. This includes the ability to deny requested concessions, incentives, waivers, and reductions in development standards for projects that are in conflict with the certified LCP protections for environmentally sensitive habitat areas (ESHA), coastal access, public scenic views, and public safety from hazards (i.e., flooding, bluff erosion, sea level rise, and wildfire).

Each density bonus project reviewed by staff considers a variety of factors (i.e., other State laws, local discretionary authority, project size, environmental conditions, topography, and public scenic views). The City has one example of a project commonly referred to as the Watermark Project, that included a density bonus request related to the City's 5th Cycle Housing Element Program 2G, which identified two vacant parcels (2.37 acres) at the southeast corner of Jimmy Durante Boulevard and San Dieguito Drive as the City's adequate sites commitment to produce 22 lower income units to meet its 5th Cycle RHNA. The City did not timely process its commitment to complete associated amendments to the Del Mar Community Plan, Zoning Code, and Local Coastal Program and Rezone the Watermark properties to allow a density of 20 du/ac by 2014. As a result, the City's 5th Cycle Housing Element was decertified and the State imposed a higher density (20-25 du/ac) and a "by right" permit process for proposed residential development on the Watermark-owned properties in accordance with Government Code Section 65913.4.

The developer submitted a permit application for processing per DBL and Senate Bill 330 Housing Crisis Act of 2019, which included requests for concessions and waivers from development standards resulting in identifiable and actual cost reductions to provide for affordable housing costs associated with the project and to physically construct the development on the net

developable area of the site. This is considered to be a unique example that is much larger than other potential housing sites in Del Mar.

On April 19, 2022, the City approved the Coastal Development Permit (Administrative CDP21-005) for a 50-unit project ("Watermark") in the North Commercial Zone and Floodplain Overlay Zone to include affordable housing (40 above moderate-income units, 6 low-income units, 2 very low-income units, and 2 extremely low-income units). The Watermark project was appealed to the California Coastal Commission (CCC), which voted unanimously on November 17, 2023, to find no substantial issue and upheld the City's approval. The CCC report for Item 8a is available with the Friday, November 17, 2023, agenda at this link: https://www.coastal.ca.gov/meetings/agenda/#/2023/11

The proposed density bonus amendments relate to other Housing Element Programs in process:

- Objective Design Standards (Program 6G) – On March 19, 2024, a public workshop was held with the Design Review Board to review the draft objective design standards manual for ministerial multi-unit and mixed-use projects, which are currently in process of review by the Design Review Board and Planning Commission prior to approval by the City Council in summer 2024.

- Central Commercial/Public Facilities Zones (Programs 1C and 1H) – The Ordinance/Local Coastal Program Amendment in process will create new sites in the Central Commercial Zone and Public Facilities Zone that allow 20 du/ac density in addition to existing sites in the North Commercial and Professional Commercial Zones. The City Council adopted the amendments on April 1, 2024, with submittal of the LCPA to the Coastal Commission forthcoming.

- Inclusionary Housing/Condominium Conversions (Programs 4D/4E) – The Ordinances are in process to update the City's inclusionary housing requirements (required number of lower income affordable units to be reserved in housing projects) and regulations applicable to condominium conversions (conversion of rental units to condominium ownership in accordance with the Subdivision Map Act), which will be reviewed by the Planning Commission prior to a City Council decision in summer 2024.

- Site-Specific Incentives (Programs 1D and 1I) – To-date implementation has involved preparation of site-specific studies to facilitate consideration of potential site-specific incentives, in addition to the City's updated ADU Incentive Program, that could be made available to implement the City's adopted lower income unit production strategy in accordance with the Housing Element.

For additional information on Housing Element implementation, refer to the City's website: https://www.delmar.ca.us/852/6th-Cycle-Housing-Element-Program-Implem

DISCUSSION/ANALYSIS:
The proposed amendment to DMMC Chapter 30.90 (Density Bonus Regulations) is required to implement the City's Housing Element Program 1G commitment to update the regulations in compliance with current State DBL. As proposed, the existing regulations in DMMC Chapter

30.90 would be repealed and replaced to defer to the State DBL as set forth in Government Code Section 65915, et seq. The proposed regulations generally defer to the current State law in effect and specify how density bonus projects will be processed locally in a manner that implements the goals, objectives, and policies of the Del Mar Community Plan, including the Housing Element, and the certified LCP. This approach is consistent with other coastal jurisdictions in California that are also affected by the frequency of DBL changes and related housing amendments being passed by the State legislature. By referring to the current State DBL in effect, it will minimize the need for future DMMC amendments.

The proposed regulations specify the application submittal requirements, which must identify:

- A proposal for five or more proposed dwelling units.
- Number of units in the project that comply with the maximum density in the General Plan/Zoning Code (pre-density bonus), which are referred to as the project's "base units."
- The additional density bonus units requested, which are referred to as "bonus units".
- The requested concessions/incentives, waivers/reduction in standards, and parking reductions with reasonable documentation supporting the request where provided for by State DBL.
- Number of income-restricted affordable units to be reserved on-site to meet the required percentage per DBL (base unit count pre-density bonus or portion thereof):
    - 5% units restricted to very low income households; or
    - 10% units restricted to low income households; or
    - 100% affordable units (excluding managers units) with a maximum of 20% units restricted to moderate income households; or
    - Other qualification (i.e., 10% for very low foster youth, disabled veterans, homeless)
- Commitment to record a document restricting units to the respective level of affordability (at least 55 years for rental unit projects and 30 years for a project that includes for-sale units).

A density bonus is granted based on the number of affordable units in a development proposal. DBL also provides three types of benefits for such projects that applicants may request from the City to facilitate affordable housing development as described below:

- ***Density Bonus*** - Qualifying projects may be granted density bonus units according to a sliding scale based on the percentage of affordable units and affordability level that would be provided as set forth in State DBL and ranges from 5% to 50% of the maximum allowable density of the Community Plan/LCP or Zoning Code. Proposed projects that meet DBL are entitled to density increases above the maximum density of the base zone. An applicant is not entitled to any additional density, even in circumstances of economic infeasibility. See proposed DMMC Section 30.90.040(C)(1). Determination of the project's density bonus occurs based on the specified percentages stated in DBL. By comparison, the review and consideration of other benefits depends on the site-specific details of the project.

- ***Concessions or Incentives*** - Qualifying projects that are consistent with the Coastal Act may be granted concessions or incentives as set forth in State DBL. Under DBL, the terms

"concessions" and "incentives" are used interchangeably. This includes modifications to local regulatory or development standards that result in actual and identifiable cost reductions to provide for affordable housing costs or rents (i.e., increased height, floor area, lot coverage, above that allowed by the zone/overlay zone). The maximum number of incentives a project is entitled to is based on the percentage of affordable units provided in the qualifying project and varies from one incentive up to five incentives (See Attachment B).

The City may deny a concession/incentive based on substantial evidence that the incentive would not result in identifiable and actual cost reductions to provide for affordable housing; or if it would be contrary to State or Federal law, including the Coastal Act, or would have a specific, adverse and unavoidable impact on public health and safety, the environment, or on historic resources for which there is no feasible method to satisfactory mitigate or avoid the specific, adverse impact without rendering the development unaffordable to low-income and moderate-income households. See proposed DMMC Sections 30.90.040(C)(2) and 30.90.060(D).

- ***Waivers or Reductions of Development Standards*** - Qualifying projects may be granted waivers or modifications of any "development standards" or other regulatory requirements that potentially make a project physically infeasible if not approved. As defined in State DBL, (Government Code Section 65915(o)(1)), "development standards" include those that apply to residential development in the Community Plan, Specific Plan, Zoning Code, and City Charter. Examples of modifications to local development standards that could physically prevent the construction of a housing development at the density permitted with a bonus and any concessions include: requests for decreased setbacks less than what is required by the zone/overlay zone, waiver of the height limits, parking ratios, landscaping and/or open space requirements. Potential physical infeasibility of a project considers the density permitted per DBL and scenarios with project incentive(s) granted. There is no limit to the number of reductions/waivers that may be requested; however, the developer is required to provide written documentation to justify why the waivers are needed to construct the project. The City may deny a waiver where it would be contrary to State or Federal law, including the Coastal Act, or would have a specific, adverse and unavoidable impact on public health and safety, the environment, or on historic resources. See proposed DMMC Sections 30.90.040(C)(3) and 30.90.060(E).

- ***Parking Reductions*** - Qualifying projects may be granted parking reductions as set forth in State DBL. This includes use of the density bonus parking ratios specified in Government Code Section 65915(p) that require one off-street parking space for units with one bedroom or less (studio), one and one-half parking space for units with two to three bedrooms, and two and one-half spaces for units with four or more bedrooms, and no requirement for guest parking spaces. The State's parking ratios are lower than the standard parking ratios required by DMMC Chapter 30.80 (Parking regulations). As a coastal jurisdiction, State laws that otherwise prohibit local jurisdictions from requiring parking are not applicable in Del Mar. Applicants are entitled to use the State DBL parking ratios and may request further reductions; however, the City's certified LCP protections

for preservation of on-street parking for public access to the shoreline apply. See proposed DMMC Section 30.90.040(C)(4).

It is important to note that each proposed housing development project will be reviewed on a case-by-case basis to determine which housing laws impact the City's discretionary authority in consideration of laws including, but not limited to, State DBL, Government Code Section 65913.4 (Streamlined Ministerial Approvals), and the Housing Accountability Act. It should be recognized that under the Housing Accountability Act (Government. Code Section 65589.5 (d)(1)), the City is limited to when a housing project that includes a mix of income categories may be denied or conditionally approved unless very specific criteria are met. Generally, if a local jurisdiction has a Housing Element that has been found by HCD to be in substantial compliance and has met or exceeded its allocated regional housing needs it may then deny or conditionally approve a project. The City has yet to meet its regional housing needs allocation. Therefore, to deny or conditionally approve a housing project containing a range of housing for different income levels, the City would have to make specific findings that the project may have a significant impact on public welfare and safety, that the denial is a result of complying with a state law (i.e., California Coastal Act) and federal law (i.e., Federal Flood Risk Management standards in the floodplain) and there is no feasible method to mitigate the project, that the project impacts land that has been set aside for preservation, or that the project is inconsistent with the City's Community Plan that was in place at the time of the application.

DMMC Chapter 30.90 is not a part of the City's certified LCP, and therefore is not subject to approval by the Coastal Commission. The amendments are simply implementing the requirements of State DBL consistent with the certified LCP. The ordinance would take effect 30 days from the date of adoption by the City Council.

Some concern has been expressed related to potential future changes to State DBL as a result of proposed Assembly Bill (AB) 2560 (Alvarez), which has been introduced at the State level but has not been passed. This controversial bill would provide that any density bonus, concessions, incentives, waivers or reductions of development standards, and parking ratios to which an applicant is entitled under State DBL be permitted notwithstanding the Coastal Act. The current Coastal Commission position opposes this bill unless it is amended, and Coastal Commission legislative staff reported that Assembly Member Alvarez and Coastal Commission representatives have been meeting to discuss potential amendments. If AB 2560 is passed, the Del Mar City Council will be able to consider all options available based on the context and details applicable at that time, which could include a decision in a noticed public hearing to repeal the local Density Bonus Ordinance, legal challenge, and/or other options.

HOUSING IMPACT: Adoption of the density bonus Ordinance will specify that the City of Del Mar implements the current State DBL in effect at the time of the proposed development application. This action will also fulfill the City's commitment in the certified 6th Cycle Housing Element (Program 1G).

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

ENVIRONMENTAL IMPACT: Ordinance Section Three identifies that the California Environmental Quality Act (CEQA) determination for the project per CEQA Guidelines Section 15162 is based on substantial evidence in the record that the certified 6th Cycle Housing Element Final Program Environmental Impact Report (PEIR) covers the proposed actions and no further environmental document is required. The 6th Cycle Housing Element PEIR and associated Mitigation, Monitoring, and Reporting Program was certified by the City Council on October 5, 2020 (State Clearinghouse (SCH) No. 2020029064). The Final PEIR is available at: www.delmar.ca.us/DocumentCenter/View/7171/Final-PEIR-91020

The ordinance would not result in significant effects on the environment or an increase in the severity of effects on the environment as previously analyzed and identified in the Final PEIR. The ordinance is simply implementing the existing State DBL. Future projects will be subject to additional CEQA analysis at the project level as applicable. At a minimum, future development will be required to comply with the 6th Cycle PEIR MMRP mitigation measures and objective standards of the City's certified LCP. Pursuant to CEQA Guidelines Section 15162, no further environmental documentation is necessary.

NEXUS TO CITY COUNCIL GOALS AND PRIORITIES:
The amendments relate to a Tier 1 priority City Council special project that is required by the Housing Element to be completed by June 2024.

ATTACHMENTS:
Attachment A – Ordinance to Amend the City's Zoning Regulations/Certified LCP
Attachment B – Summary of State Density Bonus Law

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, TO REPEAL AND REPLACE THE DEL MAR MUNICIPAL CODE CHAPTER 30.90 DENSITY BONUS REGULATIONS FOR CONSISTENCY WITH STATE DENSITY BONUS LAW IN ACCORDANCE WITH CALIFORNIA GOVERNMENT CODE SECTIONS 65915 ET SEQ., RELATING TO IMPLEMENTATION OF THE 6TH CYCLE HOUSING ELEMENT PROGRAM 1G

WHEREAS, the City of Del Mar is a charter city and State housing law applies to all general law and charter cities in the State of California; and

WHEREAS, the State legislature declared that “housing is a statewide concern”, that California faces a housing crisis, and local jurisdictions are mandated to comply with applicable State housing laws; and

WHEREAS, the City of Del Mar Community Plan is the General Plan for the City and has an overall goal to “preserve and enhance the special character of Del Mar”, which includes maintaining the “village-like community of substantially single family residential character, a picturesque and rugged site, and a beautiful beach” as well as preserving and enhancing “Del Mar’s special residential character and small town atmosphere with its harmonious blending of buildings and landscape in proximity to a beautiful shoreline”; and

WHEREAS, the City’s certified Housing Element is one of many required components that is part of the Del Mar Community Plan consistent with State laws applicable to General Plans; and

WHEREAS, the certified Housing Element identifies programs and resources required for the preservation, improvement, and production of housing to meet the existing and projected needs of its population which requires the creation of additional affordable housing stock; and

WHEREAS, the certified Housing Element for the 6th Cycle (2021-2029) requires the City to accommodate a regional housing need allocation (RHNA) of 163 housing units, comprised of 37 very-low income units, 64 low-income units, 31 moderate-income units, and 31 above moderate-income units, and an additional 12 low income unit “carryover” from the 5th Cycle planning period (2013-2021) for a total obligation of 175 units, including 113 lower income units as well as 100 additional opportunities for moderate income households, lower income households, and special needs households; and

WHEREAS, the City has made and continues to make progress toward its housing programs and housing production targets in its certified Housing Element; and

WHEREAS, the City is required to implement State Density Bonus Law (DBL) in accordance with Government Code Sections 65915 et seq.; and

WHEREAS, failure to adopt this Ordinance will not relieve the City from complying with the current State law in effect; and

WHEREAS, the California Coastal Act is not preempted by State DBL; and

WHEREAS, the City of Del Mar is located entirely within the "Coastal Zone" boundary and is therefore subject to full compliance with the California Coastal Act, which at the local level is implemented by the City's certified Local Coastal Program (LCP); and

WHEREAS, State DBL applies the Coastal Act protections for environmental resources, public scenic views, coastal access, and public safety in coastal hazard areas to ensure they will not be compromised by housing development; and

WHEREAS, future proposed Density Bonus project developments must comply with current State DBL, the California Coastal Act, and the City's certified LCP and may be approved at a density above the maximum set in the Del Mar Community Plan, Zoning Code, and LCP if a certain number of units are income-restricted and reserved for affordable housing (very low, low, and moderate-income households); and

WHEREAS, State DBL provides that the California Coastal Act is not superseded, in any way altered, or lessened by its application; and

WHEREAS, density bonus project applicants must provide reasonable documentation to explain how requests for incentives will reduce development costs to build a project and demonstrate how waiver requests would provide relief from standards that otherwise would physically preclude development of a project without waiver approval; and

WHEREAS, the City has significant coastal resources that require protection under the Coastal Act, including but not limited to, the protection of scenic public coastal views which are found throughout the community, preservation of public access and recreation opportunities that must be assured including public access to the beach, viewpoints, and trail connections to the bluffs, lagoons, and open space preserve areas along the shoreline, and protection of environmentally sensitive habitat areas and coastal resources such as coastal bluffs, sandstone bluffs, wetlands, lagoons, river inlets, and protected tree species native to the City including Torrey Pines and Monterrey Cypress trees; and

WHEREAS, in order to effectively implement applicable State housing laws, the City must harmonize the Coastal Act and the City's LCP policies and regulations with the State's housing laws to ensure protection of sensitive coastal habitats and resources, public coastal view sheds, coastal parking for public access, and public health and safety; and

WHEREAS, the Notice of Planning Commission public hearing was posted in the Coast News and at City Hall on February 29, 2024; and

WHEREAS, on March 12, 2024, the Planning Commission unanimously recommended approval to the City Council; and

WHEREAS, on March 29, 2024, the notice of City Council public hearing was published in the Coast News; and

WHEREAS, adoption of this Ordinance will implement the 6th Cycle Housing Element commitment in Housing Element Program 1G.

NOW THEREFORE, the City Council of the City of Del Mar, California hereby ordains as follows:

SECTION ONE: That the City Council of the City of Del Mar, California, based on substantial evidence in the whole of the administrative record, hereby finds and declares that the above stated Recitals are true and correct and are incorporated by reference into this action.

SECTION TWO: That existing DMMC Chapter 30.90 shall be repealed and replaced in its entirety as follows:

Chapter 30.90 DENSITY BONUS

30.90.010 Purpose.

The purpose of this Chapter is to implement the State Density Bonus Law (California Government Code Section 65915 et seq., as may be amended from time to time) and specify the regulatory framework for providing density bonuses and incentives, waivers, and reductions in development standards for qualifying residential housing developments that propose affordable housing as those costs are provided for in California Health and Safety Code Section 50052.5. The intent of this Chapter is to encourage and facilitate the development of affordable housing consistent with the State Density Bonus law and to implement the goals, objectives, and policies of the Del Mar Community Plan, including the current Housing Element and Local Coastal Program.

If any portion of this Chapter conflicts with State Density Bonus Law or other applicable State law, then State law shall apply. Any ambiguities that may be found in this Chapter shall be interpreted in a manner to be consistent with State Density Bonus Law.

30.90.020 Definitions.

The definitions found in the State Density Bonus Law shall apply to the terms contained in this Chapter.

30.90.030 Applicability.

A. A proposed housing development, as that term is defined by State Density Bonus Law, shall be eligible for a density bonus and other regulatory incentives provided by State Density Bonus Law, when the applicant, through submittal of an application in accordance with Section 30.90.040, seeks and agrees to provide dwelling units for very-low, low- or moderate-income households, senior households, transitional foster youth, disabled veterans, homeless persons, or lower income students in the threshold amounts specified by State Density Bonus Law.

B. The granting of a density bonus, concession or incentive pursuant to this Chapter shall not be interpreted, in and of itself, to require any of the following:

1. An amendment to the Del Mar Community Plan, Del Mar Zoning Code, or Del Mar Local Coastal Program; or

2. The waiver of a City ordinance or provisions of a City ordinance unrelated to development standards, a zoning change, study or other discretionary approval by the City.

30.90.040 Application Procedure.

A. An application requesting a density bonus, concession or incentive, waiver or reduction of development standards, adjusted parking ratios, or any combination thereof, shall be filed with the City in writing, on a form approved by the Planning and Community Development Director (Director).

B. The application shall be submitted to the City concurrently with the filing of any other entitlements required for the proposed housing development and the required application fee(s) established by City Council Resolution to recover the City's administrative costs of processing the application.

C. The application shall contain information sufficient to allow the City to fully evaluate the request under the requirements of this Chapter and State Density Bonus Law, including, without limitation, the following minimum information:

1. Requested Density Bonus.

a. Summary table showing the maximum number of dwelling units permitted by the zoning and Del Mar Community Plan (excluding any density bonus units), number of proposed affordable units by income level, proposed bonus percentage, number of density bonus units proposed, total number of dwelling units proposed on the site, and resulting density in units per acre.

b. A tentative map or preliminary site plan (drawn to scale) showing the number and location of all proposed units and designating the location of proposed affordable units and density bonus units.

c. The zoning and Community Plan designations and Assessor's Parcel Number(s) of the housing development site.

d. A description of all dwelling units existing on the site in the five-year period preceding the date of submittal of the application and identification of any units rented in the five-year period and whether they were rented as affordable units.

i. If dwelling units on the site are currently rented, identify the income and household size of all residents of currently occupied units, if known.

ii. If any dwelling units on the site were rented in the five-year period but are not currently rented, identify the income and household size of residents occupying the dwelling units when the site contained the maximum number of dwelling units, if known.

e. Description of any recorded covenant, ordinance, or law applicable to the site that restricted rents to levels affordable to very low-income or low-income households in the five-year period preceding the date of submittal of the application.

f. Any other information the Director reasonably determines necessary to process and evaluate the application consistent with State Density Bonus Law.

2. Requested Concessions or Incentives. If concessions or incentives are requested pursuant to State Density Bonus Law, the application shall include the following minimum information for each concession or incentive requested, shown on a site plan (if appropriate):

a. The applicable development standards of the base zone and overlay zones (base development standards) and the requested concession or regulatory incentive for each development standard where requested.

b. Except where mixed-use zoning is proposed as a concession or incentive, reasonable documentation to show why any requested concession or incentive will reduce affordable housing costs or rents.

c. If approval of mixed-use zoning is proposed, reasonable documentation that nonresidential land uses will reduce the costs of the housing development, that the nonresidential land uses are compatible with the housing development and the existing or planned development in the area where the proposed housing development will be located, and that mixed-use zoning will provide for affordable housing costs and rents.

d. If relief from a requirement for mixed-use zoning is proposed, reasonable documentation that residential use without a commercial component is compatible with the existing and planned development in the area where the proposed housing development will be located, and that not including a proposed commercial development will provide for affordable housing costs and rents.

3. Requested Waivers or Reductions of Development Standards. If waivers or reductions of development standards are requested pursuant to State Density Bonus Law, the application shall include the following minimum information for each waiver requested, shown on a site plan (if appropriate):

a. The applicable development standards of the base zone and overlay zones (base development standards) and the requested waiver or reduction of standards for each base development standard where requested.

b. Reasonable documentation that the development standards for which a waiver or reduction of a development standard is requested will have the effect of physically precluding the construction of a development at the densities or with the concessions or incentives permitted by California Government Code Section 65915.

4. Requested Adjusted Parking Ratios. If adjusted parking ratios are requested pursuant to State Density Bonus Law, the application shall include a table showing parking proposed under State Density Bonus Law in compliance with Government Code Section 65915(p) and Section 30.90.090, and reasonable documentation that the project is eligible for the requested parking reduction.

5. Donation of Land. If a density bonus is requested for the donation of land to the City, the application shall include the location of the land to be dedicated, proof of site control, proof of any debt associated with the land, and reasonable documentation that the requirements of Government Code Section 65915(g) can be met.

6. Childcare Facility. If a density bonus or incentive is requested for a childcare facility in a housing development pursuant to Government Code Section 65915(h), the application shall include reasonable documentation that the requirements of Government Code Section 65915(h) can be met.

7. Condominium Conversion. If a density bonus or incentive is requested for a condominium conversion of five or more units, the application shall include reasonable documentation that the requirements of Government Code Section 65915.5 and Del Mar Municipal Code Chapter 24.21 (Condominium Conversions) can be met.

8. Commercial Development Bonus. If a "development bonus", as defined by State Density Bonus Law, is requested for a commercial development project, the application shall include reasonable documentation that the requirements of Government Code Section 65915.7 can be met, which includes (where applicable) an agreement between the developer and a partnered affordable housing organization that allows for a contribution of affordable housing through a joint project or two separate projects encompassing affordable housing.

30.90.050 Local Coastal Program Consistency.

A. State Density Bonus Law provides that it shall not be construed to supersede or in any way alter or lessen the effect or application of the California Coastal Act of 1976 (Public Resources Code Section 30000 et seq.), and further provides that the granting of a density bonus, concession or incentive shall not be interpreted, in and of itself, to require a Local Coastal Program amendment.

B. The requested density bonus and any requested incentive or concession, waiver or reduction of development standards, adjusted parking ratios, or any combination thereof, shall be consistent with the policies of the certified Local Coastal Program and shall have no significant adverse impacts to coastal resources or the environment, including but not limited to, preservation of public access to the shoreline, and protections for public scenic views, environmentally sensitive habitat areas, and public health and safety in coastal hazard areas.

C. For the purposes of Section 30.90.050:

1. "Coastal resources" means any resource which is afforded protection under the policies of Chapter 3 of the California Coastal Act (Public Resources Code Section 30200 et seq.), including but not limited to, public access, marine and other aquatic resources, environmentally sensitive habitat, and the visual quality of coastal areas.

2. "Environment" as defined by Public Resources Code Sections 21060.5 and 21083 means the physical conditions which exist within the area which will

be affected by a proposed project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historical or aesthetic significance. The area involved shall be the area in which significant effects would occur either directly or indirectly as a result of the project. The environment includes both natural and human-made conditions.

30.90.060 Review and Determination.

A. The City shall process an application within thirty (30) calendar days after receiving the application and shall notify the applicant in writing whether or not the application is deemed complete in a manner consistent with Government Code Section 65943. If additional time is required for the City to review an application, the City shall inform the applicant in writing of the reason for the additional time necessary to review the application.

B. If the City notifies the applicant that the application is deemed complete pursuant to Section 30.90.060(A), the City shall also provide the applicant with the following determinations, which shall be based on the development project at the time the application is deemed complete, and may be adjusted by the City based on any changes to the project during the course of development:

1. The amount of density bonus for which the applicant may be eligible;

2. If an adjusted parking ratio is requested, the parking ratio for which the applicant may be eligible; and

3. If an incentive or concession, or waiver or reduction of development standards has been requested, whether the applicant has provided adequate information for the City to make a determination as to those incentives, concessions, waivers, or reductions in development standards and if adequate information has not been provided, a list of what necessary information is required.

C. To ensure that an application for housing development conforms with the provisions of State Density Bonus Law and the Coastal Act, the record of decision shall state whether the application conforms to the following requirements under State law, as applicable:

1. That the housing development provides the housing required by State Density Bonus Law to be eligible for the density bonus and any requested incentive or concession, waiver or reduction of development standards, adjusted parking ratios, or any combination thereof, including the replacement of units rented or formerly rented to very low-income and low-income households as required by Government Code Section 65915(c)(3).

2. If an incentive or concession is requested, that any requested incentive will result in identifiable and actual cost reductions to provide for affordable housing costs, as defined in Health and Safety Code Section 50052.5, or for affordable rents, as defined in Health and Safety Code Section 50053; except that, if a mixed-use development is requested, the application must instead meet all of the requirements of Government Code Section 65915(k)(2).

3. If a waiver or reduction of development standards is requested, that the housing development project is eligible for a waiver, and the development standards for which a waiver is requested would have the effect of physically precluding the construction of the housing development at the densities or with the concessions or incentives permitted by State Density Bonus Law.

4. If parking reductions are requested, that the housing development is eligible for any requested parking reductions under Government Code Section 65915(p).

5. If the density bonus is based, all or in part, on donation of land, that all requirements in Government Code Section 65915(g) have been met.

6. If the density bonus or incentive is based, all or in part, on the inclusion of a childcare facility, that all requirements in Government Code Section 65915(h) have been met.

7. If the density bonus or incentive is based, all or in part, on the inclusion of a condominium conversion, that the requirements in Government Code Section 65915.5 and Del Mar Municipal Code Chapter 24.21 (Condominium Conversions) have been met.

8. That the requested density bonus, and any requested incentive or concession, waiver or reduction of development standards, adjusted parking ratios, or any combination thereof, is consistent with all applicable requirements of the certified Local Coastal Program.

D. The City shall grant an incentive or concession requested by the applicant unless it makes a written finding to deny, based upon substantial evidence, of any of the following:

1. That the incentive or concession does not result in identifiable and actual cost reductions consistent with State Density Bonus Law to provide for affordable housing costs, as defined in Health and Safety Code Section 50052.5, or for affordable rents, as defined in Health and Safety Code Section 50053; or

2. That the requested incentive or concession would have a specific, adverse impact upon public health or safety or on any real property listed in the California Register of Historic Resources, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the housing development unaffordable to low- and moderate-income households. For purposes of this subsection, "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application for the housing development was deemed complete, as defined in Government Code Section 65589.5(d)(2); or

3. That the incentive or concession would be contrary to State or Federal law.

E. The City shall grant the waiver or reduction of development standards requested by the applicant unless it makes a written finding to deny, based upon substantial evidence, of any of the following:

1. That the waiver or reduction would have a specific, adverse impact upon health, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact. For purposes of this subsection, "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified, written public health or safety standards, policies, or conditions as they existed on the date that the application for the housing development was deemed complete, as defined in Government Code Section 65589.5(d)(2); or

2. That the waiver or reduction of development standards would have an adverse impact on any real property listed in the California Register of Historic Resources; or

3. That the requested waiver would be contrary to State or Federal law.

F. The City may deny a density bonus or incentive for a childcare facility if it makes a written finding, based on substantial evidence, that the community has adequate childcare facilities.

30.90.070 Affordable Housing Agreement.

A. An applicant seeking a density bonus for a housing development shall enter into an affordable housing agreement with the City, on a form approved by the City, to ensure the continued affordability of the units pursuant to State Density Bonus Law. Following execution of the agreement by all parties, the completed agreement shall be recorded by the applicant as a deed restriction against the property on which the project will be located. The agreement shall run with the land and be binding on all future owners and successors in interest of the property.

The approval and recordation of the agreement shall take place prior to final map approval, or where a map is not processed, prior to issuance of any building permit for the property on which the project will be located.

B. For rental projects, the affordable housing requirement shall require the continued affordability of all rental units that qualified the applicant for the receipt of the density bonus, incentive or concession, waiver or reduction of development standards, or adjusted parking ratio for a minimum of fifty-five (55) years or a longer period of time if required by the construction or mortgage financing assistance program, mortgage insurance program, or rental subsidy program; shall identify the type, size and location of each affordable unit; shall specify the eligible occupants; and shall specify phasing of the affordable units in relocation to the market-rate units. Rents for the lower income units shall be set at an affordable rent as defined by State Density Bonus Law.

C. For for-sale projects, the affordable housing requirement shall require that, the initial purchasers of those for-sale units that qualified the applicant for the receipt of the density bonus, incentive or concession, waiver or reduction of development standards, or adjusted parking ratio, are persons and households of lower or moderate income, as applicable, or if not purchased by lower or moderate income households within 180 days after the issuance of the certificate of occupancy, then pursuant to Government Code Section 65915(c), the units will be purchased by a qualified non-profit housing corporation as defined by State Density Bonus Law; and that the units will then be offered at an affordable housing cost, as that cost is defined in Health and Safety Code Section 50052.5. The City shall enforce an equity sharing agreement consistent with State Density Bonus Law unless it is in conflict with the requirements of another public funding source or law.

D. Where a density bonus, incentive or concession, waiver or reduction of development standards, or adjusted parking ratio is provided for a market-rate senior housing development, the applicant shall enter into a restrictive covenant with the City, running with the land, in a form approved by the City, requiring the housing development to be operated as “housing for older persons” consistent with State and Federal fair housing laws.

E. The affordable housing agreement shall also include the following information:

1. The number of units approved for the housing development, including the number and type of affordable and density bonus units;

2. The location, unit size(s) (square footage), and number of bedrooms of affordable units;

3. Schedule for production of affordable units;

4. Incentives or concessions or waiver or reduction of development standards provided by the City;

5. Where applicable, limits on tenure and conditions governing the initial sale of the affordable units;

6. Where applicable, tenure and conditions establishing rules and procedures for qualifying tenants, setting rental rates, filling vacancies, and operating and maintaining units for affordable rental dwelling units;

7. Compliance with State and Federal laws;

8. Prohibition against discrimination;

9. Indemnification of City;

10. City's right to inspect units and documents; and

11. Remedies; and

12. Any additional information or documentation that may be required by the City.

30.90.080 Density Bonus Calculation.

A. In determining the total number of units to be granted, each component of any density calculation, including base density and bonus density, resulting in fractional units shall be separately rounded up to the next whole number.

B. When calculating the number of affordable units needed for a given density bonus, any fractions of affordable dwelling units shall be rounded up to the next whole number.

C. Each housing development is entitled to only one density bonus for the life of that development. If a housing development qualifies for a density bonus under more than one category, the applicant shall identify the category under which the density bonus is requested to be granted.

D. The density bonus units shall not be included when determining the number of affordable units required to qualify a housing development for a density bonus pursuant to State Density Bonus Law.

E. The applicant may elect to accept a lesser percentage of density bonus than the housing development is entitled, or no density bonus, but no reduction will be permitted in the percentages of required affordable units contained in Government Code Section 65915, subdivisions (b), (c), and (f). Regardless of the number of

affordable units, no housing development shall be entitled to a density bonus higher than what is authorized under State Density Bonus Law.

30.90.090 Incentives; Parking Reductions.

A. Incentives are those defined by State Density Bonus Law. The number of incentives that may be requested shall be based upon the number the applicant is entitled to pursuant to State Density Bonus Law.

B. If a housing development is eligible for a density bonus pursuant to State Density Bonus Law, the applicant may request an onsite vehicular parking ratio specified in Government Code Section 65915(p).

C. Nothing in this Chapter requires the provision of direct financial incentives for the housing development, including but not limited to, the provision of financial subsidies, publicly owned land, fee waivers, or the waiver of dedication requirements. The City, at its sole discretion, may choose to provide such direct financial incentives.

30.90.100 Project Standards.

A. Building permits and final inspections or certificates of occupancy shall be issued concurrently for the market rate units and affordable units.

B. Affordable units shall be comparable in exterior appearance and overall quality of construction to market rate units in the same housing development and be consistent with the City's design review objective standards. Interior finishes and amenities may differ from those provided in the market rate units, but neither the workmanship nor the products may be of substandard or inferior quality.

C. To comply with fair housing laws, the affordable units shall contain the same or more proportional mix of bedroom sizes as the market-rate units.

D. In mixed-income buildings, the occupants of the affordable units shall have the same access to the common entrances and to the common areas, parking, and amenities of the project as the occupants of the market-rate housing units, and the affordable units shall be located throughout the building and not isolated on one floor or to an area on a specific floor.

30.90.110 Enforcement.

The regulations of this Chapter, including the terms of any density bonus housing agreement or documents prepared to administer the affordability and eligibility requirements, shall be enforced according to the provisions in Del Mar Municipal Code Chapter 1.08.

30.90.120 Appeal Process.

A. An appeal by an applicant or interested person seeking City Council review of a determination made pursuant to this Chapter shall be filed in accordance with Del Mar Municipal Code Chapter 1.12.

B. An applicant may also elect to initiate judicial proceedings to contest the City's denial of an application for a density bonus, incentive or concession, as authorized under State Density Bonus Law.

30.90.130 Severability.

Should a court of competent jurisdiction determine that these regulations are void or if certain terms or provisions are voided, then those regulations shall either become void in their entirety or where the courts have determined that certain terms or provisions are void by operation of the law then those terms and provisions shall have no force or effect.

SECTION THREE:
Pursuant to the California Environmental Quality Act (CEQA), the proposed action has been the subject of prior environmental analysis in the 6th Cycle Housing Element Update Final Program Environmental Impact Report (SCH No. 2020029064) certified by the City Council on October 5, 2020 (Resolution 2020-52), which analyzed and disclosed anticipated impacts of future housing development. Refer to the Final 6th Cycle PEIR: www.delmar.ca.us/DocumentCenter/View/7171/Final-PEIR-91020

No new or substantially greater impacts would result. As such, pursuant to CEQA Guidelines Sections 15162, and based on the review of the entire record, including without limitation, the Final PEIR referenced above, the proposed action does not require a subsequent EIR or further environmental review.

SECTION FOUR:
This Ordinance was introduced by the City Council on April 15, 2024.

SECTION FIVE:
The City Clerk is directed to prepare and have published a summary of this Ordinance no less than five days prior to the consideration of its adoption and again within 15 days following adoption indicating votes cast.

SECTION SIX:
If any section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance.

SECTION SEVEN:
The Ordinance will take effect and be in force 30 days from the date that the City Council takes action to adopt the Ordinance.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council held on the 6th day of May 2024.

_____
Dave Druker, Mayor
City of Del Mar

APPROVED AS TO FORM:

_____
Leslie E. Devaney, City Attorney
City of Del Mar

ATTEST AND CERTIFICATION:

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
CITY OF DEL MAR

I, SARAH KRIETOR, Administrative Services Manager/City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY, that the foregoing is a true and correct copy of Ordinance No.____, which has been published pursuant to law, and adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the 6th day of May, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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

SUMMARY OF DENSITY BONUS LAW

Background on State Density Bonus Law (DBL) - Government Code § 65915

Allows housing or mixed-use development at a density above maximum set in the General Plan (Del Mar Community Plan) and Zoning Code. In exchange for increased density, a certain number of the units must be income-restricted and reserved for very-low income, low-income, or moderate-income households. The Coastal Act and policies of the certified Local Coastal Program apply to DBL projects. DBL provides three types of benefits that qualifying applicants may request from the City to facilitate affordable housing development:

1) Incentives or concessions that provide project cost reductions;

2) Waivers and reductions of development standards that would physically preclude project development at the density permitted per DBL and with incentives granted per DBL; and

3) Reductions in parking requirements per Government Code § 65915(p).

Project Eligibility and Location

Any housing development that proposes five or more dwelling units and incorporates at least one of the housing-related requirements below is eligible for a density bonus:

Density Bonus awarded per Project Type per State Density Bonus Law	
Projects with 5% "Very Low Income", 10% "Low Income", or 20% "Moderate Income" rental units restricted for at least 55 years	20% density bonus
Projects with 10% "Very Low Income" units for transitional foster youth, disabled veterans, or homeless restricted at least 55 years	
Senior housing projects that limit age of tenants, not the income (Civil Code § 51.3 and 51.12)	
Projects with 15% "Very Low Income", 24% "Low Income", or 44% "Moderate Income" rental units restricted for at least 55 years	50% density bonus
Projects with 100% affordable units (excluding manager unit) with max 20% moderate units	
Projects that donate land (at least one acre) for very low-income (Gov Code § 65915(g))	15% to 35% density bonus
Projects that provide a child care facility (Gov Code §65915(h))	Equivalent square footage of child care facility for bonus units

Potential DBL project locations include the North Commercial and Professional Commercial Zones and will include the Central Commercial Zone (Ordinance pending per Housing Element).

Maximum Density Bonus

Opportunities for a project density bonus are set on a sliding scale based on percentage of units in the project that will be set aside as income-restricted; and number of units in specified household income categories (very low, low, or moderate). The maximum density bonus that can be awarded is 50% of the base units (pre-density bonus), which applies to projects that include at least 44% moderate-income units or 24% low-income units or 15% very low-income units. The density bonus calculation is based on the allowable density of the base zone. No additional density will be awarded beyond the 50% density bonus.

Incentives/Concessions and Determination of Economic Infeasibility

An applicant may request incentives/concessions to reduce costs to build a DBL project with affordable units. Incentives and concessions have the same meaning under DBL. Typically, development projects must comply with design standards and development regulations (i.e., height, floor area ratio, lot coverage, and setbacks). DBL allows projects to deviate from design standards and development regulations if the standard regulations would make the project economically infeasible to build. Requested incentives or concessions must result in identifiable and actual cost reductions for affordable housing development. An applicant shall provide reasonable documentation to explain how the request will reduce costs to build the project. The City may deny an incentive or concession if it finds it would be contrary to state or federal law, or would have a specific, adverse and unavoidable impact on public health, safety or on a listed historic property.
DBL allows up to five “incentives” to be requested based on the number of income-restricted units:

Income Category	% of Reserved Units				
Very Low	5%	10%	15%	16%	100% lower income (up to 20% moderate income)
Low	10%	17%	24%	N/A	
Moderate	10% for sale	20% for sale	30% for sale	45% for sale	
Senior	N/A	N/A	100%	N/A	N/A
Maximum Incentives	1	2	3	4	5

Waivers and Determination of Physical Infeasibility

A waiver is a reduction or modification of “development standards” and other regulations when those requirements would make project construction physically infeasible without waiver approval. “Development standards” includes a site or construction condition, including, but not limited to, height, setbacks, floor area, open space requirements or parking. The determination of physical infeasibility considers the density permitted per DBL and scenarios with project incentive(s) granted. There is no limit to the number of waivers an applicant can request. However, waiver requests must be accompanied by reasonable documentation that explains the request and visually demonstrates in exhibits that the existing development standard, if not waived or reduced, would physically preclude development of the project. The City may deny a waiver if it finds it would be contrary to state or federal law, or would have a specific, adverse and unavoidable impact on public health, safety or on a listed historic property.

City of Del Mar
Staff Report

TO: Honorable Mayor and City Council Members

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

DATE: April 15, 2024

SUBJECT: Resolution Approving the Del Mar Projects for Inclusion in the TransNet Local Street Improvement Program of Projects for Fiscal Years 2024-2025 through 2028-2029

REQUESTED ACTION/RECOMMENDATION:
Staff recommends that City Council conduct a public hearing and adopt a Resolution (Attachment A) approving Del Mar projects for inclusion in the TransNet Local Street Improvement Program of Projects as part of the Regional Transportation Improvement Program for Fiscal Years 2024-2025 through 2028-2029.

DISCUSSION/ANALYSIS:
TransNet is the half-cent sales tax for funding local transportation projects that was first approved by voters in 1988. On November 4, 2004, the voters of San Diego County approved the San Diego Transportation Improvement Program Ordinance and Expenditure Plan (TransNet Extension Ordinance) that extended TransNet for an additional 40-year period.

The San Diego Association of Governments (SANDAG) approves the TransNet Program of Projects (POP) list as an element of the Regional Transportation Improvement Program (RTIP) every two years. The 2025 RTIP is a multi-year program of proposed major highway, arterial, transit, and bikeway projects. The SANDAG Board, in its role as the San Diego County Regional Transportation Commission, approves a five-year program of projects to be funded with TransNet revenues.

On February 14, 2024, SANDAG released its TransNet Revenue Forecast (Revenue Forecast) for the five-year period of Fiscal Years 2024-2025 through 2028-2029 for the Local Street Improvements (LSI) program. SANDAG's TransNet revenue estimates are based on forecasted sales and the half-cent tax that is applied to each sale.

City Council Action:

SANDAG estimates that the City of Del Mar will receive a total of $1,628,000 in TransNet local street improvement funds for Fiscal Years 2024-2025 2028-2029. That total is made up of three parts: 1) RTIP loan of $690,000 for portions of the Downtown Streetscape Project, which is scheduled to be paid off by 2044 (this funding is automatically deducted by SANDAG as payment towards the City's prior loan for that project); 2) a five-year revenue forecast of $680,000 that will be used for the City's projects as projected (Attachment B); and 3) an estimated carry-over of $258,000 the City has of LSI funds from prior years. This brings the total projected RTIP funds available to the City during the next five-year period to $938,000 (excluding the Downtown Streetscape loan).

To use TransNet LSI funds on City projects, those projects must be included within the SANDAG approved POP. The 2025 RTIP contains a detailed listing describing the major projects anticipated to be initiated through Fiscal Years 2028-2029. City projects that staff propose to be funded partially with TransNet revenues for the next five fiscal years are listed in the table below. The amounts in the table represent only the RTIP portion of the full amount the City will expend on each of these projects.

Del Mar's Amended 2025 RTIP List of Programmed Projects

PROJECT ID	PROJECT TITLE	FY 24/25	FY 25/26	FY 26/27	FY 27/28	FY 28/29	Totals
DM 01	Annual Street Maintenance	$39,600	$39,600	$40,500	$41,700	$42,600	
DM 02	Local Match to Bridge Retrofit Projects (CDM Bridge over San Dieguito River Replacement Project)	$0	$0	$10,000	$10,000	$10,000	
DM 06	Sidewalk, Street, and Drainage Improvements	$92,400	$92,400	$84,500	$87,300	$89,400	
	Five Year Forecast Totals	$132,000	$132,000	$135,000	$139,000	$142,000	$680,000
	RTIP Loan for Downtown Streetscape	$135,000	$137,000	$137,000	$140,000	$141,000	$690,000
	TransNet – LSI Carry Over	$258,000					$258,000
	TransNet LSI Estimated funds for Fiscal Year 2025-2029						**1,628,000**

The proposed list of programmed projects includes changes to the Annual Street Maintenance (DM 01) and Sidewalk, Street, and Drainage Improvements (DM 06) to reflect the overall decrease in the projected revenues for the next five years. Staff recommends deferring the use of RTIP funds for the Camino del Mar Bridge (DM 02) until Fiscal Year 2026-2027, when the project enters the construction phase. The City will continue using its local match budgeted funds for these projects throughout the five-year period.

The proposed Resolution (Attachment A) provides certification to SANDAG that the City: 1) will not spend more than 30% of annual revenues on maintenance-related projects; 2)

will comply with TransNet requirements that all new and revised projects will accommodate travel by pedestrians and bicyclists; and 3) meets all applicable provisions of the TransNet Extension Ordinance and SANDAG Board Policy 31.

The TransNet Extension Ordinance requires the City to expend a minimum annual level of local discretionary funds for street and road purposes throughout the five-year RTIP. This Maintenance of Effort (MOE) requirement is adjusted every three years and audited on an annual basis. Currently, the City's annual MOE for use on streets and roads is $379,643, with an additional requirement that $17,493 be spent on specialized transportation services such as those provided by Del Mar Community Connections to seniors and persons with disabilities. Since the City's MOE requirement is based on local sales tax generation, which includes Measure Q revenue, the City funds a proportionate share of its annual MOE requirement ($47,250) using Measure Q funds.

PRIOR CITY COUNCIL REVIEW:
On April 4, 2022, the City Council approved Resolution 2022-24 adopting the 2023 RTIP Program of Projects for Fiscal Years 2022-2023 through 2026-2027.

On April 3, 2023, the City Council approved an Amendment to the Transnet Local Street Improvement Program for Fiscal Years 2022-2023 through 2026-2027.

FISCAL IMPACT:
There is no fiscal action to be taken by the City Council related to this item. The transportation related project expenditures and anticipated RTIP funding discussed in this report total $1,628,000 over the next five fiscal years. RTIP funding for specialized transportation and street and road services to meet the City's MOE requirement is included in the FY 2024-25 Operating and Capital Budget.

ENVIRONMENTAL IMPACT:
The proposed City Council action does not constitute a "project" under the definition set forth in California Environmental Quality Act (CEQA) Guidelines Section 15378 because it will not have a potential to result in a direct or indirect physical change in the environment and is, therefore, not subject to CEQA. No further action under CEQA is required. Each project will receive the appropriate environmental review at time of implementation.

NEXUS TO CITY COUNCIL GOALS AND PRIORITIES:
TransNet funds support the City Council's approved Tier 1 Capital Improvement Projects.

ATTACHMENTS:
Attachment A – Resolution Adopting City of Del Mar's RTIP Program of Projects for FY 2024-2025 through FY 2028-2029
Attachment B – TransNet Revenue Forecast – Local Street Improvement Program

RESOLUTION NO. 2024-XX

A RESOLUTION OF THE CITY/COUNTY OF THE CITY OF DEL MAR, CALIFORNIA, ADOPTING THE LIST OF DEL MAR PROJECTS FOR INCLUSION IN THE TRANSNET LOCAL STREET IMPROVEMENT PROGRAM OF PROJECTS FOR FISCAL YEARS 2025 THROUGH 2029

WHEREAS, on November 4, 2004, the voters of San Diego County approved the San Diego Transportation Improvement Program Ordinance and Expenditure Plan (*TransNet* Extension Ordinance), which has been amended from time to time in accordance with the applicable amendment requirements; and

WHEREAS, the *TransNet* Extension Ordinance provides that SANDAG, acting as the Regional Transportation Commission, shall approve on a biennial basis a multi-year program of projects submitted by local jurisdictions identifying those transportation projects eligible to use transportation sales tax (*TransNet*) funds; and

WHEREAS, the City of Del Mar was provided with an estimate of annual *TransNet* local street improvement revenues for fiscal years 2025 through 2029; and

WHEREAS, the City of Del Mar has held a noticed public hearing with an agenda item that clearly identified the proposed list of projects prior to approval of the projects by its authorized legislative body in accordance with Section 5(A) of the *TransNet* Extension Ordinance and Rule 7 of SANDAG Board Policy No. 31.

NOW THEREFORE, BE IT RESOLVED that pursuant to Section 2(C)(1) of the *TransNet* Extension Ordinance, the City of Del Mar certifies that no more than 30 percent of its cumulative revenues shall be spent on local street and road maintenance-related projects, or that its expenditures are consistent with the most recent *TransNet* Extension Ordinance requirements adopted by SANDAG.

BE IT FURTHER RESOLVED that pursuant to Section 4(E)(3) of the *TransNet* Extension Ordinance, the City of Del Mar certifies that all new projects, or major reconstruction projects, funded by *TransNet* revenues shall accommodate travel by pedestrians and bicyclists, and that any exception to this requirement permitted under the Ordinance and proposed shall be clearly noticed as part of the City of Del Mar's public hearing process.

BE IT FURTHER RESOLVED that pursuant to Section 8 of the *TransNet* Extension Ordinance, the City of Del Mar certifies that the required minimum annual level of local discretionary funds to be expended for street and road purposes will be met throughout the 5-year period consistent with the most recent Maintenance of Effort Requirements adopted by SANDAG.

BE IT FURTHER RESOLVED that pursuant to Section 9A of the *TransNet* Extension Ordinance, the City of Del Mar certifies that it will exact $2,875.06 plus all applicable annual increases, from the private sector for each newly constructed residential housing unit in that jurisdiction (unless exempted under the *TransNet* Extension Ordinance,) and shall contribute such exactions to the Regional Transportation Congestion Improvement Program (RTCIP).

BE IT FURTHER RESOLVED that pursuant to Section 13 of the *TransNet* Extension Ordinance, the City of Del Mar certifies that it has established a separate Transportation Improvement Account for *TransNet* revenues with interest earned expended only for those purposes for which the funds were allocated.

BE IT FURTHER RESOLVED that pursuant to Section 18 of the *TransNet* Extension Ordinance, the City of Del Mar certifies that each project of $250,000 or more will be clearly designated during construction with *TransNet* project funding identification signs.

BE IT FURTHER RESOLVED that the City of Del Mar does hereby certify that all other applicable provisions of the *TransNet* Extension Ordinance and SANDAG Board Policy No. 31 have been met.

BE IT FURTHER RESOLVED that the City of Del Mar agrees to indemnify, hold harmless, and defend SANDAG, the San Diego County Regional Transportation Commission, and all officers and employees thereof against all causes of action or claims related to City of Del Mar's *TransNet* funded projects.

PASSED AND ADOPTED by the City Council of the City of Del Mar on the 15th day of April, 2024.

_____
Dave Druker, Mayor
City of Del Mar

APPROVED AS TO FORM:

_____
Leslie E. Devaney, City Attorney
City of Del Mar

ATTEST AND CERTIFICATION:
STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
CITY OF DEL MAR

I, SARAH KRIETOR, Administrative Services Manager/City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY, that the foregoing is a true and correct copy of Resolution No. 2024-XX, adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the 15th day of April 2024, by the following vote:

AYES:

NOES:

RECUSE:

ABSENT:

ABSTAIN:

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

TransNet Revenue Forecast - Local Street Improvement Program[1]

Estimates for FY 2024 to FY 2029 (in $000s)**

Draft 02/02/2024

Jurisdiction	January 2022 Population[3]	Maintained Miles[3]	FY 2024*	FY 2025	FY 2026	FY 2027	FY 2028	FY 2029
Carlsbad	115,585	430.36	$4,879	$4,927	$4,986	$5,049	$5,193	$5,326
Chula Vista	276,785	510.95	$9,150	$9,241	$9,352	$9,471	$9,742	$9,992
Coronado	22,277	45.43	$803	$810	$820	$829	$852	$872
Del Mar[4]	3,929	25.81	$134	$132	$132	$135	$139	$142
El Cajon	105,638	199.37	$3,544	$3,579	$3,621	$3,667	$3,771	$3,867
Encinitas	61,515	172.83	$2,353	$2,377	$2,405	$2,435	$2,503	$2,567
Escondido	150,679	325.84	$5,230	$5,282	$5,345	$5,413	$5,567	$5,709
Imperial Beach[4]	26,243	47.04	$524	$840	$925	$936	$962	$985
La Mesa	60,472	143.92	$2,191	$2,213	$2,239	$2,267	$2,331	$2,389
Lemon Grove	27,242	62.56	$1,004	$1,013	$1,025	$1,037	$1,066	$1,092
National City	61,471	104.02	$2,026	$2,046	$2,070	$2,096	$2,155	$2,209
Oceanside	173,048	429.14	$6,259	$6,322	$6,398	$6,479	$6,663	$6,834
Poway	48,759	179.96	$2,079	$2,100	$2,125	$2,151	$2,212	$2,267
San Diego	1,374,790	2,835.76	$46,006	$47,130	$47,699	$48,307	$49,694	$50,974
San Marcos[4]	93,585	187.75	$2,272	$2,300	$2,339	$2,381	$2,475	$2,562
Santee[4]	59,015	118.45	$1,233	$1,251	$1,270	$1,287	$1,336	$1,379
Solana Beach[4]	12,812	43.11	$238	$244	$250	$257	$272	$286
Vista	100,291	178.88	$3,318	$3,350	$3,390	$3,433	$3,530	$3,620
County[4]	513,170	2,322.41	$22,198	$22,437	$22,724	$23,031	$23,729	$24,373
Subtotal Street & Road* **	**3,287,306**	**8,363.6**	**$115,441**	**$117,593**	**$119,115**	**$120,662**	**$124,191**	**$127,444**
Local EMP[5]			$7,417	$7,491	$7,581	$7,677	$7,896	$8,098
Local Smart Growth[5]			$8,653	$8,739	$8,844	$8,956	$9,212	$9,447

**Estimate updated in January 2024.*

***Revenue estimates for planning purposes only. Payments will be based on actual sales tax monthly receipts from the State Board of Equalization.*

**** Totals may not add up due to rounding*

1.Projection of revenues are based on estimate of growth rate on taxable sales as forecasted by SANDAG and excludes interest and prior year excess funds.

2. Distribution of revenue estimates are based on the 2004 Proposition A Extension: San Diego Transportation Improvement Program and Expenditure Plan and apportioned as follows: (a) $50,000 annual base per agency ; (b) balance distributed on a formula of 2/3 population and 1/3 maintained miles.

3. Population numbers are based on state Department of Finance (DOF) report of January 2022 population; Maintained miles figures are based on Caltrans 2022 California Public Road Data (December 2023).

4. Revenues are net of estimated commercial paper and/or bond debt service payments

5. EMP to be distributed on a project by project basis; Smart Growth to be allocated based on Call for Projects process.

City of Del Mar
Agenda Report

TO: Honorable Mayor and City Council Members

FROM: Martin Boyd, Project Manager II
Joe Bride, Public Works Director
Via Ashley Jones, City Manager

DATE: April 15, 2024

SUBJECT: San Dieguito Drive Improvements Project Update, Engineer's Report Related to Project Benefits, and Proposition 218 Resolutions

REQUESTED ACTION/RECOMMENDATION:
Staff recommends that the City Council: 1) Receive an update on the San Dieguito Drive Improvements Project and presentation of the Engineer's Report Related to Project Benefits; 2) Adopt a Resolution (Attachment A) Providing Intention to Levy Assessments for Fiscal Year 2024-25, Preliminarily Approving the Engineer's Report, Providing for the Notice of Hearing, and the Mailing of Assessment Ballots for the San Dieguito Drive Improvement District; and 3) Adopt a Resolution (Attachment B) Adopting Procedures for the Proposition 218 Assessment Ballot Proceedings for the San Dieguito Drive Improvement District.

BACKGROUND
San Dieguito Drive is an approximately 1,000 linear foot private road with public access in the City of Del Mar that extends from the intersection of San Dieguito Drive and Racetrack View Drive to Oribia Road. The road is not part of the City's public streets system and is not owned or maintained by the City. However, there is an easement on San Dieguito Drive that grants the City right-of-way for road and utility purposes (i.e., sewer, water, gas, power, and telephone lines).

Currently, San Dieguito Drive is in a deteriorated condition and in need of repair. For decades, the City has provided information and discussed alternatives with the adjacent property owners of San Dieguito Drive about how they could develop a road of sufficient quality and standards so that it could be considered for acceptance into the City's streets and roadways system and added to the City's regular street maintenance schedule. Unfortunately, efforts among residents over the years to mobilize themselves and address the road condition have been unsuccessful, and the road condition has continued to decline.

In an effort to work with residents to explore opportunities to improve the road to an acceptable condition and for the City to participate in doing so, the City Council authorized a task order with Michael Baker International (MBI) to conduct a Phase I Preliminary

City Council Action:

Engineering Assessment for San Dieguito Drive, totaling $64,500. The intent of the Phase 1 assessment was to better understand the condition of the road and develop conceptual design alternatives and costs that could serve as the basis for a future capital improvement project to improve the road.

As an outcome of the Phase 1 work, the City Council reviewed four potential design alternatives to address San Dieguito Drive on September 5, 2023, and approved further study of a "Minimal Alternative" design. As a next step in the process, the Council authorized a $155,400 Task Order with MBI to proceed with the Phase 2 Road Improvement Design, Construction Documents and Easement Acquisition. The initial amount of the Task Order was subsequently increased by $25,882, as approved by the City Council on April 1, 2024, to include necessary potholing, mark-outs, and California Environmental Quality Act (CEQA) work to complete the design and permitting for the project.

The Minimal Alternative envisions a roadway with a standard centerline crown with 16 feet of asphalt and 3.5-foot concrete rolled curbs for an improved width of 23 feet and a minimum 20 feet of travel-way for public safety vehicle access. The adjacent property owners support this design as expressed during several neighborhood meetings with staff and to the City Council, because it maintains the rural character of the neighborhood as envisioned in the City's Community Plan and is the least impactful to existing private improvements, while providing the minimum necessary improvements to upgrade the road to public standards. The preliminary estimated cost to design and construct the Minimal Alternative was $1.3 million. This amount included all costs associated with the project including Phase 1 and 2 engineering, environmental review, assessment consultant services, and construction.

Separate from the actual design of the road improvements is the determination of how the proposed road improvements and related costs will be paid for, who will contribute, and what the appropriate proportionate share should be for the project beneficiaries. To assist with this, on October 16, 2023, the City Council approved an agreement with SCI Consulting Group (SCI) to perform assessment engineering services including an analysis of the project scope and cost, special (private) and general (public) benefits resulting from the improvement project, planning and feasibility activities, development of a Proposition 218-compliant Engineer's Report, balloting services, and community outreach for the purpose of forming an assessment district to fund the residents' portion of the costs to improve San Dieguito Drive.

It should be noted that SCI Engineering is a highly qualified assessment engineering and public finance consulting firm that assists public agencies with revenue measures and administration. SCI has significant expertise in the area of assessment districts and are one of a few firms in California with experience in forming assessment districts for road improvements and maintenance. The Engineer of Work for this project, John Bliss, has over 20 years of assessment district experience and has formed more assessment districts than anyone else in the State of California.

DISCUSSION/ANALYSIS:

Resident Outreach/Engagement

Throughout this process, the City has engaged residents to explore ideas/solutions, answer questions and solicit input. This is a typical and standard process for the City and was particularly valuable in developing the Minimal Alternative project design that was ultimately supported by residents and the City Council. All documents and information related to this project and the resident coordination process to date including agenda reports, Q&A handouts, engineering and assessment studies/analysis, and meeting recordings can be found on the City's website at: https://www.delmar.ca.us/883/San-Dieguito-Drive-Improvements-Project.

Over the last few months, staff has continued to engage residents to better understand whether there is enough support to proceed with the actions necessary to formalize an assessment district and construction of the road improvements. This work includes distribution of an informal resident survey (Attachment C), two neighborhood meetings, individual discussions and onsite meetings with residents to answer questions and address their concerns, and distribution of Q&A documents (Attachments D and E) that provide comprehensive answers to questions received.

On March 5, 2024, a resident meeting was held to present SCI's preliminary draft engineering analysis and an overview of the Proposition 218 process, answer resident questions, and solicit input. Following the resident meeting, staff posted a copy of SCI's presentation, a link to the recorded meeting, and the Preliminary Draft Engineer's Report on the City's website for residents to review and provide feedback.

On April 3, 2024, a resident meeting was held to present MBI's final design for the project, updated engineer's cost estimate, and overall total project estimate. Attachment F includes an overview of the final design. A recording of the meeting and presentation by staff and MBI are available at the website link cited above.

Below is a summary of the key concerns and feedback that has been provided by residents to date:

- Interest in minimizing impacts to private property improvements as much as possible.
- Ensuring the City is contributing to the project to the greatest extent possible.
- Ensuring that the property owners on San Dieguito Drive and Oribia Road and the City are paying "their fair share" toward the project improvements.
- Concerns from some Oribia Road residents that they aren't responsible for San Dieguito Drive and shouldn't have to pay or be included in the assessment district at all.
- Concerns from some San Dieguito Drive residents that Oribia Road property owners should contribute a higher amount than identified in the Preliminary Draft Engineer's Report.

- Concerns that the general public benefit of 54% is too low and should be increased taking into consideration general use by the public related to the San Dieguito Lagoon and Crest Canyon Park and general benefits related to wildfire response/public health and safety.
- There should be a higher project offset/credit related to undergrounding work.

As part of the resident outreach effort, City staff informally surveyed property owners about whether or not they would support the proposed assessment. Of the 31 properties surveyed, 20 (65%) responded. And of those, 17 (85%) indicated support for the proposed assessment. The methodology for formal tabulation of the assessment ballots is described in Attachment B, which when applied to the informal survey results demonstrates a positive outcome and majority support among residents to move forward with the assessment process. The results of the informal property owner survey are summarized in the table below:

Zone	Yes	No	Maybe	Total
(A) San Dieguito Drive	11	1	0	12
(B) Oribia Road	6	1	1	8
Total	**17**	**2**	**1**	**20**

Final Project Design

The final design remains consistent with the Minimal Alternative previously approved by City Council, and includes the following details:

- Removal of the existing 17 to 20 feet of deteriorated road.
- Installation of a new road section with 16 feet of asphalt with aggregate base and 3.5-foot concrete rolled curbs.
- Provide a wider roadway for 20 feet of drivable surface.
- Improve drainage by installing a standard centerline crown, concrete rolled curbs, storm drain pipelines, and storm drain inlets.
- Installation of two modular wetlands (stormwater quality BMPs).
- Installation of a retaining wall at the southwest corner of San Dieguito Drive and Racetrack View Drive to widen the roadway.
- Reconstruction of driveways to conform to the new rolled curb profile.

The final project scope includes the minimum elements required for the improvements to meet minimum road standards and be accepted into the City's street system for maintenance by the City moving forward. This is important because although it is not identified (legally precluded) as a special benefit to the property owners in the Engineer's Report, there is significant benefit and cost savings to property owners in being relieved of future maintenance obligations for San Dieguito Drive once the improvement project is complete and the road is accepted into the City's street maintenance system. Another potential benefit that is precluded from consideration as part of the Engineer's Report is the increase in the market value to the properties that use San Dieguito Drive to access their properties.

Updated Estimated Total Project Costs

The total estimated cost to improve San Dieguito Drive is $1,269,039 (Appendix B of Attachment G). This estimate includes pre-construction, construction, and project

contingency costs. The pre-construction costs total $287,282, and include Phase 1 and 2 Engineering Services, required CEQA determination by MBI, and assessment engineering services by SCI. It should be noted that these costs, along with a significant amount of City staff time, have been invested in this project by the City with no certainty of return should the project fail to move forward. This work was done by the City as a necessary step to try and bring a final resolution to a long-standing issue of concern between the City and residents that has existed for decades. It has also been a clear expectation that should the project move forward that the property owners' contribution toward the project would include a proportionate share of the pre-construction costs.

The estimated total construction cost for the project of $902,779, is based on MBI's final engineer's construction estimate (Attachment H), cost credits related to the City's planned X1A Undergrounding Project and storm drain pipe replacement that will happen regardless of whether the San Dieguito Drive Improvement project proceeds, construction management and inspection services, and geotechnical services.

As reflected on Attachment I, a $87,067 construction estimate credit has been subtracted from the total construction estimate of $876,846 based on the estimated cost savings from constructing the San Dieguito Drive Improvements Project (SDD Project) along with the Utility Underground District (UUD) X1A (Crest Canyon) project and benefits from replacing the existing 12-inch Corrugated Metal Pipe storm drain that will require eventual replacement as part of the City's standard maintenance. This credit represents an approximate cost savings of 10% to the construction estimate.

It should be noted that as part of the City's citywide Undergrounding Program, the City is only responsible for resurfacing three (3) feet of asphalt per San Diego Regional Standard Drawings and is not responsible for replacement of an entirely deteriorated road as part of the undergrounding work. A reconciliation will be performed at the conclusion of the project to determine if an additional credit is needed based on the actual work performed as part of the X1A Undergrounding Project.

A project contingency of $78,978 is included for change orders due to unforeseen field conditions, need for specialty inspections, or any other unanticipated costs during construction. The project contingency is calculated as 10% of the construction estimate minus the construction estimate credit. The reduced project contingency from the construction estimate credit results in additional $8,707 savings for a total project savings of $95,774.

Coordination with Utility Undergrounding District (UUD) XIA (Crest Canyon)
It is anticipated that there will be some benefits related to cost savings and efficiencies, as well as reduced impacts to property owners, of bidding out and constructing the SDD and UUD X1A projects together. The SDD Project will be included as an additive alternate bid item as part of the UUD X1A bid package that the City could elect to move forward with or not depending on the outcome of the assessment formation process. Bidding the project this way will also help clearly identify the cost for the SDD Project.

If the SDD Project moves forward, the City intends to align the design and construction schedules for the SDD and UUD X1A projects. The current UUD X1A schedule anticipates completion of the design and bid documents by July 2024, followed by the public bidding process, and then anticipated City construction contract award by September 2024. The SDD Project bid package is on schedule to be completed along with UUD X1A.

SCI Engineering Report

Consistent with City Council action on October 16, 2023, SCI consulting Group prepared an Engineer's Report (Attachment G) to determine the relative private special benefits in proportion to the public general benefits of improving San Dieguito Drive. The report includes an overview of the project, legislative analysis, description of improvements, estimate of costs, method of apportionment, assessment, and assessment diagram. SCI utilized the following approach when determining the method of apportionment.

1. Identification of all special benefit factors and all general benefits derived from the Improvements.
2. Calculation of the proportion of these benefits that are general.
3. Determination of the relative special benefit within different areas within the Improvement District.
4. Determination of the relative special benefit per property type.
5. Calculation of the specific assessment for each individual parcel based in proportion to the special benefit it receives from the Improvements. The special benefits consider the location of the parcels in relation to the special benefits, property type, property characteristics, improvements on property and other supporting attributes.

The Engineer's Report calculates the assessments for each benefitted parcel (privately owned land) located in the proposed assessment district, identified as Zones A and B, in direct proportion to the general benefits conferred to the general public from the improvements intended for San Dieguito Drive. As further detailed in their report, SCI has determined that at least 54% of the benefits conferred by the Improvements may be general in nature and should be funded by sources other than the proposed assessment district.

To be clear, the basis for the inclusion of identified properties in the proposed assessment district is based on the special benefits those properties will receive from the SDD Project. The assessment zones and recommended proportional assessment contributions are not based on whether or not those properties have a legal responsibility to maintain the road.

Based on the special nature of private San Dieguito Drive providing sole access to public Oribia Road and concerns raised by residents regarding the percentage of general benefit identified by SCI, related to general public use of San Dieguito Drive related to the San Dieguito Lagoon and general public benefit of an improved road related to fire suppression and emergency response, staff recommends the City Council consider contributing an amount up to 70% of the project costs. This additional up to 16% contribution over and above the minimum 54% contribution identified by SCI represents an approximately $200,000 increase in the City's contribution to the project for a total City contribution of $888,239.

If the City Council agrees to the increased contribution, the remaining $380,800 in project costs would be provided by the assessment district if passed by the property owners. The resulting contribution by San Dieguito Drive (Zone A) and Oribia Road (Zone B) property owners' would be $11,847 and $7,193 per property, respectively. If approved by the Council, property owners would be given the opportunity to pay the assessment over a recommended 20-year period on their property tax bill or pay the entire amount up front. Payments over a 20-year period would be $846.22 for Zone A (San Dieguito) and $423.11 for Zone B (Oribia) per year and are recommended to be interest free.

In addition to the 31 developed properties identified for inclusion in the proposed assessment district, there are 12 vacant properties. Vacant properties will not receive special benefits from the proposed SDD Project, and therefore would not be levied. As is typical practice, if any of the currently vacant parcels are developed while the assessment district is in effect, then the proposed assessment would apply to the newly developed parcel beginning in the fiscal year it is developed. However, this would only apply if San Dieguito Drive is the property's sole means of ingress and egress.

Proposition 218 Ballot Process

Proposition 218 requires an Engineer's Report supporting the proposed assessments, followed by a mailed ballot proceeding of property owners that would be included in the benefit assessment district. The City Council previously adopted a resolution on March 4, 2024, formally appointing SCI as the Engineer of Work and directing them to prepare the Engineer's Report.

As part of the recommended action for this agenda item, staff is requesting that the City Council consider adopting a Resolution, included as Attachment A, which is legally required in order to initiate the Proposition 218 ballot process with property owners who receive an identified special benefit from the SDD Project. If the Resolution is approved, it will preliminarily approve the Engineer's Report and will order the mailing of the Notice of Hearing and the ballots to owners of the benefiting properties so they can vote on the measure.

A minimum 45-day time period must be provided for the return of the assessment ballots. Following the 45-day time period, the City Council will hold a public hearing in June 2024 to take public input and tabulate the responsive ballots and officially approve the Engineer's Report. If the measure passes via a 50% weighted vote of the ballots received, the City Council will have the ability to order the levying of the assessments for Fiscal Year 2024-25 and future years until the assessment has been satisfied. The City would pay for all the improvement costs up front and recoup the residents' share of the SDD Project costs at the rate and over the time period defined in the ballot measure.

A second Resolution, included as Attachment B, is not required by law but is recommended in order to clarify the ballot procedures the City intends to follow. This provides transparency with the public and is intended to answer procedural questions in advance for elements of the balloting process, which are not defined in Proposition 218 or otherwise in California law.

FISCAL IMPACT:
There is no fiscal action to be taken by the City Council related to recommended action for this agenda item.

ENVIRONMENTAL IMPACT:
The proposed City Council action does not constitute a "project" under the definition set forth in California Environmental Quality Act (CEQA) Guidelines Section 15378 because it will not have a potential to result in a direct or indirect physical change in the environment and is, therefore, not subject to CEQA. No further action under CEQA is required.

NEXUS TO CITY COUNCIL GOALS AND PRIORITIES:
San Dieguito Drive Development is listed as a Tier 2 City Council priority for Fiscal Years 2023-2024 and 2024-2025.

ATTACHMENTS:
Attachment A – Resolution Providing Intention to Levy Assessments for Fiscal Year 2024-25, Preliminarily Approving the Engineer's Report, and Providing for the Notice of Hearing, and the Mailing of Assessment Ballots for the of San Dieguito Drive Improvement District
Attachment B – Resolution Adopting Procedures for the Proposition 218 Assessment Ballot Proceedings for the San Dieguito Drive Improvement District
Attachment C – Informal Resident Survey
Attachment D – Resident Q&A 3-1-2024
Attachment E – Resident Q&A 4-4-2024
Attachment F – San Dieguito Drive Final Design
Attachment G – Engineer's Report for the San Dieguito Drive Improvement District
Attachment H San Dieguito Drive Construction Cost Estimate
Attachment I Construction Estimate Credit

RESOLUTION NO. 2024-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, PROVIDING INTENTION TO LEVY ASSESSMENTS FOR FISCAL YEAR 2024-25, PRELIMINARILY APPROVING THE ENGINEER'S REPORT, AND PROVIDING FOR NOTICE OF HEARING, AND THE MAILING OF ASSESSMENT BALLOTS FOR THE SAN DIEGUITO DRIVE IMPROVEMENT DISTRICT

WHEREAS**,** on March 4, 2024, the City Council of the City of Del Mar designated SCI Consulting Group, and more particularly John W. Bliss, as a registered professional engineer in the State of California, as the Engineer of Record and as the Engineer of Work and ordered preparation of an Engineer's Report for the San Dieguito Drive Improvement District (the "Improvement District"); and

WHEREAS, San Dieguito Drive ("the road") is a private road with public access in the City of Del Mar ("City") on Book 299, page 200 of the County of San Diego Assessor Parcel Maps; and

WHEREAS, residents living along Oribia Road use San Dieguito Drive to access their homes; and

WHEREAS, San Dieguito Drive and Oribia Road are currently not part of the public street system or maintained by the City; and

WHEREAS, San Dieguito Drive is approximately 17 to 20 linear feet wide and includes adjacent gravel/dirt shoulder areas that are currently used for private and public parking; and

WHEREAS, the asphalt along San Dieguito Drive is in a highly deteriorated condition and the Street needs significant repair; and

WHEREAS, San Dieguito Drive is classified as a Hillside Residential Street, which is the minimal standard available for residential streets; and

WHEREAS, San Dieguito Drive also serves the public interest by providing coastal access to the nearby lagoon and allows for fire apparatus access in the event of wildland fires to the adjacent hillsides; and

WHEREAS, there are both public and private benefits associated with the repair and replacement of the asphalt along San Dieguito Drive; and

WHEREAS, over several decades the residents of both San Dieguito Drive and Oribia Road have requested the City to improve the private roads that provide public access and accept San Dieguito Drive into the City's roadway system; and

ATTACHMENT A

WHEREAS, in response to citizen requests and the public's use of San Dieguito Drive for fire suppression access and the additional public access to the nearby coastal lagoon, the City proposes to implement a Proposition 218-compliant, balloted benefit assessment district; and

WHEREAS, the City retained SCI Consulting Group to prepare an Engineer's Report to determine the relative special benefits in portion to the general benefits of improving San Dieguito Drive; and

WHEREAS, the Engineer's Report is intended to calculate the assessments for each benefitted parcels (privately owned land) located in the proposed Assessment District in direct proportion to the general benefits conferred to the public from the improvements intended for San Dieguito Drive; and

WHEREAS, on March 20, 2024, a Draft Engineers Report was provided to the residents living along San Dieguito Drive and Oribia Road and to the general public on the City's website; and

WHEREAS, the Draft Engineer's Report generally described the repairs as removing the existing 17 to 20 feet of deteriorated road, installing a new road section with 16 feet of asphalt with aggregate base and 3.5-foot concrete rolled curbs, providing a wider roadway for 20 feet of drivable surface. improving drainage by installing a standard centerline crown, concrete rolled curbs, storm drain laterals, and storm drain inlet, installing two modular wetlands, installing a retaining wall at the southwest corner of San Dieguito Drive and Racetrack View Drive to widen the roadway, and removal and replacement of poles and undergrounding of electrical and communications; and

WHEREAS, the improvements are estimated to be $1,269,039; and

WHEREAS, the Draft Engineer's Report calculated the net amount to be assessed upon lands by a formula that fairly distributes the net amount among all assessable parcels in proportion to the estimated special benefits to be received by each such parcels from the improvements in proportion to the general benefits conferred to the public; and

WHEREAS, the Engineer's Report concluded that the general benefits conferred upon the public for wildland fire suppression access, improved coastal access, and general beautification amounts to 54% of the estimated costs of the improvements; and

WHEREAS, Proposition 218 was adopted on November 6, 1996, adding Articles XIIIC and XIIID to the California Constitution which allows for the establishment of Assessment Districts whereby such assessments are not considered a tax; and

WHEREAS, the Engineer's Report divided the special benefits into two benefit

ATTACHMENT A

zone locations, Zone A includes all homes along San Dieguito Drive while Zone B includes all homes along Oribia Road; and

WHEREAS, the special benefits include improved road access to the homes in both Zones A and B, by way of reducing damage to automobiles from colliding into potholes, improved safety of the residents during times of evacuations, improved beautification of their adjoining roads, improved drainage, and the likelihood of receiving higher resale values; and

WHEREAS, under Articles XIIIC and XIIID of the California Constitution impose certain procedural and substantive requirements relating to the imposition of assessments; and

WHEREAS, the City of Del Mar believes it to be in the best interest of the City, the general public, and the private property owners to confirm and memorialize the City's procedures and guidelines regarding implementation of the assessment provisions of Proposition 218 and other pertinent statutes relating to assessments; and

WHEREAS, sufficient funds are not available to improve San Dieguito Drive to bring it up to County road standards; and

WHEREAS, Chapter 6 of Part 3 of Division 7 of the Streets and Highways Code of the State of California, authorizes formation of an assessment district, and imposition of assessments to finance construction and improvement of roadways; and

WHEREAS, the City of Del Mar desires to initiate the proceedings for the formation of the San Dieguito Road Improvement District in conformity with Government Code Section 53753 and Article XIIID of the California Constitution; and to improve San Dieguito Drive within the proposed Improvement District; and

WHEREAS, an Engineer's Report (the: "Report") has been prepared by the Engineer of Record who is properly licensed in the State of California and is an employee of SCI Consulting Group (the "Engineer of Work") and submitted to the City Council (the "Council"), in which a new assessment is proposed to fund the cost to improve San Dieguito Drive within the proposed Improvement District boundaries.

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

1. The above recitals are true and correct and are fully incorporated herein; and

2. Reference to Initiation. the Engineer of Record, the "Engineer's of Work," has prepared an Engineer's Report in accordance with Article XIIID of the California Constitution and Government Code section 53750, 54710 et seq. The Report has been made, filed with the City Council and duly considered by the Council and is hereby deemed sufficient and preliminarily approved.

ATTACHMENT A

The Report shall be the foundational document that is fully compliant with State law and the California Constitution as the official “Engineer's Report” to be used in all subsequent proceedings under and pursuant to the foregoing resolution; and

3. Description of the Services. Within the Improvement District, the proposed Services will include improvement of San Dieguito Drive as described in the Engineer’s Report; and

4. Reference to Engineer’s Report. Reference is hereby made to the Report for a full and detailed description of the Improvements, the boundaries of the Improvement District and the proposed assessments upon assessable lots and parcels of land within the Improvement District; and

5. Report of the Engineer of Work. The Report, which is available for public review upon request, is hereby incorporated by reference. This Engineer’s Report generally includes the following:

    A. A description of the Improvements to be funded with assessment proceeds;

    B. An estimate of the annual cost of such Improvements;

    C. A description of the assessable parcels with homes located on the land within the District and proposed to be subject to the new assessment;

    D. A description of the special benefits conferred to the private interest of the assessed properties proportional to the general benefits;

    E. A description of the boundaries, noted by zones, of the proposed Improvement Assessment District;

    F. The proposed assessments in relationship to the particular properties and the estimated costs of the Improvements; and

6. Description of Improvement District. The Improvement District consists of the parcels shown on the Assessment Diagram of the Improvement District on file with the City Clerk and included herein by reference. As proposed, the Improvement District will include two special benefit zones: Zone A and Zone B, with Special Assessment Zone A representing the residents along San Dieguito Drive and Zone B being the residents along Oribia Road; and

7. Proposed Assessment Rate. It is by this action the intention of this City Council of the City of Del Mar to levy and collect assessments within the Improvement District. The estimated fiscal year 2024-25 cost of providing the

Improvements to be funded by this proposed assessment is $19,040 per year for 20 years. This cost results in a maximum proposed annual assessment rate per single-family equivalent benefit unit of EIGHT HUNDRED AND FORTY-SIX DOLLARS AND TWENTY-TWO CENTS ($846.22) for Zone A and FOUR HUNDRED AND TWENTY-THREE DOLLARS AND ELEVEN CENTS ($423.11) for Zone B. If approved, these rates will not be increased in future years; and

8. Public Hearing. A duly noticed public hearing in conformity with the California Constitution and California Government Code Section 53753 et seq. concerning the proposed establishment of the Assessment District and the amount of assessments proposed shall be held before the City Council of the City of Del Mar on Monday, June 17, 2024, at the hour of 4:30 pm and for the purpose of this Council's determination of whether it is in the public interest, convenience and necessity to require the Improvements and this Council's final action upon the Report and the assessments therein; and

9. Notice and Ballot. The City Clerk is hereby authorized and directed to cause the Notice of the hearing ordered under Section 53753 of the Government Code and Article XIIID, Section 4 of the California Constitution by mailing, postage prepaid, in the United States mail, and such Notice shall be deemed to have been given when so deposited in the mail. The envelope or cover of the mailing shall include the name of the Improvement District and include on the face of the envelope in 16-point bold type: "OFFICIAL BALLOT ENCLOSED." The mailed Notice shall be given by such mailing by name to those persons whose names and addresses appear on the current equalized secured property tax assessment roll of the County of San Diego, or in the case of any public entity, the representative of such public entity at the address thereof known to the City Clerk. The Notice shall include, but not be limited to, the total amount of assessment proposed to be levied in the Improvement District for fiscal year 2024-25, the assessment proposed for the owner's particular parcel(s) and the duration thereof and the reason for the assessment. Each Notice shall also contain the proposed assessment and the basis upon which the amount of the assessment was calculated. Each Notice shall also contain an assessment ballot, a summary of the procedures applicable to the completion, return and tabulation of assessment ballots, the date, time, and location of the public hearing and a statement that the existence of a majority protest will result in the assessment not being imposed. The Notice herein provided shall be mailed not less than 45 days before the date of the public hearing.

10. Protest. A majority protest exists if the assessment ballots submitted, and not withdrawn, in opposition to the proposed assessment exceed the assessment ballots submitted, and not withdrawn, in its favor, weighting those assessment ballots by the amount of the proposed assessment to be imposed upon the identified parcel for which each assessment ballot was submitted.

ATTACHMENT A

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Del Mar, California, at the Regular Meeting held this 15th day of April, 2024.

_____
Dave Druker, Mayor
City of Del Mar

APPROVED AS TO FORM:

_____
Leslie E. Devaney, City Attorney
City of Del Mar

ATTEST AND CERTIFICATION:
STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
CITY OF DEL MAR

I, SARAH KRIETOR, Administrative Services Manager/City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY, that the foregoing is a true and correct copy of Resolution No. 2024-XX, adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the 15th day of April, 2024, by the following vote:

AYES:

NOES:

RECUSE:

ABSENT:

ABSTAIN:

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

RESOLUTION NO. 2024-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, ADOPTING PROCEDURES FOR THE PROPOSITION 218 ASSESSMENT BALLOT PROCEEDINGS FOR THE SAN DIEGUITO DRIVE IMPROVEMENT DISTRICT

WHEREAS, San Dieguito Drive ("the road") is a private road with public access in the City of Del Mar ("City") on Book 299, page 200 of the County of San Diego Assessor Parcel Maps; and

WHEREAS, residents living along Oribia Road use San Dieguito Drive to access their homes; and

WHEREAS, San Dieguito Drive and a portion of Oribia Road are not currently part of the public street system or maintained by the City; and

WHEREAS, San Dieguito Drive is approximately 17 to 20 linear feet wide and includes adjacent gravel/dirt shoulder areas that are currently used for private and public parking; and

WHEREAS, the asphalt along San Dieguito Drive is in a highly deteriorated condition and in need of significant repair; and

WHEREAS, San Dieguito Drive is classified as a Hillside Residential Street, which is the minimal standard available for residential streets; and

WHEREAS, San Dieguito Drive also serves the public interest by providing access to the nearby coastal lagoon and allows for fire apparatus access in the event of wildland fires to the adjacent hillsides; and

WHEREAS, there are both public ("general") and private ("special") benefits associated with the repair and replacement of the asphalt along San Dieguito Drive; and

WHEREAS, over several decades the residents living along San Dieguito Drive and Oribia Road have requested the City to improve San Dieguito Drive and accept San Dieguito Drive into the City's roadway system; and

WHEREAS, in response to citizen requests and the public's use of San Dieguito Drive for fire suppression access and the additional public access to the nearby coastal lagoon, the City proposes to implement a Proposition 218-compliant, balloted benefit assessment district; and

WHEREAS, the City retained SCI Consulting Group to prepare an Engineer's Report to determine the relative special benefits in proportion to the general public benefits of improving San Dieguito Drive; and

WHEREAS, the Engineer's Report is intended to calculate the assessments for each benefitted parcel (privately owned land) located in the proposed Assessment District in direct proportion to the general benefits conferred to the general public from the improvements intended for San Dieguito Drive; and

WHEREAS, on March 20, 2024, a Preliminary Draft Engineer's Report was provided to the residents living along San Dieguito Drive and Oribia Road and to the general public on the City's website; and

WHEREAS, the Engineer's Report generally describes the road improvements, also known as the San Dieguito Drive Improvements Project, as removing the existing 17 to 20 feet of deteriorated road, installing a new road section with 16 feet of asphalt with aggregate base and 3.5-foot concrete rolled curbs, providing a wider roadway for 20 feet of drivable surface, improving drainage by installing a standard centerline crown, concrete rolled curbs, storm drain laterals, and storm drain inlet, installing two modular wetlands, installing a retaining wall at the southwest corner of San Dieguito Drive and Racetrack View Drive to widen the roadway, and removal and replacement of poles and undergrounding of electrical and communications; and

WHEREAS, the San Dieguito Drive Improvements Project is estimated to be approximately $1,269,039; and

WHEREAS, the Engineer's Report calculated the net amount to be assessed upon lands by a formula that fairly distributes the net amount among all assessable parcels in proportion to the estimated special benefits to be received by each such parcel from the improvements offset in direct proportion to the general benefits conferred to the public; and

WHEREAS, the Engineer's Report concluded that the general benefits conferred upon the public for providing wildland fire suppression access, improved coastal access, and general beautification amounts to 54% of the estimated costs of the improvements; and

WHEREAS, under Proposition 218 (adopted on November 6, 1996) which added Articles XIIIC and XIIID to the California Constitution and which allows for the establishment of Assessment Districts whereby such assessments are not considered a tax; and

WHEREAS, the Engineer's Report divided the special benefits into two benefit zone locations, Zone A includes all homes along San Dieguito Drive while Zone B includes all homes along Oribia Road; and

WHEREAS, the special benefits include improved road access to the homes in both Zones A and B, reduction of damage to automobiles from colliding into potholes, improved safety of the residents during times of emergency evacuation, improved

beautification of their adjoining roads, and improved drainage; and

WHEREAS, under Articles XIIIC and XIIID of the California Constitution impose certain procedural and substantive requirements relating to the imposition of assessments , and

WHEREAS, the City of Del Mar believes it to be in the best interest of the City, the general public, and the private property owners to confirm and memorialize the City's procedures and guidelines regarding implementation of the assessment provisions of Proposition 218 and other pertinent statutes relating to assessments, and

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

SECTION 1. Statement of Legislative Intent. In adopting this resolution, it is the City of Del Mar Council's intent to adopt assessment ballot proceedings, which are consistent and in compliance with Articles XIIIC and XIIID of the California Constitution and with Government Code Sections 53750 through 53754. It is not the intent of the Council to vary in any way from the requirements of either the California Constitution or the laws of the State of California. If there are any inconsistencies between a provision of this resolution and state law, state law will govern.

SECTION 2. Definition of Assessment. Proposition 218 defines "assessment" as "any levy or charge by an agency upon real property that is based upon the special benefit conferred upon the real property by a public improvement or services, that is imposed to pay the capital cost of the public improvement, the maintenance and operation expenses of the public improvement or the cost of the service being provided." "Assessment" includes, but is not limited to, "special assessment," "benefit assessment," "maintenance assessment," and "special assessment tax."

SECTION 3. Assessment Ballot Proceeding. The following procedures shall be used in an assessment ballot proceeding that follows the requirements of Article XIIID, section 4 of the California Constitution:

A. Amount of Assessment. Only special benefits are assessable. The amount of each assessment shall be each identified parcel's proportionate share of the cost of the additional Improvements to San Dieguito Drive based upon that parcel's special benefit from the Improvements. The amount shall be proportional to and no greater than the special benefits conferred on the property.

B. Engineer's Report. The Council shall direct the filing of an Engineer's Report that shall comply with the applicable state statute authorizing the assessment and with Article XIIID, Section 4, of the California Constitution. The Engineer's Report has explained the special benefits conferred by the improvements and/or services funded by the assessments. The Engineer's Report will provide the evidence upon which the Council may find that a special benefit is to be conferred on to the private

property interest The Engineer's Report will describe the general benefits and provide the amount of City funding of those general benefits conferred to the public. The Engineer's Report shall be prepared by a registered professional engineer certified by the State of California, (the "Assessment Engineer"). The cost to prepare the Engineer's Report, engineering design, and other costs will be included as a cost of the assessment and apportioned between the special benefits conferred to private landowners.

C. Public Notice. The following guidelines apply to providing notice of an of the formation of the Assessment District and the assessments:

1. The record owner(s) of each parcel to be assessed will be determined from the last equalized property tax roll. If the property tax roll indicates more than one owner, each owner shall receive notice. Only property owners receive notice;

2. The notice will be sent at least 45 days prior to the date set for the public hearing on the assessment in which the place and time of the hearing will be conspicuously noted;

3. The notice in a conspicuous place will contain the following information:

   a. The total amount to be assessed for the entire Improvement District;

   b. The amount to be assessed to the owner's particular parcel~~;~~

   c. The duration of the payments;

   d. The reason for the assessment;

   e. The basis upon which the amount of the proposed assessment was calculated;

   f. The date, time and location of the City Council of the City of Del Mar public hearing on the matter of the proposed assessment;

   g. A summary of the procedures for the completion, return and tabulation of the assessment ballots;

   h. A disclosure statement that the existence of a majority protest will result in the assessment not being imposed; and

   i. A ballot to be completed by the owner, as further described in section D of this resolution.

4. The notice provided to the property owners within the Assessment District will

be strictly in accordance with Government Code Sections 53753(b) and (c) shall supersede and be in lieu of any other statutes requiring notice to levy or increase an assessment, including but not limited to the notice required by the state statute authorizing the assessment and Government Code section 54954.6;

5. Should there be a failure of any person to receive notice shall not invalidate the proceedings;

6. The cost of providing notice shall be included as a cost of the assessment.

7. The City will provide official ballots to the homeowners, and in 16-point bold type: “OFFICIAL BALLOT.” The City will additionally place the phrase “OFFICIAL BALLOT ENCLOSED” on the face of the envelope mailed to the record owner.

D. Assessment Ballot. The following guidelines shall apply to the assessment ballot:

1. The ballot required by Article XIIID, section 4(d), of the California Constitution will be mailed to all property owners identified by the current property tax records the subject to the proposed assessment at least 45 days prior to the date of the public hearing on the proposed assessment. This ballot shall comply with Government Code Sections 53753(b) and (c). The ballot shall be designed in such a way that, once sealed, its contents are concealed.

2. All ballots must be returned either by mail or by hand delivery; not later than the date for return of ballots stated on the notice and ballot described in this section. Mailed ballots must be returned to: Del Mar City Clerk, 1050 Camino Del Mar, Del Mar, CA 92014. Ballots must be returned prior to the conclusion of the public input portion of the public hearing scheduled for 4:30 p.m. on June 17, 2024. The City Clerk, with the assistance of SCI Consulting Group shall tabulate the ballots (the “Tabulator”).

3. Each ballot must be signed under penalty of perjury. In the event that more than one of the record owners of a parcel submits an assessment ballot, the amount of the proposed assessment to be imposed upon the parcel shall be allocated to each ballot submitted in proportion to the respective record ownership interests or, if the ownership interests are not shown on the record, as established to the satisfaction of the Council or Assessment Engineer by documentation provided by the record owners. If two or more persons own a parcel subject to the assessment, any one owner may cast an assessment ballot for all owners.

4. If a parcel has multiple owners, any owner may request a proportional assessment ballot. If the ownership interest of the owner is not shown on the last equalized secured property tax assessment roll, such request must

include evidence, satisfactory to the City, of the owner's proportional rights in the parcel. The Assessment Engineer will provide the proportional ballot to the owner at the address shown on the assessment roll. Any request for a ballot to be mailed to another location must include evidence, satisfactory to the City, of the identity of the person requesting the ballot. Each proportional ballot will be marked to identify it as a proportional ballot and to indicate the owner's proportional rights in the parcel. The Assessment Engineer will keep a record of each proportional ballot provided to an owner.

5. The City will only accept official ballots mailed or otherwise provided to owners by the Assessment Engineer.

6. If an assessment ballot is lost, withdrawn, destroyed or never received, the Assessment Engineer will mail or otherwise provide a replacement ballot to the owner upon receipt of a request delivered to the City or the Assessment Engineer. The replacement ballot will be marked to identify it as a replacement ballot or a replacement proportional ballot. Any request for a replacement or replacement proportional ballot to be mailed to another location must include evidence, satisfactory to the City or the Assessment Engineer, of the identity of the person requesting the ballot. The same procedure applies to replacement ballots or replacement proportional ballots, which are lost, withdrawn, destroyed, or never received.

7. If an assessment ballot is returned by the United States Post Office as undeliverable, the Assessment Engineer may mail a redelivered ballot to the current property owner, if updated ownership or owner mailing address can be determined. The redelivered ballot will be marked to identify it as a redelivered ballot.

8. An assessment ballot proceeding is not an election.

9. An assessment ballot is a disclosable “public record” as that phrase is defined by Government Code section 6252 during and after tabulation of the ballots.

10. The California Government Code requires that assessment ballots be signed by property owners.

11. To complete an assessment ballot, the owner of the parcel or his or her authorized representative must (1) mark the appropriate box (or circle) supporting or opposing the proposed assessment, and (2) sign, under penalty of perjury, the statement on the ballot that the person completing the ballot is the owner of the parcel or the owner's authorized representative. Only one box (or circle) may be stamped or marked on each ballot. All incomplete or improperly marked ballots shall be disqualified from balloting. The Tabulator will retain all such invalid ballots.

12. After returning an assessment ballot to the City, or the Tabulator on behalf of the City, the person who signed the ballot may withdraw the ballot by submitting a written statement to the City directing the City to withdraw the ballot. Such statement must be received by the City or the Tabulator prior to the close of the public input portion of the public hearing on the proposed assessment. When ballots for the assessment are tabulated, the Tabulator will segregate withdrawn ballots from all other returned ballots. The Tabulator will retain all withdrawn ballots and will indicate on the face of such withdrawn ballots that they have been withdrawn.

13. In order to change the contents of a ballot that has been submitted, the person who has signed that ballot may (1) request that such ballot be withdrawn, (2) request that a replacement ballot be issued, and (3) return the replacement ballot fully completed. Each of these steps must be completed according to the procedures set forth above.

E. Tabulating Ballots. The following guidelines will apply to tabulating assessment ballots:

1. Assessment ballots shall remain sealed until tabulation commences at the conclusion of the public input portion of the public hearing.

2. An impartial person shall tabulate the assessment ballots. An impartial person includes, but is not limited to, the City Clerk, City staff, and any independent third party engaged by the City for the purpose of tabulating assessment ballots. The Tabulator shall follow the rules and procedures of the laws of the State of California, this resolution and any other rules and procedures of the Council. If the Tabulator needs clarification, then they shall inquire of the Council, who is the final arbiter. All ballots shall be accepted as valid except those in the following categories:

    a. A photocopy of a ballot, a letter or other form of a ballot that is not an official ballot provided by the City or the Assessment Engineer on behalf of the City;

    b. An unsigned ballot, or ballot signed by an unauthorized individual;

    c. A ballot which lacks an identifiable mark in the box for a “yes” or “no” vote or with more than one box marked;

    d. A ballot which appears tampered with or otherwise invalid based upon its appearance or method of delivery or other circumstances;

    e. A ballot for which the barcode representing the parcel number is damaged or obstructed, unless the parcel number or property

ownership information is legible and allows the Tabulator to clearly determine the property(s) identified on the ballot;

f. A ballot received after the close of the balloting time period.

3. The Tabulator's decision, after consultation with the Council's legal counsel that a ballot is invalid, shall be final and may not be appealed to the Council.

4. If more than one of the record owners of a parcel submits an assessment ballot, the amount of the proposed assessment to be imposed upon the parcel shall be allocated to each ballot in proportion to the respective record ownership interests, as shown on the record or as established to the City's satisfaction by documentation provided by the record owners.

5. In the event of a dispute regarding whether the signer of a ballot is the owner of the parcel to which the ballot applies, the City Council will make the determination from the official County Assessor records and any evidence of ownership submitted to the Council prior to the conclusion of the public hearing. The Council will be under no affirmative duty to obtain or consider any other evidence as to ownership of property and its determination of ownership will be final and conclusive.

6. In the event of a dispute regarding whether the signer of a ballot is an authorized representative of the owner of the parcel, the Council may rely on the statement on the ballot signed under penalty of perjury that the person completing the ballot is the owner's authorized representative and any evidence submitted to the Council prior to the conclusion of the public hearing. The Council will be under no duty to obtain or consider any other evidence as to whether the signer of the ballot is an authorized representative of the owner and its determination will be final and conclusive.

7. A property owner who has submitted an assessment ballot may withdraw the ballot and submit a new or changed ballot up until the conclusion of the public input portion of the public hearing on the assessment. Assessment ballots may be withdrawn, and newer changed ballots submitted up until the conclusion of the public input portion of the public hearing on the assessment.

8. A property owner's failure to receive an assessment ballot shall not invalidate the proceedings conducted under this section and section 4, Article XIIID, of the California Constitution.

9. The City shall retain all ballots for a period of 2 years from the date of the public hearing.

10. Each ballot will be treated as a disclosable public record and equally available for inspection by the proponents and the opponents of the proposed assessment.

F. Public Hearing.

1. At the public hearing, the Council shall hear and consider all public testimony, objections and protests regarding the proposed assessment and accept ballots until the close of the public input portion of the public hearing.

2. Reasonable time limits may be imposed on both the length of the entire hearing and the length of each speaker's testimony.

3. At the conclusion of the public input portion of the hearing, the Tabulator shall begin tabulation of the ballots at the direction of the Council, including those ballots received during the public hearing.

4. If it is not possible to tabulate the ballots on the day of the public hearing, or if additional time is necessary for public testimony, the Council may continue the public hearing to a later date to receive additional testimony or information, or to finish tabulating the ballots.

5. A majority protest exists if the assessment ballots submitted, and not withdrawn, in opposition to the proposed assessment exceed the assessment ballots submitted, and not withdrawn, in its favor, weighting those assessment ballots by the amount of the proposed assessment to be imposed upon the identified parcel for which each assessment ballot was submitted.

6. If there is a majority protest against the imposition of the new assessment the City will not impose the assessment.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Del Mar, California, at the Regular Meeting held this 15th day of April, 2024.

_____
Dave Druker, Mayor
City of Del Mar

APPROVED AS TO FORM:

_____
Leslie E. Devaney, City Attorney
City of Del Mar

ATTEST AND CERTIFICATION:
STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
CITY OF DEL MAR

I, SARAH KRIETOR, Administrative Services Manager/City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY, that the foregoing is a true and correct copy of Resolution No. 2024-XX, adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the 15th day of April, 2024, by the following vote:

AYES:

NOES:

RECUSE:

ABSENT:

ABSTAIN:

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

City of Del Mar
Resident Assessment Survey Information
San Dieguito Drive Improvements

1. **Survey Regarding Proposed Resident Assessment District.**
   The City is surveying residents to gauge support for the creation of a resident assessment district to fund the resident portion of critical improvements to privately owned San Dieguito Drive. Answering the survey will not result in any financial obligation. The results of the survey will inform recommendations to be made by the City's engineering assessment services consultant (SCI) and staff on whether to proceed with the ballot process legally required by Proposition 218 to form an assessment district. The ballot process would give residents along San Dieguito Drive and Oribia Road the opportunity to vote for or against the creation of an assessment district to fund their portion of the project.

2. **San Dieguito Drive is in Poor Condition.**
   San Dieguito Drive has not been well maintained and is in poor condition. Unless it is converted to a publicly maintained roadway, it is likely to continue to deteriorate. A poorly maintained roadway creates issues such as flooding and drainage issues, dangerous conditions for pedestrians and bicyclists, risk of damage to vehicles from potholes and other poor roadway conditions, and impacts public safety access, particularly Fire engines.

3. **Residents Have Asked the City to Help.**
   Because San Dieguito Drive is a privately owned road, the private property owners along San Dieguito Drive are responsible for maintaining it. This maintenance is expensive, and San Dieguito Drive and Oribia Road residents have asked the City for its help going back decades. The City Council has shown interest in partnering with residents to complete the critical improvements by hiring SCI to evaluate and propose a methodology in which the City and residents would jointly contribute toward the cost of the work.

4. **Mutual Benefits of Improvements to San Dieguito Drive.**
   Improvements to San Dieguito Drive will widen and enhance the roadway, providing better public safety vehicle access; provide new rolled curbs, gutter and important drainage improvements, preventing future flooding to private property; provide a safer path of travel for pedestrians and vehicles; transfer future road maintenance responsibilities to the City, relieving private property owners of this burden; potentially increase private property values, with certainty of a well maintained road and no future resident maintenance obligations.

5. **Shared Cost of Improvements between City and Residents.**
   Although the City maintains a public access easement to use San Dieguito Drive, it is not responsible for maintaining or improving the privately owned road. However, the City can justify helping residents find a solution because public use of the road provides some public benefit. As a result, SCI is recommending the City pay approximately 70% of the improvement project costs and assume responsibility for the road going forward, if the residents are willing to pay for the remaining 30% of the improvement costs.

6. **Opportunity to Coordinate with City Utility Undergrounding Project.**
The City and residents agree that the most cost-effective and efficient way to improve San Dieguito Drive would be to do so at the same time as the City's upcoming utility undergrounding project. If there is sufficient support indicated by residents through this survey to move forward with a formal 218 process to form an assessment district, the projects would be publicly bid out together. If the assessment passes, the City would move forward with construction of the San Dieguito Drive Improvements project in conjunction with the undergrounding work in the area. If the assessment fails, the City will complete the utility undergrounding project only, leaving the responsibility for the cost of future improvements, maintenance, and repairs of San Dieguito Drive in the hands of property owners.

7. **City Recommended to Fund Majority of Improvement Project Costs.**
This project is currently estimated to cost $1.3 million, with actual costs to be determined through the City's required competitive public bidding process. Although the City is not obligated to pay for these improvements, SCI is recommending the City pay approximately 70% of the total project cost based on an analysis of public benefit. The remaining 30%, or $400,000, would be paid by property owners over a period of 20 years, at no interest.

8. **Who will Participate and What Will it Cost?**
SCI is recommending that residents on San Dieguito Drive and Oribia Road participate in a residential assessment district to fund the resident portion of the project. As those primarily responsible for San Dieguito Drive, the rate for each property along **San Dieguito Drive** would be approximately **$889** per year. The rate for each property along **Oribia Road**, which uses San Dieguito Drive for access, would be 50% of that, or **$445** per year. Assessment district voting would be weighted to reflect these proportional contributions.

9. **Flexible Payment Options for Homeowners.**
Property owners would be able to pay their share of the improvement costs in one payment up front with no pre-payment penalty, or they may pay the amount over 20 years at no interest. For those who choose to pay for the improvements over time, the annual amount due will be added as a line item on the property's annual property tax bill. The obligation would run with the property, not the individual property owner(s).

10. **What is Required to Form an Assessment District?**
Through a formal Proposition 218 ballot process, 50% + 1 of the participating property owners would need to vote in favor of forming an assessment district. The voting would be weighted to reflect 1 vote per property on San Dieguito Drive, and 0.5 vote per property on Oribia Road.

11. **What Happens if the Assessment Doesn't Pass?**
If residents fail to pass the assessment district providing for a resident contribution to the project costs, it is unlikely that the project will move forward. The City would complete the planned utility undergrounding project, and the proposed improvements to San Dieguito Drive would be deferred until such time that the residents could commit to paying a proportionate share of the costs.

CITY OF DEL MAR

IMPORTANT – ACTION REQUIRED

SAN DIEGUITO DRIVE IMPROVEMENTS PROJECT - RESIDENT SURVEY

Please complete the following questions and return to sdd@delmar.ca.us no later than **Tuesday, February 20, 2024**. If you have questions, please use the email address above or call (858) 375-9531 to speak to staff. Only one survey should be submitted for each property.

Note: Deadline for submittal extended to April 5, 2024

1) Name of Homeowner:

2) Property Address:

The scope of work for the San Dieguito Drive Improvements Project includes widening and repaving San Dieguito Drive; new rolled curbs and gutters; drainage improvements; and the installation of minimal retaining walls where absolutely needed. The estimated project cost is $1,300,000.

The City's assessment engineering services consultant recommends the City pay approximately 70% of the total project cost based on an analysis of public benefit. The remaining 30%, or $400,000, would be paid by property owners.

For San Dieguito Drive property owners, this would equate to an annual contribution of **$889**; and **$445** annually for property owners along Oribia Road. The amount would be paid through an assessment district over a 20-year period (no interest), or could be paid as a lump sum, one-time payment.

3) Would you be willing to pay the resident share for your property as described above? (Mark below with X).

Yes: _____ **No: _____**

4) If you answered No to #3, please explain why and what you would be willing to contribute to the project:

San Dieguito Drive Improvements Project
Responses to Resident Questions Regarding
Engineering Assessment District Formation

It should be noted that in some cases very similar/duplicative questions were submitted by multiple property owners. To eliminate redundancy, we only included one version of the question and the related response in this document.

1. Will all lots, including vacant lots, pay for the improvements? For instance, I own 2 lots. Will both lots be taxed? If so, where is my ballot for the vacant lot?

SCI has not finalized the Engineer's Report, but the current methodology would charge only lots with a single-family home because only those parcels would receive special benefits from the proposed improvements. The survey is not the official ballot.

2. How many lots own the road? How many lots do not own the road? Can you give us a list of all parcel numbers and addresses that will be included in the assessment district?

The assessment district includes all developed properties that use this segment of San Dieguito Drive as their sole route of ingress/egress. The 14 properties along San Dieguito Drive own the road with an easement in favor of the City of Del Mar for "right of way for road purposes and for sewer, water, gas, power and telephone lines". The 17 properties along Oribia Road do not own the road but are included in the assessment as the properties have special benefit because San Dieguito Drive is the sole route of ingress/egress.

3. Will the properties be reassessed due to road improvement?

We do not believe the proposed improvements, if constructed, will have an impact on the assessed value of the adjacent properties. However, residents should contact the County assessor's office to confirm or obtain more information.

4. How wide will the easement be? For instance, my easement is 30 feet from the center of the road and the street covers 10 feet of that easement. Will the road easement be reduced to 10-15 feet?

The new easement will replace the existing easement and will be the same size and location of the existing 60-foot easement. As such, the new easement will replace your 30-foot easement in the same location.

5. Who will determine what costs belong in the assessment district? Will homeowners in the assessment district share oversight on the costs of the project?

The City would manage and be responsible for project oversight in accordance with State public contract and labor law. As a City-managed project that requires City Council approval, members of the public, which include the property owners in the assessment district, will have the opportunity to review and provide input on the project's anticipated cost. Proportionate costs to be included in the assessment district would include the improvements necessary to bring the road to public standards as discussed with the residents. This includes costs for planning, design, construction, easements, and assessment district services. The construction cost will be determined via the legally required public bidding process.

6. Are you asking us to vote for a dollar amount or a percentage?

We are asking residents to provide input on the proposed dollar amount. The survey is not a formal voting process, nor does it obligate the residents in any way. However, if we proceed with a Prop 218 ballot process, residents will be asked to vote on a fixed dollar amount.

7. Many residents have expressed frustration that the San Dieguito Drive residents will pay twice as much as the Oribia Road residents, and some residents on Oribia feel they should pay nothing at all. Can you explain the rationale?

Assessments can only be levied based on the special benefits conveyed to each individual property interest. Special benefit is benefit received by the property over and above any general benefits conveyed to the general public from the proposed improvements to San Dieguito Drive. A special benefit is a service or improvement that provides a direct advantage to each parcel.

One or more benefit factors may apply equally to properties on both San Dieguito Drive and Oribia Road, but properties on San Dieguito Drive receive more special benefits from some benefit factors than what is received by properties on Oribia Road. Preliminary, the Assessment Engineer has initially determined that, in total, the properties on San Dieguito Drive, which are adjacent to the proposed improvements, may receive twice the special benefit of properties on Oribia Road.

8. What is the legal basis for this statement, "Because San Dieguito Drive is a privately owned road, the private property owners along San Dieguito Drive are responsible for maintaining it….Although the City maintains a public access easement to use San Dieguito Drive, it is not responsible for maintaining or improving the privately owned road."? My research indicates that the easement holders are responsible for maintaining this stretch of road.

The portion of San Dieguito Drive in question is a privately owned road with use for public purposes provided through an easement. For the City's purposes, this scenario is described as San Dieguito being a "public road." The City has no maintenance obligation for a private road until the road has been accepted by the city into its street system (Streets and Highway Code section 1806(a)). A public street is a road that has been

accepted into the City's street system for maintenance purposes. Acceptance into the street system must be accomplished by a resolution adopted by the City (Streets and Highway Code section 1806(b)).

While extended public use of a roadway does not impose a maintenance obligation on the City. Regardless, the City recognizes the unique factors regarding San Dieguito Drive, including it being the only ingress/egress for Oribia Road among other factors, and has expressed an interest and willingness to work collaboratively with residents to come up with a solution, including the City contributing toward the cost of doing so.

9. What calculation did SCI use to arrive at this recommendation? "As a result, SCI is recommending the City pay approximately 70% of the improvement project costs and assume responsibility for the road going forward, if the residents are willing to pay for the remaining 30% of the improvement costs."

As will be discussed as part of the upcoming presentation to residents by SCI, the special benefit to each property has been calculated to be much greater than what each property is being asked to pay. The City may consider paying some portion of the project costs because it is concerned about the poor conditions of the road and as a result access during emergencies may be impeded and therefore may cause in extreme cases health & safety issues for some residents. When the City contributes funds to mitigate health and safety issues it is not considered a gift of public funds.

10. What is the legal basis for the claim that the property owners on San Dieguito Drive are "primarily responsible" for San Dieguito Drive?

See response to question 8. The private property owners have full maintenance obligations of the private road until such time that the City accepts the road into the City roadway system.

11. Normally, assessment districts assign a share of the cost of a project based on the calculated benefit to each property owner (and other potential beneficiaries.) For instance, a house that is only one third of the way up San Dieguito Drive would derive only 1/3 of the benefit that the property owners on Oribia Road would receive if the road were repaired. According to that standard, the San Dieguito property owner should pay only about one third of what an Oribia Drive property owner would pay instead of twice as much (which is what SCI has proposed.)

The methodology you are recommending is not typically used for assessments like these. The methodology must be reasonable and rational but does not need to be based on where along the street a property is situated or how much is used by each individual property owner.

12. Can you tell me what authority you are relying on to include Oribia Road residents in an assessment district for improvements and maintenance on San Dieguito Drive?

The proposed funding measure is a benefit assessment, under the authority of the Landscape and Lighting Act of 1972 and Proposition 218, which are part of the California Constitution. In a benefit assessment, the amount of assessment on each property is based on the relative special benefit received by that property from the proposed improvements.

13. What is the legal authority to form the assessment district to include Oribia? Both Public and Private Oribia?

Under proposition 218, all parcels which receive special benefit from the improvements can be assessed. The assessment engineer has determined that the properties on public and private Oribia Road included in this proposed measure receive special benefit from the proposed improvements in an amount greater than these parcels are being asked to pay. The special benefits will be further explained in the draft Engineer's Report which will be presented at the resident meeting scheduled for March 5, and available thereafter.

14. What is the authority for SDD Private residents (property owners) by vote or otherwise to force payment by Private Oribia residents?

If the Council authorizes the Prop 218 ballot measure process to proceed, the process for the proposed assessment will be done under the authority of the Landscaping and Lighting Act of 1972 and Proposition 218. This includes the voting method and the resulting obligation to pay if the measure passes and the levies are ordered by the City Council.

15. What is the legal authority of the City to become involved in that matter if a claim hasn't been filed?

The Landscaping and Lighting Act of 1972 gives the City the authority to proceed with a benefit assessment measure for the proposed improvements. San Dieguito Drive provides an access route to nearby hillside communities and in some cases access to recreational trails. It also contains a public utility easement to serve the local community. Accordingly, the City may share in funding a portion of the benefits to ensure that the road can support emergency access and that the City has reliable access to its utility easement.

16. What is the legal authority to create voting rules as proposed?

The process for the proposed assessment will be under the authority of Proposition 218. This includes the voting method.

17. What is the legal authority to take away voting rights? Especially when it includes taxation?

The process for the proposed assessment will be done under the authority of Proposition 218, which provides voting rights for assessments (it does not take away voting rights). All affected property owners will have the ability to vote on the 218 ballot measure. The weight of the vote for individual properties is determined based on the special benefit received.

18. What is the basis for the SCI proposed allocation including legal precedence? Are other public users (Fedex, UPS, etc.) receiving notices for their allocation of use? Are they invited to these meetings? Why or why not? If they are not being treated the same as Private Oribia why or why not? Aren't they the same status? Public users? To the degree usage is a SCI factor shouldn't they (FedEx and other heavy public users) also be responsible? Is there an analysis to show their usage is different than a resident on Private Oribia? Or does the analysis just assume because someone lives close they must use?

The allocation of special benefits will be explained in the draft Engineer's Report, which will be presented to residents on March 5, and available thereafter. The allocation of special benefits will be calculated in compliance with Proposition 218. All members of the public are welcome to attend any and all public meetings regarding the proposed assessment measure. Per Proposition 218, special benefits are allocated based on the special benefits to property. Any general benefits received by the general public must be paid from sources other than the assessment, and will be more than covered by the amount the City is recommended to contribute toward the cost of the improvements.

19. SDD Road maintenance is the legal and financial responsibility of the 14 SDD property owners, not Oribia property owners. We derive our easement to drive on SDD from the City's easement, which does not include any maintenance responsibility. We do have maintenance responsibility for Private Oribia Road. The price paid for homes in the area factors in those financial and legal facts.

The private property owners on San Dieguito Drive have full maintenance obligations of the private road until or if the City accepts the road into the City roadway system. However, there are special benefits for both San Dieguito Drive and Oribia Road developed properties that would result from the San Dieguito Drive Improvement Project. That would be the basis for forming an assessment district.

20. There is no methodology presented for the proposed area residents splitting of costs or for the proposed weighting of votes. What is the legal basis and authority for any of these proposals? To propose to reduce our vote on a matter of taxation is remarkable. Seriously? ½ a vote on an issue of taxation? The lessons in history (Tea Tossed in 1773, and reverting to the 3/5's of a person clause in 1787) should have stopped that notion cold.

The proposed funding measure is a benefit assessment, based on the Landscape and Lighting Act of 1972 and Proposition 218, which is part of the California Constitution. The Engineer's Report will explain the rationale in more detail and is based on the relative special benefit received. Assessments can only be levied based on the special benefit to property. For the purpose of the assessment, special benefit is benefit that is received by property over and above any general benefits from the improvements. A special benefit is a service or improvement that provides a direct advantage to a parcel. One or more benefit factors may apply equally to properties on both San Dieguito Drive and Oribia Road, but properties on San Dieguito Drive receive more special benefit from some benefit factors than what is received by properties on Oribia Road. The Assessment Engineer has preliminarily determined that, in total, the properties on San Dieguito Drive, which are adjacent to the proposed improvements, receive twice the special benefit of properties on Oribia Road.

21. There is a highly disproportionate benefit in terms of increases in property values to the 14 SDD drive property owners versus the 18 Oribia Rd. property owners who will receive no associated increase in the value of their property from their payment of ~$9k while SDD owners will receive returns in multiples of their $18k "investment".

Assessments are based on the relative special benefit received by property and is not based on the value of property.

22. As for the amount we would be willing to contribute to the project: As a matter of principle and law, we see only two groups of payors: 1) Del Mar Residents, and 2) the owners of SDD themselves. Oribia property owners are in group #1.

Oribia Road residents are considered a separate group since they receive special benefit over and above any general benefits from the improvements as they use San Dieguito Drive as their sole ingress/egress.

23. Have SDD residents filed any claims as is their presumed right to compel a SDD property owner to maintain their portion of SDD?

This is a question for SDD residents, not the City. The City does not have records for claims between private property owners nor have we been made aware of any claims for San Dieguito Drive property owners for road maintenance.

24. How will the City handle and fund any legal claims from residents arising from this? Including Title Company's?

The City's response to legal action(s) is confidential and privileged. Funding for legal matters is handled as part of the City's normal budget process.

25. Why isn't the cost for the paving post undergrounding "taken off the top" of the $1.3M before the proposed split? That repaving comes from Measure Q funding, correct?

The City will use public funds, including Measure Q, to pay for the City's financial contribution to the project's cost. Reference answer to question 9.

The Undergrounding Project, which is funded entirely by Measure Q revenue, will only replace approximately 3' feet of roadway asphalt where trenching is required along San Dieguito Drive. This is standard practice for trenching activities. The San Dieguito Drive Improvements project includes many more construction elements then just roadway asphalt improvements (e.g., concrete rolled curbs, retaining wall, drainage improvements, driveway replacements, grading, etc.). Thus, the 3 feet of asphalt paving costs associated with undergrounding utility lines along San Dieguito Drive are expected to be a small fraction of the overall San Dieguito Drive Improvements Project costs.

26. Does the SCI report consider the entire $1.3m as an immediate increase in value to SDD homeowners? That's approximately $100k in immediate value per home, correct? On top of which the value to avoid future maintenance in what amount? What are the specific financial calculations in the allocation in the report? Any expert opinions?

Benefit assessments are not based on property values, and SCI does not analyze any potential change in property values based on the proposed improvements. SCI is analyzing the special benefits based on the proposed improvements and is not analyzing any additional special benefits the properties may receive from future maintenance of the road after the improvements have been completed. The specific calculations will be included in the Engineer's Report, which will presented at the March 5, resident meeting and available thereafter. The Assessment Engineer who will sign the Engineer's Report is an expert in Proposition 218 benefit assessments.

27. Given the City's willingness to pay for private road maintenance will the City pay for other Private roads such as Private Oribia? Is it the city attorney's legal opinion no precedence is established?

City Attorney opinions are privileged communications and are protected from public distribution.

28. If voting rights are taken away from residents and the matter proceeds how will the city handle non-payment? How will it handle for any case?

Proposition 218 provides voting rights for assessments (it does not take away voting rights), which may be weighted based on special benefits received. If the measure passes and the levies are ordered by the City Council, the assessments will be included on the annual property tax bill for each affected parcel. We expect the county to handle non-payment of any property tax bills according to its normal procedures and practices.

29. Is the City opening any liability accordingly?

The City does not foresee any additional liability from formation of the improvements district.

30. Why didn't the City require, as is required by statute, public access for Private Oribia once a portion of Oribia became public? Public Oribia apparently does not meet that statute standard for access.

The history related to this area of the community dates back many decades, many of the records for which no longer exist, and it is unclear, given the passage of time, as to the reasons why certain actions may or may not have been taken.

31. Who pays for cost overruns? Cost under?

Once the assessment measure is voted on and the results are certified by the City Council, the amount of the assessment for each property cannot be increased absent another ballot measure. Therefore, if costs are greater than expected, any increase in costs would be borne by the City or other funding source. If costs are less than expected, the City Council would be asked to provide direction as to whether to keep the assessment amounts the same (as long as the assessment amount still does not exceed the special benefits received), or lower the amount of the assessment to reflect some or all of the cost savings.

San Dieguito Drive Improvements Project
Responses to Resident Questions

It should be noted that in some cases very similar/duplicative questions were submitted by multiple property owners. To eliminate redundancy, we only included one version of the question and the related response in this document.

1. Where would the two modular wetlands be installed? Across the road on the north side of the intersection of San Dieguito Drive and Racetrack View Drive? Why would two be needed?

The modular wetlands are to be located just south of Racetrack View Drive on the proposed improved section of San Dieguito Drive uphill from the proposed storm drain curb inlets (reference April 3rd Resident Meeting Presentation). The two modular wetlands are permanent best management practices (BMPs) determined necessary based on the storm water quality management plan developed to mitigate the increase in impervious area. These are storm water treatment systems designed to treat storm water flowing down both curb lines.

2. What does the following sentence mean on Page 11? "Because of the long-standing commitment and history of the proposed Improvement District, it has been proposed that the City additionally absorb proportional costs above the 54%, for preconstruction services (preliminary engineering assessment, engineering design, assessment engineering services, and environmental) at the same rate as construction costs." Can you please explain this calculation with numbers?

The project costs include both pre-construction costs (preliminary engineering assessment, engineering design, assessment engineering services, and environmental) and construction costs. This sentence in the engineer's report proposes the City absorb proportional costs for all project costs (pre-construction services and construction costs) at the same rate. The calculation for the rate of at least 54% is shown in the "Calculating General Benefit" section further down in the report.

3. The following sentence on Page 16, "Here, properties located within the Improvement District receive special benefits from the improvements because those properties uniquely adjoin the Improvements and because these Improvements are along a private road are not enjoyed by the public at large." Correction: This "private road" is enjoyed by the public at large. This specific statement in the draft report contradicts other statements later in the report regarding public at large usage of the road: "some members of the public may use it to access the lagoon and Crest Canyon Park or its trails…there are occasional users of San Dieguito Drive who park for the fairgrounds and/or beach, and for birdwatchers."

The properties along San Dieguito Drive enjoy some benefits that are not enjoyed at all by the public at large. For instance, proposed drainage improvements will prevent water

runoff onto adjoining properties. This is not a benefit to the public at large. In addition, other benefits received by the properties within the assessment boundaries, such as improved ingress for emergency vehicles, is a benefit to the properties within the proposed assessment boundaries 24 hours a day, 7 days a week, while that benefit only impacts some members of the general public (those who don't live within the proposed assessment boundaries but enter the area on occasion), and only for a short period of time (the duration of their visit).

4. The following sentence on Page 17, "Therefore, the remaining 62 homes receive benefit from the improvements. Of these, 31 homes are in the proposed Improvement District and 31 homes are outside of it. As a result, 50% of the benefit (31 of 62) is special benefit, and 50% (100% total benefit minus 50% special benefit) is general benefit." The 31 homes on Oribia Road and San Dieguito Drive receive equal special benefit in calculating the general and special benefits related to Wildland Fire. Why then are the 31 homes not receiving an equal special benefit in the categories of Emergency Access, Evacuation and Safety/Damage? All emergency vehicles must use San Dieguito Drive in order to provide emergency services to all 31 homes. All 31 homes use SDD for emergency evacuation. All 31 homes are equally susceptible to safety issues and property damage from the deteriorated condition of the road surface.

Refer to the following paragraph under "Special Notes on Weighting and Scoring Analysis" in the report – "The scoring for Zone B requires more analysis and more discussion. Safety/Damage, Evacuation, and Emergency Access attributes require close proximity to receive a full score, and receive a lower score as the proximity decreases. The proposed improvements (including road widening, improved pavement quality and capacity, improved drainage, etc.) provide a higher level of direct access improvement to the Zone A parcels. For example, heavy emergency equipment can get closer to a specific home in Zone A, and maneuver better and turn better along San Dieguito Drive resulting from the proposed improvements in ways that are not conferred on the Zone B parcels. Of course, the Safety/Damage, Evacuation, and Emergency Access special benefits are comprehensively conferred to Zone B parcels, but not as much, because there are not improvements proximate to specific houses."

5. The following sentence on Page 18, "The general benefit to the public at large can be estimated by the proportionate amount of time that San Dieguito Drive is used by individuals who are not property owners… Surveys of park and recreation facility usage conducted by SCI Consulting Group have found that less than 4% of a park district's facility usage is by those who do not live or work within District boundaries."

The surveys used by SCI to calculate this number appear to have significantly underestimated the extent to which San Dieguito Drive is used by the public at large. For example, much of the foot traffic on the road is from hikers who use the road as a preferred thoroughfare from Northern Crest Canyon to the lagoon. When

the Riverpath Del Mar Phase III Extension Project is completed in 2025, San Dieguito Drive will be used even more frequently by the general public.

https://www.delmar.ca.us/853/RiverPath-Del-Mar-Phase-III-Extension-Pr

In addition to public pedestrian use of the road, private San Dieguito Drive provides some of the closest free parking available for fairgrounds users. The northernmost section of the road is frequently used for parking by the general public who are utilizing nearby trails and public attractions. The 4% statistic quoted does not appear to be relevant to this very unique location surrounded by public attractions.

For example, Annie's Canyon is a popular public attraction with a trail head on a cul-de-sac on N Rios Ave in Solana Beach. Most of the cars that park on the street adjacent to the trail head belong to the general public who are hiking the trail. This situation is very similar to the use of private San Dieguito Drive for public parking.

As correctly noted, SCI determined that the 4% measure is appropriate with 54% as the baseline percentage for general benefits, however, there are other public benefits that are currently being evaluated that may allow the City to contribute additional funding.

6. The following sentence on Page 18, "Like Zone A, the special benefit is distributed uniformly within Zone B. Like the residents along San Dieguito Drive, the residents along Oribia Road enjoy the same special benefits as listed above. Each Oribia Road residents will have improved access for emergency response and private use access, reduction in property damage from flooding and impacts to their private vehicles, better private delivery to their homes, and safer evacuation access during times of emergencies. The Improvements related to some of the special benefits in Zone B are generally equal to those in Zone A; however, some special benefits, such as drainage and views, are lower."

The draft report states that some of the special benefits in Zone B (except drainage and views) are generally equal to those in Zone A. Therefore, the special benefit allocated to Zone B in these categories should be generally equal to Zone A. The weighted benefit analysis would change as shown:

Weighted Benefit Analysis presented by SCI on 3/5/23	Safety/ Damage	Evacuation	Emergency Access	Wildland Fire	Drainage	Views/ Beauty	Weighted Total	Ratio	Lots	Votes
Weighting	100%	100%	100%	100%	75%	50%				
Zone A	1.0	1.0	1.0	1.0	1.0	1.0	5.25	1.00	14	14.0
Zone B	0.5	0.5	0.5	1.0	0.1	0.1	2.63	0.50	17	8.5
Weighted Benefit Analysis Amy's analysis	Safety/ Damage	Evacuation	Emergency Access	Wildland Fire	Drainage	Views/ Beauty	Weighted Total			
Weighting	100%	100%	100%	100%	75%	50%				
Zone A	1.0	1.0	1.0	1.0	1.0	1.0	5.25	1.00	14	14.0
Zone B	1.0	1.0	1.0	1.0	0.1	0.1	4.13	0.79	17	13.4

The contributions from residents in Zone A and Zone B would be adjusted accordingly.

The weighting of those factors are generally equal, however, the scoring is not. The chart as presented in the report is correct. Refer to the "Special Notes on Weighting and Scoring Analysis" in the report for more detail.

7. How many vacant parcels there are in the assessment district area and, of those, how many are developable?

There are 12 vacant parcels in the proposed assessment district area as identified below. The 1810 San Dieguito Drive vacant parcels are not currently depicted in the engineer's report, but will be included in the draft to City Council. The vacant parcels would contribute to the assessment district if they develop during the assessment district period (next 20 years) and have this section of San Dieguito Drive as their only means of ingress/egress.

- 300-153-10-00 (Part of 1230 Oribia Road)
- 300-060-16-00 (Part of 1420 Oribia Road)
- 300-060-12-00 (Part of 1352 Oribia Road)
- 299-200-74-00 (Part of 1439 Oribia Road)
- 299-200-54-00 (Part of 1535 San Dieguito Drive)
- 299-200-53-00 (Part of 1515 San Dieguito Drive)
- 299-200-68-00 (Part of 1810 San Dieguito Drive)
- 299-200-69-00 (Part of 1810 San Dieguito Drive)
- 299-200-70-00 (Part of 1810 San Dieguito Drive)
- 299-200-31-00 (Part of 1810 San Dieguito Drive)
- 299-200-46-00 (Part of 1810 San Dieguito Drive)

Unfortunately, determining whether these lots are developable is not something the City can determine just through aerial views of the lot but is something the City would analyze as part of a development application. Some of the factors we would need to consider is if there is a Certificate of Compliance on file (when needed), location and amount of site dedicated to steep slopes, and available buildable area relative to standard zoning standards (setbacks, floor area ration (FAR), lot coverage, etc.). The only lot with previously approved permits to build appears to be 300-060-016-00 (1420 Oribia Road).

8. I live on a public street (Oribia Road) and pay taxes like everyone else, so why should I have to pay for any of the improvements on San Dieguito Drive?

Per the Preliminary Draft Engineer's Report, property owners on Oribia Road are being asked to pay the assessment because their property will receive special benefits from the proposed improvements. These special benefits are over and above any benefits property owners currently receive from the taxes they are currently paying and are unrelated to the public or private status of the street on which their property is located.

9. What is the Utility Undergrounding District X1A (Crest Canyon) Project required to replace as part of the road improvements?

The undergrounding project is only responsible for the resurfacing of 3 feet of asphalt per San Diego Regional Standard Drawings and is not responsible for replacement of an entirely deteriorated road. Standard maintenance for the road is currently the responsibility of the property owners as this road is not in the City's public streets system.

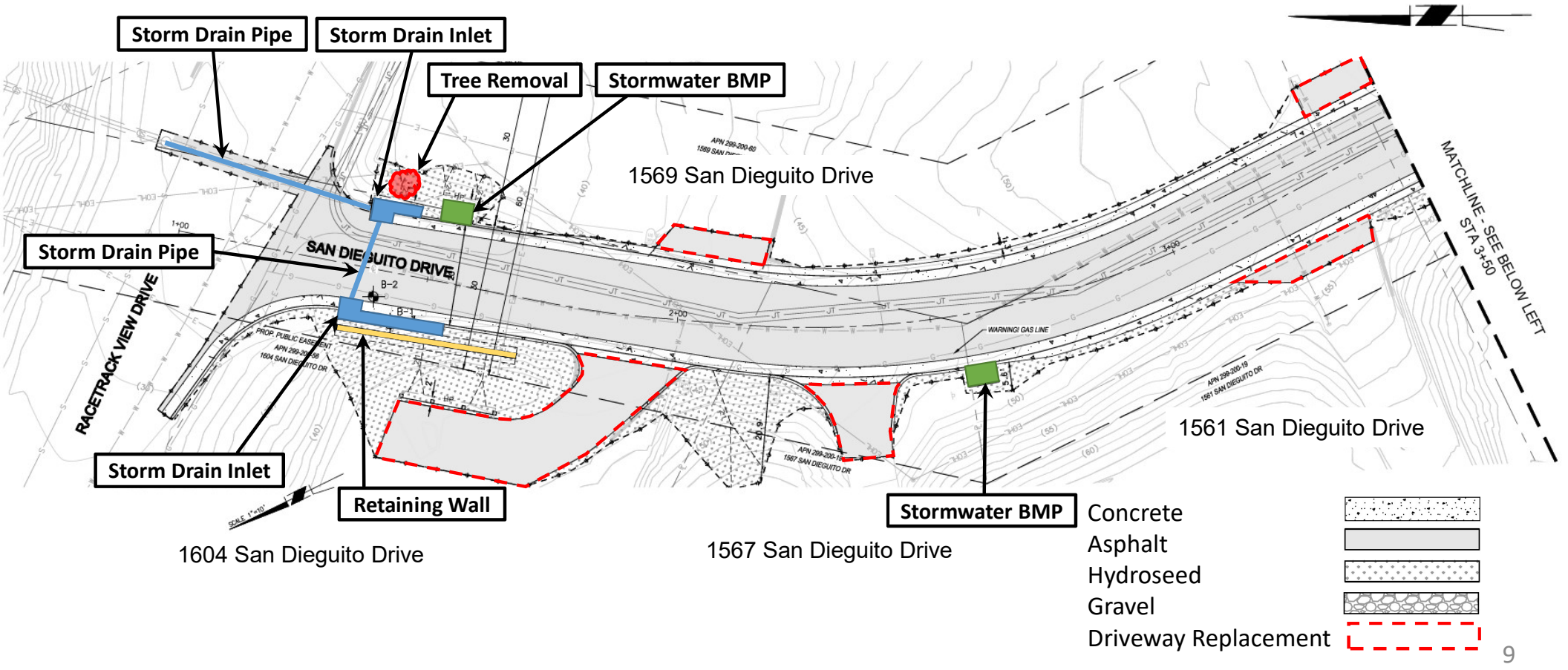
10. What are the estimated overlapping costs between the San Dieguito Drive Improvements Project and the Utility Undergrounding District X1A (Crest Canyon)?

There are only overlapping costs based on the construction cost estimate for the general contractors work. Pre-construction costs, construction management services, and geotechnical services will not be reduced. Of the construction costs, specifically the trench resurfacing (asphalt concrete pavement and aggregate base) for the joint trench is overlapping with the roadway improvements. The joint trench, regardless of the road improvements, still requires excavation to a minimum of 3 feet, which is lower than the roadway structural section of 9.5 inches. Furthermore, the estimate is also accounting for a ten-percent (10%) reduction in overlapping general construction costs (mobilization, traffic control, etc.). The San Dieguito Drive Improvements Project includes many more design elements than are a part of the undergrounding project.

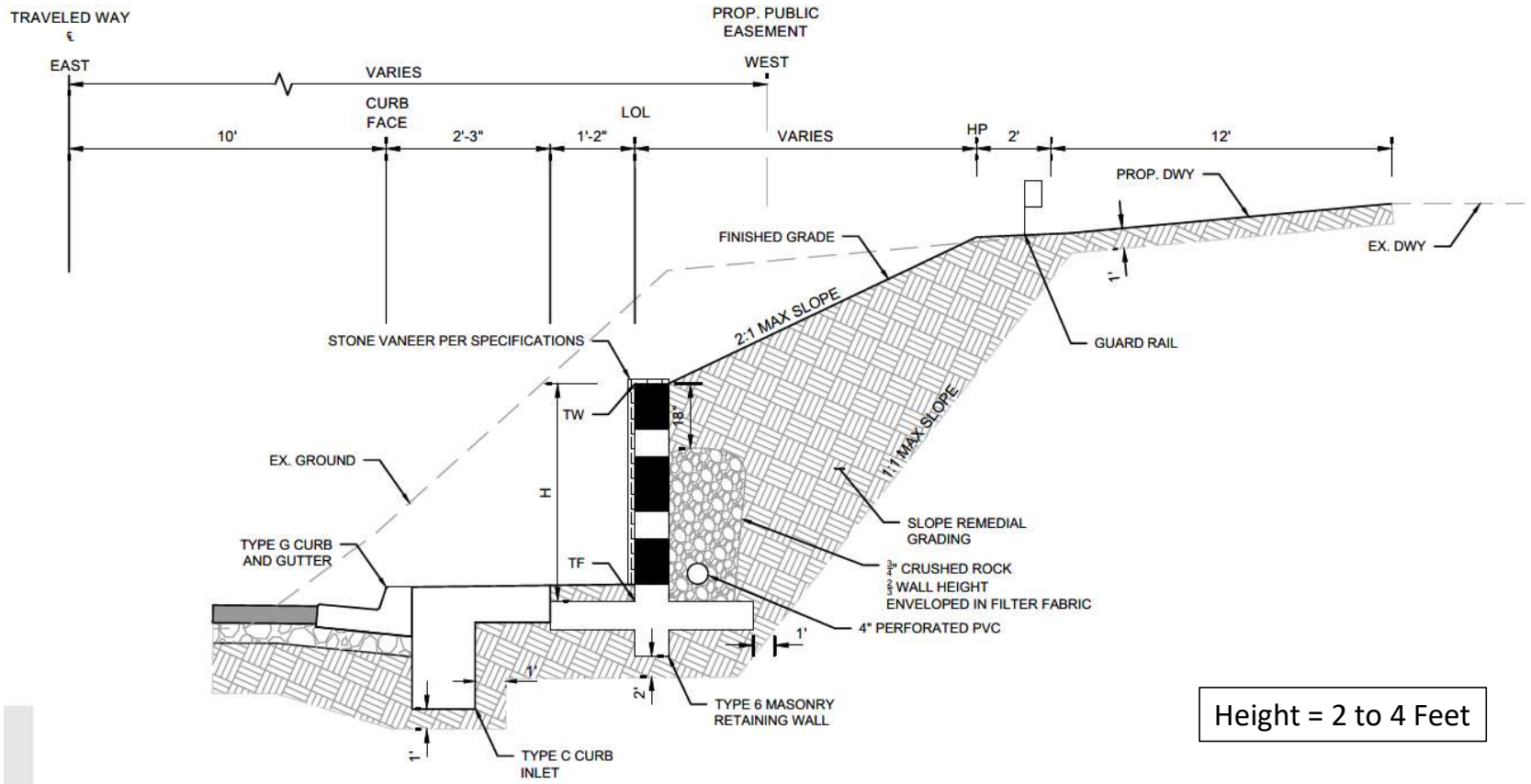
11. The 12-inch existing corrugated metal pipe storm drain pipe at San Dieguito Drive/Racetrack View Drive is shown for replacement. Can the City evaluate whether the cost for of this pipe can be included as a credit toward the project if the City plans to repair this pipe regardless of the San Dieguito Drive Improvements Project?

The City is currently evaluating the condition of this pipe to determine if an additional credit to the project would be appropriate. If an additional related project offset is recommended by staff, it will be included in the City Council agenda report to be prepared for the April 15, 2024, City Council meeting.

San Dieguito Drive – Final Design



Retaining Wall at Intersection



Height = 2 to 4 Feet

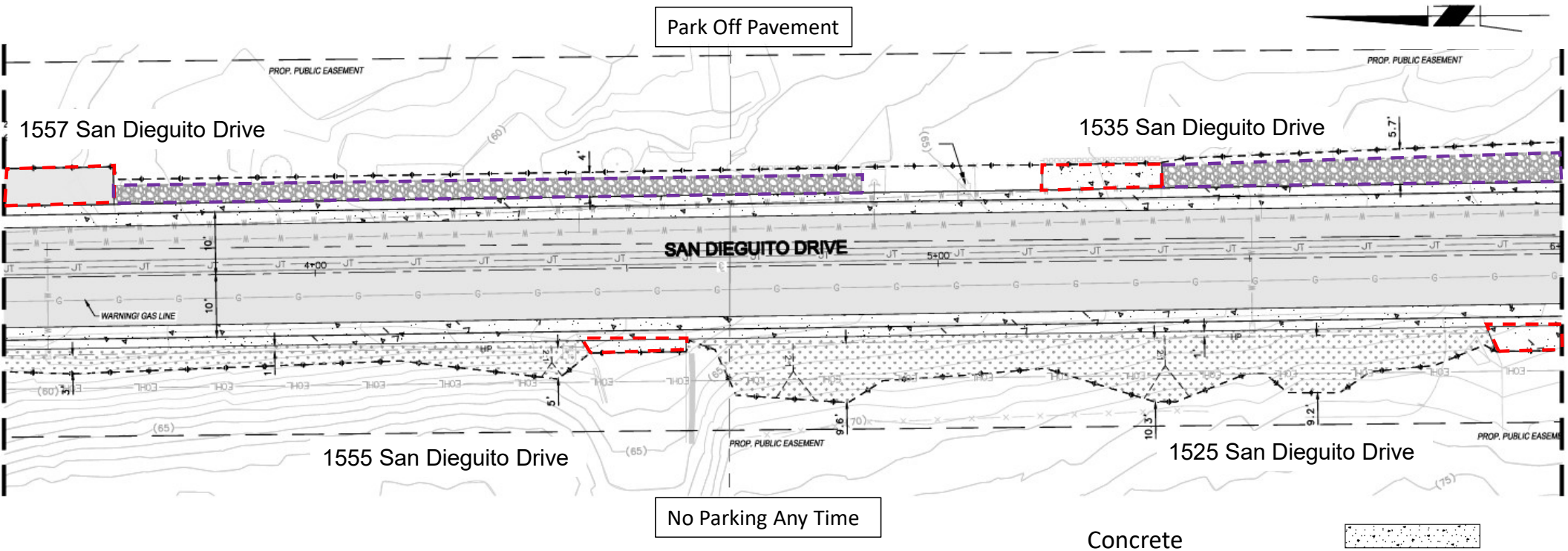
Retaining Wall Material



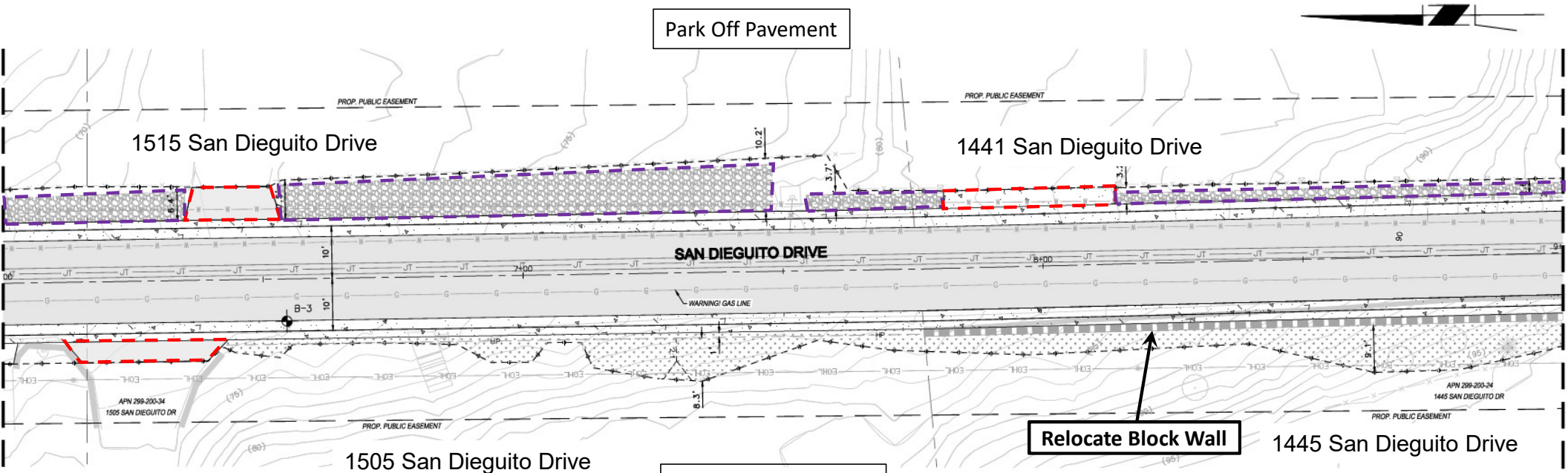
Stormwater Quality BMP



San Dieguito Drive – Final Design

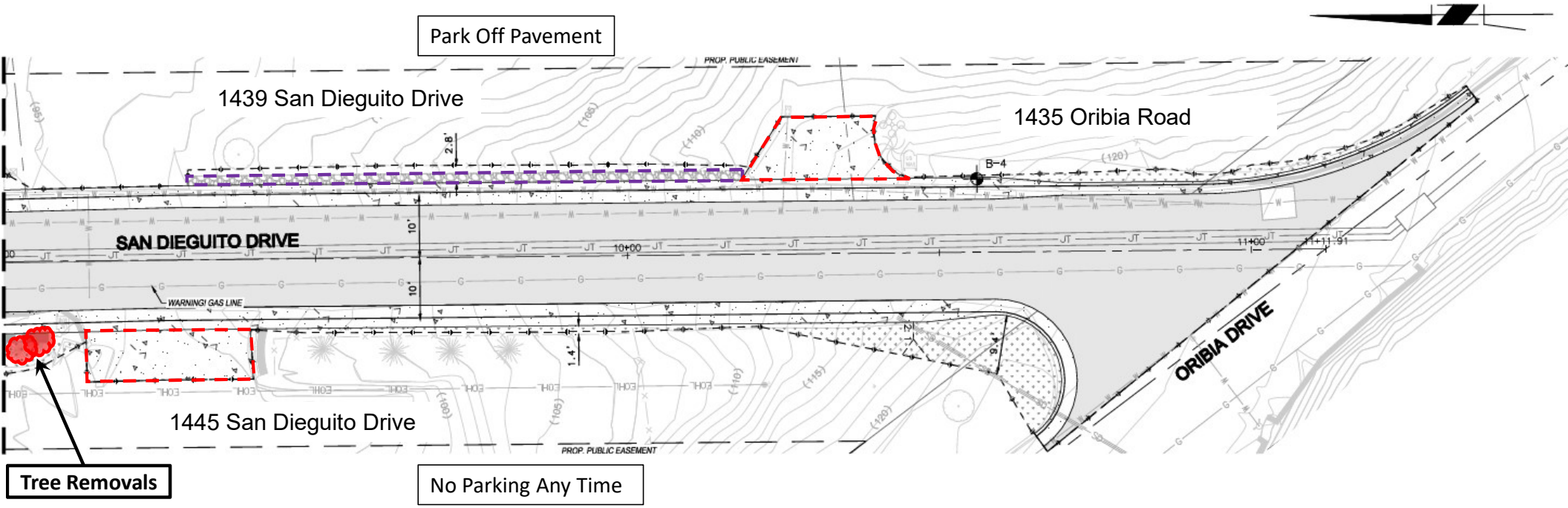


San Dieguito Drive – Final Design



Concrete
Asphalt
Hydroseed
Gravel
Driveway Replacement

San Dieguito Drive – Final Design



FY 2024-25

City of Del Mar

San Dieguito Drive Improvement District for the San Dieguito Drive Improvements Project

April 2024

Pursuant to the Landscaping and Lighting Act of 1972 and Article XIIID of the California Constitution

Engineer of Work:

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Public Finance Consulting Services

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City of Del Mar

City Council

David Druker, Mayor
Terry Gaasterland, Deputy Mayor
Tracy Martinez, Council Member
Dan Quirk, Council Member
Dwight Worden, Council Member

City Manager

Ashley Jones

Engineer of Work

SCI Consulting Group

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Introduction

Overview

San Dieguito Drive ("the road") is a private road with public access in the City of Del Mar ("City") on Book 299, page 200 of the County of San Diego Assessor Parcel Maps. It is located between Racetrack View Drive and Oribia Road and is not currently part of the public street system or maintained by the City. However, there is a public easement that grants the City right-of-way for road and utility purposes (i.e. sewer, water, gas, power, and telephone lines). In order to address public safety and adjacent homeowner concerns, there is a desire to convert this roadway and associated infrastructure from a private road into a public street which would then be part of the City's street system and maintained by the City. Presently, San Dieguito Drive is a private road, which serves as the only access to homes located in the proposed Assessment District, in very poor condition with cracking asphalt, many potholes, and fails to meet the most basic City road standards all of which impede access to private property and emergency access.

The existing road is approximately 17 to 20 linear feet wide and includes adjacent gravel/dirt shoulder areas that are currently used for parking. The asphalt is in a deteriorated condition and in need of repair. It does not conform to the County of San Diego ("County") Public Road Standards or City Council Policy 114 – Complete Streets ("Complete Streets Policy"). The proximate property owners served by the road are responsible for its maintenance and improvements, but even after many years of discussions between the City and these property owners, the road is still not in conformance with County standards nor City policy.

According to County standards, the road is classified as a Hillside Residential Street, which is the minimal section available for residential streets such as San Dieguito Drive. The required road section standard consists of two 12-foot driving lanes and an 8-foot parking lane. However, the minimum necessary road width is 20 feet, or two 10-foot driving lanes, to ensure passage for fire trucks. The minimum width for a parking lane is 7 feet.

Parking and walkways must also align with the City's Complete Streets policy. In addition, due to the location and proximity to the San Dieguito Lagoon, it is important to maintain the coastal access which implements the City's Local Coastal Program.

On September 6, 2022, the City Council approved a task order for Michael Baker International ("MBI") to conduct a Phase 1 Preliminary Engineering Assessment to better understand the condition of the road and to develop alternatives and costs for a capital improvement project to improve the road.

The Preliminary Engineering Assessment was presented to area residents for feedback on July 13 and August 18, 2023. Four preliminary design concepts were prepared and discussions with area residents and staff resulted in a recommendation of a "Minimal Alternative" to improve the road to public standards without on-street parking and sidewalks.

The Minimal Alternative includes a road with a standard centerline crown with 16 feet of asphalt and 3.5-foot concrete rolled curbs for an improved width of 23 feet. This allows for 20 feet, or two 10-foot driving lanes, to ensure passage for fire trucks.

The proposed project deviates from the Complete Streets Policy and requires approval from the City Council, which was obtained at the City Council meeting held on September 5, 2023. At this same meeting, the City Council approved a task order to retain MBI to proceed with Phase 2 road improvement design, construction documents, and easement acquisition for the Minimal Alternative.

In order to mitigate the negative effects of the sub-standard road infrastructure which includes reducing impediments to access during times of emergencies and to ensure the road's long-term sustainability, the City has proposed a cost-sharing approach with the affected property owners whereby the City would agree to upgrade the road, its infrastructure, and then transfer maintenance responsibilities to the City.

In order to fund this critical project, the City proposes to implement a Proposition 218-compliant, balloted benefit assessment district that would include all specially benefitted parcels, and if approved by the required balloting, would place assessments based upon special benefits in proportion to the special benefit conferred on the affected district parcels and in relationship to the entirety of the costs of the proposed improvements. The City, would upon direction of the City Council, provide funding for any general benefits to parcels outside of the proposed assessment district provided by the improvements, as separated and quantified in this Report. If approved by vote of the benefitted parcel owners and by the City, the assessment would pay for the construction of the Minimal Alternative improvements allowing for the road to be considered for inclusion in the City's street system by the City Council for future maintenance by the City.

Legislative Analysis

Proposition 218 Compliance

On November 5, 1996, California voters approved Proposition 218 entitled "Right to Vote on Taxes Act," which added Articles XIIIC and XIIID to the California Constitution. While its title refers only to taxes, Proposition 218 established new procedural requirements for the formation and administration of assessment districts.

In general, Proposition 218 stated that any existing assessment imposed exclusively to finance the capital costs or maintenance and operation expenses for sidewalks, streets, sewers, water, flood control, drainage systems, or vector control on or before November 6, 1996, would be exempt from the procedures and approval process of Proposition 218, unless the assessments are increased. The San Dieguito Drive Improvement District would impose an assessment exclusively for street maintenance and improvements for those property owners (including the City) that would be specifically benefitted by those Improvements but only in proportion to the general benefits provided to the public.

Proposition 218 defines “increased”, when applied to an assessment, as a decision by an agency that does either of the following:

- Increases any applicable rate used to calculate the assessment.
- Revises the methodology by which the assessment is calculated, if that revision results in an increased amount being levied on any person or parcel.

The formation methodology used to calculate the assessment may be levied in any given year allowing the assessment rate from the prior year to be increased based on corresponding changes in the Consumer Price Index (“CPI”). These yearly CPI adjustments do not typically require Proposition 218 proceedings.

Assessment Process

This Engineer’s Report (“Report”) describes the San Dieguito Drive Improvement District (the “Improvement District”), the proposed Improvement District boundaries, a description of the facilities, services, and public improvements to be improved and maintained by the assessments (the "Improvements”), and the proposed assessments for Fiscal Year 2024-25 (the “Assessments”).

Following submittal of this Report to the City Council (the “Council”) for preliminary approval, the Council, by Resolution, may call for an assessment ballot proceeding and public hearing on the proposed establishment of Assessments for the provision of the Improvements.

Generally, if the Council so directs, a notice of assessment and assessment ballot will be mailed to property owners within the Improvement District boundaries who receive special benefits distinct from general benefits from the Improvements. Such notice includes a description of the Improvements to be funded by the proposed Assessments, the proposed assessment amount for each parcel owned, and an explanation of the method of submitting a ballot on the Assessments. Each notice will include a ballot on which the property owner will mark his or her support or opposition to the proposed Assessments.

After the ballots are mailed to property owners, a minimum 45-day wait period is imposed allowing each property owner to consider the formation of the Improvement District. Following this 45-day time period, a public hearing will be held for the purpose of allowing the public and property owners to provide testimony regarding the proposed Assessment, and to submit their ballots.

Tabulation of the returned ballots may begin at the conclusion of public testimony. It is anticipated that the ballots may be tabulated on the same evening as the Public Hearing and that the tabulation results may be announced soon after. If a majority of property owner votes (weighted by the amount of the proposed assessment) in opposition to the Improvement District exceed those in favor, the Improvement District will not be formed and the assessments will not be imposed. Otherwise, the Council may take action to approve the levying of the assessments for Fiscal Year 2024-25, and the assessment information will be provided to the County Auditor/Controller. The County Auditor/Controller will include the Assessments on the property tax roll for Fiscal Year 2024-25.

Plans and Specifications

Description of Improvements

If the assessment is approved, the following Improvements will be made to San Dieguito Drive:

- Remove the existing 17 to 20 feet of deteriorated road
- Install a new road section with 16 feet of asphalt with aggregate base and 3.5-foot concrete rolled curbs
- Provide a wider roadway for 20 feet of drivable surface
- Improve drainage by installing a standard centerline crown, concrete rolled curbs, storm drain laterals, and storm drain inlet
- Install two modular wetlands (stormwater quality BMPs)
- Install a retaining wall at the southwest corner of San Dieguito Drive and Racetrack View Drive to widen the roadway
- If possible, coordinate with the Utility Undergrounding District X1A (Crest Canyon) work which includes removal of poles and undergrounding of electrical and communications

A detailed description of the Improvements has been developed by MBI and is available to the public at the City offices during normal business hours and via the April 3, 2024 presentation on the City's website (https://www.delmar.ca.us/883/San-Dieguito-Drive-Improvements-Project).

Fiscal Year 2024-25 Estimate of Cost and Budget

Estimate of Costs

A detailed description of the costs of the Improvements is being developed by MBI and will be made available to the public by the City. The estimated costs of the improvements project is approximately $1.27 million. (See below and Appendix B for the estimate).

CITY OF DEL MAR
San Dieguito Drive Improvement District
Estimate of Cost
Fiscal Year 2024-25

			Total Budget
Costs			
Existing Reserves			$0
Capital Improvements Costs			$1,269,039
Total Costs of Improvements			$1,269,039
Less:			
Contribution from City			$888,239
Net Cost of Improvements (a)			$380,800
Years of repayment (b)			20
Net Cost of Improvements per year to assessed parcels (a/b)			$19,040
Assessments to Parcels per Year			
	Parcels ('c)	Zone Rate (d)	
Single Family Equivalent Benefit Units - Zone A (San Dieguito Drive)(c	14	$846.22	$11,847
Single Family Equivalent Benefit Units - Zone B (Oribia Road) (c*d)	17	$423.11	$7,193
			$19,040
Additional Benefit Analysis and Clarification			
	Parcels ('e)	*Zone Factor (f)*	*Adjusted SFE*
Single Family Equivalent Benefit Units - Zone A	*14*	*1.00*	*14.00*
Single Family Equivalent Benefit Units - Zone B	*17*	*0.50*	*8.50*
SFE Units			*22.50*
	Adjusted SFEs	*Project Costs*	
Benefit received per SFE	*22.50*	*$1,269,039*	*$56,402*
	$ Benefit/SFE	*Repaymnt Years*	
Benefit received per SFE per year	*$56,402*	*20.00*	*$2,820*

Special Discussion of Proposed City Contribution

The analysis required to support a Proposition 218-compliant Engineer's Report must "separate and quantify" any general benefits resulting from the proposed improvements. The parcels within the proposed Improvement District may only be assessed for the special benefits, not general benefits. Most improvements generate both special benefits and general benefits, and therefore, most Improvement Districts require another, non-assessment, funding sources to fund the general benefits – typically the governing agency.

For this proposed Improvement District, it is required that another funding source, (in this case, the City), pay at least for the general benefits which have been quantified to be 54% of the total benefit. (Again, see the next section for more details on this calculation.)

Because of the long-standing commitment and history of the proposed Improvement District, it has been proposed that the City additionally absorb proportional costs above the 54%, for pre-construction services (preliminary engineering assessment, engineering design, assessment engineering services, and environmental) at the same rate as construction costs. As a result, the City is proposing to contribute up to 70% ($888,239 of the total $1,269,039) of the total costs, which must be considered and approved by the Del Mar City Council.

Method of Apportionment

Method of Apportionment

The methodology for the Improvement District assumes that all benefited parcels along San Dieguito Drive and Oribia Road will be included in the District because San Dieguito Drive is the only route of ingress and egress. The method used for apportioning the assessment is based upon the proportional special benefits conferred to the properties over and above the general benefits conferred to real property in the Improvement District or to the general public. Each special benefit is calculated for each parcel in the Improvement District using the following factors:

1. Identification of all special benefit factors and all general benefits derived from the Improvements.
2. Calculation of the proportion of these benefits that are general.
3. Determination of the relative special benefit within different areas within the Improvement District.
4. Determination of the relative special benefit per property type
5. Calculation of the specific assessment for each individual parcel based in proportion to the special benefit it receives from the Improvements. The special benefits consider the location of the parcels in relation to the special benefits, property type, property characteristics, improvements on property and other supporting attributes.

Discussion of Benefit

Assessments can only be levied based on the special benefits provided to each property. General benefits are funded through other means. This approach is found in Section 22573 of the Landscaping and Lighting Act of 1972 states:

"The net amount to be assessed upon lands within an assessment district may be apportioned by any formula or method which fairly distributes the net amount among all assessable lots or parcels in proportion to the estimated benefits to be received by each such lot or parcel from the improvements."

"The determination of whether or not a lot or parcel will benefit from the improvements shall be made pursuant to the Improvement Act of 1911 (Division 7 (commencing with Section 5000)) [of the Streets and Highways Code, State of California]."

Proposition 218, as codified in Article XIIID of the California Constitution, confirmed that assessments must be based on the special benefits provided to each parcel and that the value of the special benefits must reasonably relate to the assessment imposed. To be clear, special benefits are in proportion to the special benefit conferred on the affected district parcels and in relationship to the entirety of the costs of the proposed improvements.

> *"No assessment shall be imposed on any parcel which exceeds the reasonable cost of the proportional special benefit conferred on that parcel."*

General public benefits are not included in the assessment because they do not provide the property owner with any particular and distinct benefit.

Special Benefit Factors to Parcels

The Special Benefits from the Improvements are listed below:

Special Improvements to Property Owners' Own Safety and Reduction in Damage to Private Property

As San Dieguito Drive continues to deteriorate from a lack of maintenance it will continue to impede the ability of emergency equipment to respond to private property from house fires, wildfires, or other hazard conditions. The current private road conditions contain surface conditions that may result in trip hazards and has and will continue to damage bicycles, motorcycles, cars, and other vehicles. Rough road surfaces may cause vehicles to swerve and travel in unpredictable ways that may result in collisions or other accidents. The Improvements, therefore, provide an important, valuable, and desirable improvement to the property owners and their property.

Private Property Improved Emergency Response and Home Use Access

As noted above, the current poor road conditions may impede efficient evacuation from private homes along the Road during times of emergencies. The Improvements would fix the deteriorated road surface and widen the road to public standards, resulting in improved evacuation conditions and ensure better access to private homes when ambulances, police, or other emergency response is required by the private homeowner. The improvements also aid in private deliveries to the homes and provide better access for guests visiting the residents. Therefore, the assessments provide improvements that provide a direct advantage and special benefit to properties contained in the Improvement District.

Improved Emergency Access for Emergency Vehicles to Parcels

Emergency vehicles and personnel must use San Dieguito Drive to reach private properties in the Improvement District. The deteriorated condition of San Dieguito Drive makes it much harder for large vehicles, such as fire apparatus, to navigate the Road safely and quickly.

The Improvements would fix the deteriorated road surface and widen the road to public standards, resulting in improved ingress conditions for emergency vehicles and personnel. Therefore, the assessments provide Improvements that provide a direct advantage and special benefit to property in the Improvement District.

Improved Wildland Fire Safety and Access

Like many communities in California, the City of Del Mar is at elevated risk of wildland fires. The proposed assessment District is in an area designated as a Very High Fire Hazard Severity Zone. In the case of a local wildland fire, the need for safe and speedy routes of egress as well as emergency vehicle ingress are important. More detailed information is provided in the City's Crest Canyon Evacuation Plan.

The Improvements would widen San Dieguito Drive and improve the condition of the road, making it a safer and speedier route of ingress and egress than it is at the present time. Therefore, the assessments provide Improvements that provide a direct advantage and special benefit to property in the Improvement District through improved wildland fire safety. Should the nearby hillsides experience a wildfire condition, the first to be impacted will be the residents living along the Road and as a result, evacuation and fire response will be impacted by the current conditions of the Road. The Improvements will particularly help preserve properties during wildfire conditions and rapid access of emergency equipment could help the general public from the wildfire spreading to other City communities.

Improved Drainage for Parcels

The existing roadway infrastructure does not include adequate drainage facilities. Uncontrolled stormwater and urban runoff, and associated local flooding, indirectly and directly may cause injuries, damage to property, and adversely impact the residents living along the Road. The proposed improvements include upgrades to stormwater drainage which will reduce the risk of flood damage to the private properties benefited by the Assessment District.

Improved Views and Beautification

The current deteriorated roadway infrastructure creates dust which covers the landscaping and windows of the homes nearby, as well as an unsightly view from those homes and for everyone who travels along the road. The Improvements, by replacing the deteriorated road with one which is new and smooth, provides improved views to properties with direct line-of-sight as well as other local properties which benefit from improved views when the road is used. Therefore, the improved and protected views provided by the improvements are another direct and distinct advantage that is uniquely conferred upon each property owner in the Improvement District.

Benefit Finding

In summary, real properties that are located within the boundaries of the proposed Improvement District along the private road are distinctly and directly benefited from the improvements. These benefits include but are not limited to a reduction in damage to personal and real property, enhanced emergency evacuation, improved emergency access during fires, earthquakes and wildland fire events, improved drainage, and improved views and beautification. The Improvements are specifically designed to serve local properties within the Improvement District, not other properties, or members of the general public.

General versus Special Benefit

Article XIIIC of the California Constitution requires cities to "separate the general benefits from the special benefits conferred on a parcel." The rationale for separating special and general benefits is to ensure that property owners subject to the benefit assessment are not also paying for general benefits conferred to the public. The assessment may fund special benefits but not general benefits. Accordingly, a separate estimate of the special and general benefits are provided in this section. Total benefits are often expressed by:

Total Benefit	=	General Benefit	+	Special Benefit

There is no widely accepted or statutory formula for general benefit. However, general benefits are benefits from improvements or services that are not special in nature, are not "particular and distinct" and are not "over and above" benefits received by other properties. General benefits have been described by an indirect, derivative advantage and are not necessarily proximate to the improvements.

The starting point for evaluating general and special benefits is the current, baseline level of service. The assessment is intended to fund Improvements "over and above" this general, baseline level and the general benefits estimated in this section are over and above the baseline.

This is expressed by:

General Benefit	=	**Benefit to Real Property Outside the Improvement District**	+	**Benefit to Real Property Inside the Improvement District that is Indirect and Derivative**	+	**Benefit to the Public at Large**

The Assessments described in this Report are intended to fund improvements that are directly and particular to the special benefits conveyed to the homeowners. Therefore, a basis has been established for minimal or zero general benefits from the Assessments.

Calculating General Benefit

In this section, the general benefit is liberally estimated and described, and then budgeted so that it is funded by sources other than the assessment.

Benefit to Property Outside but Proximate to the Improvement District

Here, properties located within the Improvement District receive special benefits from the improvements because those properties uniquely adjoin the Improvements and because these Improvements are along a private road not enjoyed by the public at large. As San Dieguito Drive is not a public thoroughfare; it is primarily used to gain access to those homes located within the Improvement District.

Additionally, the southern portion of San Dieguito Drive leads only to the parcels on Oribia Road which are also included in the Improvement District, while the northern portion leads to a portion of Racetrack View Drive; however, this area contains no homes or other structures within the City of Del Mar. On the immediate north side of Racetrack View Drive is San Dieguito Lagoon, which is unbuildable.

Therefore, in a typical analysis based on these geographic conditions, it would be concluded that the Improvements do not provide special benefits to properties outside the Improvement District. (i.e. like in a typical utility undergrounding district in which the parcels with utilities that are undergrounded receive special benefit while those adjacent parcels do not and are not assessed.)

However, San Dieguito Drive provides an important access-related asset for the control of wildland fires and other emergencies, that provide benefit to parcels outside of the proposed Improvement District. Therefore, additional general benefit analysis is warranted. Wildland fires, and the associated smoke and embers, do not stay within defined boundaries, and the access, special infrastructure (including special fire hydrants), location and topography of San Dieguito Drive provides an important facility for the protection of parcels that are outside, but relatively near the Improvement District. In other words, there are certainly parcels outside of the proposed Improvement District that will receive improved wildland fire protection benefits that will be provided by the proposed Improvements.

In this case, the Engineer of record is tasked with quantifying the relative (special) benefit received from the Improvements to the parcels within the Improvement District versus relative (general) benefit to the parcels outside, but proximate to, the Improvement District. It is clear the benefit diminishes as distance from the Improvements increases, but a fair and accurate proportion must be established.

Various analyses were considered and the chosen analytical approach relies on the work done in support of the City Fire Department's Crest Canyon Evacuation Plan from March 7, 2022, (Microsoft Word - Agenda Report_Wildfire Evacuation Plan final draft.docx (delmar.ca.us)). In this plan, a regional analysis of the City is described including, and most relevantly, Population Zones (Figure 1 on page 5) and Scenario B Evacuation (Figure 5 on page 18). The Scenario B Evacuation analysis focuses on a wildland fire approaching from the east through Crest Canyon Park toward the San Dieguito Drive area. Both figures include a zone with proposed Improvement District and surrounding affected areas – labeled Zone F in Figure 1. Review of the report indicates that Zone F includes 89 homes including the 31 already in the proposed Improvement District. Of the 89 homes in Zone F, 27 of the homes are on Racetrack View Drive and east of San Dieguito Drive. Since wildland fires in this area move from east to west, these 27 homes receive no benefit from the proposed improvements to San Dieguito Drive.

Therefore, the remaining 62 homes receive benefit from the improvements. Of these, 31 homes are in the proposed Improvement District and 31 homes are outside of it. As a result, 50% of the benefit (31 of 62) is special benefit, and 50% (100% total benefit minus 50% special benefit) is general benefit.

Benefit to Property Inside the District that is Indirect and Derivative

The "indirect and derivative" benefit to property within the proposed Improvement District may seem difficult to calculate given the particular facts of each Improvement District. However, the proposed improvements to San Dieguito Drive are clearly "over and above" and "particular and distinct" when compared with the baseline level of service and the unique proximity, access and views of the Improvements enjoyed by benefiting properties in the proposed Improvement District. Hence, no allowance for general benefit that is indirect or derivative is assigned.

Benefit to Property to the Public at Large

The general benefit to the public at large can be estimated by the proportionate amount of time that San Dieguito Drive is used by individuals who are not property owners; or others directly linked to property owners such as visitors, delivery drivers, landscaping services, construction personnel, employees, or other service providers, in the Improvement District[1].

Surveys of park and recreation facility usage conducted by SCI Consulting Group have found that less than 4% of a park district's facility usage is by those who do not live or work within District boundaries. Although there is no park available to the public within the Improvement District boundaries to draw the general public to drive down San Dieguito Drive, some members of the public may use it to access the lagoon and Crest Canyon Park or its trails. Based on these facts, it is estimated that less than 4% of the users of the road are members of the general public. (Similar analyses of the percentage of daily car trips in residential areas not associated with local properties confirms the 4%.) Further, when people outside the Improvement District use the road, they diminish the availability of the road for people within the Improvement District. Therefore, liberally 4% of general benefits are allocated for people within the Improvement District.

This estimate is supported by the fact that there are occasional users of San Dieguito Drive who park for the fairgrounds and/or beach, and for birdwatchers

Combining these measures of general benefits, we find that 54% of the benefits from the Improvements are general benefits to the public at large and/or property in the Improvement District.

Total General Benefits

Using a sum of these measures of general benefit, we find that approximately 54% of the benefits conferred by the Improvements may be general in nature and should be funded by sources other than the Assessment.

[1] . When San Dieguito Drive is used by those individuals, the facilities are not providing benefit to property within the Improvement District. Use under these circumstances is a measure of general benefit. For example, a non-resident who is drawn to use the road to provide services to a property in the Improvement District would provide special benefit to that property as a result of his or her use of the Improvements. Conversely, one who uses road but does not provide any services within the Improvement District boundaries does not provide special benefits to any property and is considered to be a measure of the general benefits.

General Benefit =		
	50.0 %	(Outside the district)
	0.0 %	(Indirect and derivative)
+	4.0 %	(Public at Large)
=	54.0 %	(Total General Benefit)

The City's total budget for the Improvements is $1.27 million. Of this total budget amount, the City is proposing to contribute up to $888,239, or 70% of the cost, which is significantly more than the required 54% amount attributable to the general benefits resulting from the Improvements.

Again, to be clear, this analysis supports the requirement that at least 54% of the revenue to pay for the Improvements must come from a source other than this assessment, but it can be more. In this case, the City is proposing to exceed this requirement and financially contribute up to 70% of the costs, which must be considered and approved by the Del Mar City Council.

Zones of Benefit

The Improvements will be made to San Dieguito Drive and are uniformly distributed along the length of the road. The parcels along San Dieguito Drive are designated as Zone of Benefit "A" or "Zone A." The special benefit is distributed uniformly within Zone A because the Improvements are uniformly distributed along the road.

The Improvement District also includes properties on Oribia Road that are not on San Dieguito Drive but use it as the primary route for ingress and egress. These properties are designated as Zone of Benefit "B" or "Zone B". Like Zone A, the special benefit is distributed uniformly within Zone B. Like the residents along San Dieguito Drive, the residents along Oribia Road enjoy the same special benefits as listed above. Each Oribia Road resident will have improved access for emergency response and private use access, reduction in property damage from flooding and impacts to their private vehicles, better private delivery to their homes, and safer evacuation access during times of emergencies.

The Improvements related to some of the special benefits in Zone B are generally equal to those in Zone A; however, some special benefits, such as drainage and views, are lower. A Weighting and Scoring Analysis was conducted to determine the relative distribution of the special benefit in Zone A versus Zone B, and is shown in the Table below:

	Zone	Safety/ Damage	Evacuation	Emergency Access	Wildland Fire	Drainage	Views and Beautification	Normalized Special Benefit
Weighting:		100%	100%	100%	100%	75%	50%	
	A	1	1	1	1	1	1	1.00
	B	0.5	0.5	0.5	1	0.1	0.1	0.50

Therefore, the Zone B parcels receive 50% of the special benefit of Zone A parcels.

Special Notes on Weighting and Scoring Analysis

The six special benefits identified above (Improvement to Public Safety and Reduction in Damage to Property; Improved Emergency Evacuation Access; Improved Emergency Access for Emergency Vehicles; Improved Wildland Fire Safety; Improved Drainage; and Improved Views and Beautification) have been given a weight and a score for each zone. This Weighting and Scoring Analysis approach is widely used to calculate and quantify values in multi-attribute and qualitative environments, and is commonly used for Proposition 218-compliant Engineer's Reports.

The primary special benefits resulting from the proposed Improvements include Improvement to Public Safety and Reduction in Damage to Property; Improved Emergency Evacuation Access; Improved Emergency Access for Emergency Vehicles; and Improved Wildland Fire Safety, and these attributes are very significant in the evaluation of the overall utility of the parcels. And to be clear, these primary special benefits to the parcels in the proposed Improvement District are over and above the general benefits conferred. Thus, they have been assigned a full weighting of 100%. Improved Drainage is a less significant special benefit and has been assigned a weight of 75%. Views and Beautification, while important, is less significant in its effect on the overall utility of each parcel, so it has been assigned only a 50% weighting.

Since the relative effect and value of all these 6 special benefits is directly proportional to proximity (with closer proximity resulting in higher benefit), and all the parcels in Zone A are adjacent to the improvements, they have been given a full score of 1 in Zone A.

The scoring for Zone B requires more analysis and more discussion. Safety/Damage, Evacuation, and Emergency Access attributes require close proximity to receive a full score, and receive a lower score as the proximity decreases. The proposed improvements (including road widening, improved pavement quality and capacity, improved drainage, etc.) provide a higher level of direct access improvement to the Zone A parcels. For example, heavy emergency equipment can get closer to a specific home in Zone A, and maneuver better and turn better along San Dieguito Drive resulting from the proposed improvements in ways that are not conferred on the Zone B parcels. Of course, the Safety/Damage, Evacuation, and Emergency Access special benefits are comprehensively conferred to Zone B parcels, but not as much, because there are not improvements proximate to specific houses.

Hence, because the proposed Improvements are not as proximate to Zone B, and don't include the house-specific direct access improvements, these three special benefits have been assigned a score of 0.5 in Zone B. However, the beneficial effect from the proposed Improvements to Improved Wildland Fire Safety are potentially more widespread (including smoke and ember effective distances), and have less of direct linkage to nearby proximity, so this attribute has been scored a full 1 for both Zone A and Zone B. On the other hand, drainage and views are only very minimally improved for Zone B resulting in the proposed Improvements to San Dieguito Drive, so they have been scored 0.1.

Each parcel within the Improvement District has been shown to receive a direct benefit, and the District's boundaries have been narrowly drawn to include only parcels that specifically benefit from the assessment. Because the benefits are spread across the Improvement District by the narrowly drawn zones, the allocations of the assessments to each property owner has a direct relationship to the locality of the improvement standard.

Method of Assessment

As stated, the first step in apportioning assessments is to determine the relative special benefit conveyed to each property. This process involves determining the relative benefit received by each property in relation to a single-family home, or, in other words, on the basis of Single Family Equivalents ("SFE"). This SFE methodology is commonly used to distribute assessments in proportion to estimated special benefit and is generally recognized as providing the basis for a fair and appropriate distribution of assessments. For the purposes of this Report, all properties are designated with an SFE value, defined as each property's relative benefit in relation to a single-family home located on a parcel. For reference, the "benchmark" property is the single-family detached dwelling that is one Single Family Equivalent or one SFE.

A qualifying assessment provides specific Improvements conferred directly to properties located in the proposed Improvement District. Here, the Improvement District includes only two types of properties: Single family homes and vacant land. Each single-family home is assigned one SFE.

Vacant property does not receive any special benefits from the proposed Improvements; accordingly, vacant parcels are not assigned an SFE value. If any of the currently vacant parcels are developed while this Improvement District is in effect, then this proposed assessment will apply to that newly developed parcel beginning in the fiscal year it is developed, provided that San Dieguito Drive is that property's means of ingress and egress.

Duration of Assessment

The City Council can elect to spread the costs of these Improvements over a period of years. This reduces the annual cost burden to each individual property owner. In addition, the City wants to limit the amount of time it must wait to recoup its costs to a reasonable period of time. Therefore, it is recommended that the improvement costs be spread over a twenty-year period of time commencing in fiscal year 2024-2025. Property owners will also be given the opportunity to pay the entire amount of the proposed 20-year assessment for their property to the City up front rather than paying it off over 20 years on their property tax bill.

Appeals and Interpretation

Property owners have a right to appeal the assessment determination. A property owner who feels that the assessment levied against their property is in error (as a result of incorrect information) may file a written appeal to the City Manager or their appointee. The filing of an appeal is limited to the current assessment year, or if filed prior to July 1, for the upcoming fiscal year.

Upon the filing of any such appeal, the City Manager will promptly review the appeal and any information provided by the property owner. If the City Manager determines based on reasonable viable evidence that the assessment should be modified, the appropriate changes may be made. If any such changes are approved after the assessment roll has been filed with the County for collection, the City Manager may authorize a refund to the property owner of the approved reduction. Any dispute over the decision of the City Manager or their designee may be appealed to the City Council subject to DMMC Section 1.12.010.

Assessment

WHEREAS, on March 4, 2024 the City Council of the City of Del Mar passed a Resolution (which shall be incorporated by reference) that directed the undersigned Engineer of Work to prepare and file the above stated San Dieguito Drive proposed Improvement District report and the report provided an estimate of costs, a map diagram for the proposed Improvement District, and an assessment of the estimated costs of the Improvements to be imposed on all parcels that are specially benefitted within the Improvement District; and

NOW, THEREFORE, the undersigned engineer, by the direction provided by the City Council of the City of Del Mar, hereby recommend the following assessments to support the funding of the Improvement District.

The Assessment Diagram is attached and incorporated into this report which provides the boundaries of the Improvement District. Each parcel is identified by its Assessor Parcel Number that appears on the San Diego County Property Assessment Roll.

I have assessed and approved the net amount of the costs of the Improvements, including incidental costs to each benefited parcel within the Improvement District. These assessments are in accordance with the special benefits conveyed to each parcel from the Improvements that have been described in the “Estimate of Costs” and the “Method of Assessment” contained in this report.

The assessments have been allocated to those parcels within Improvement District in direct proportion to the special benefits conveyed to each property.

Each parcel or lot of land is described in the Assessment Roll by reference to its parcel number as shown on the Assessor's Maps of the County of San Diego.

I hereby place opposite the Assessor Parcel Number for each parcel or lot within the Assessment Roll, the amount of the assessment for the fiscal year 2024-25 for each parcel or lot of land within said San Dieguito Drive Improvement District.

Dated: April 9, 2024

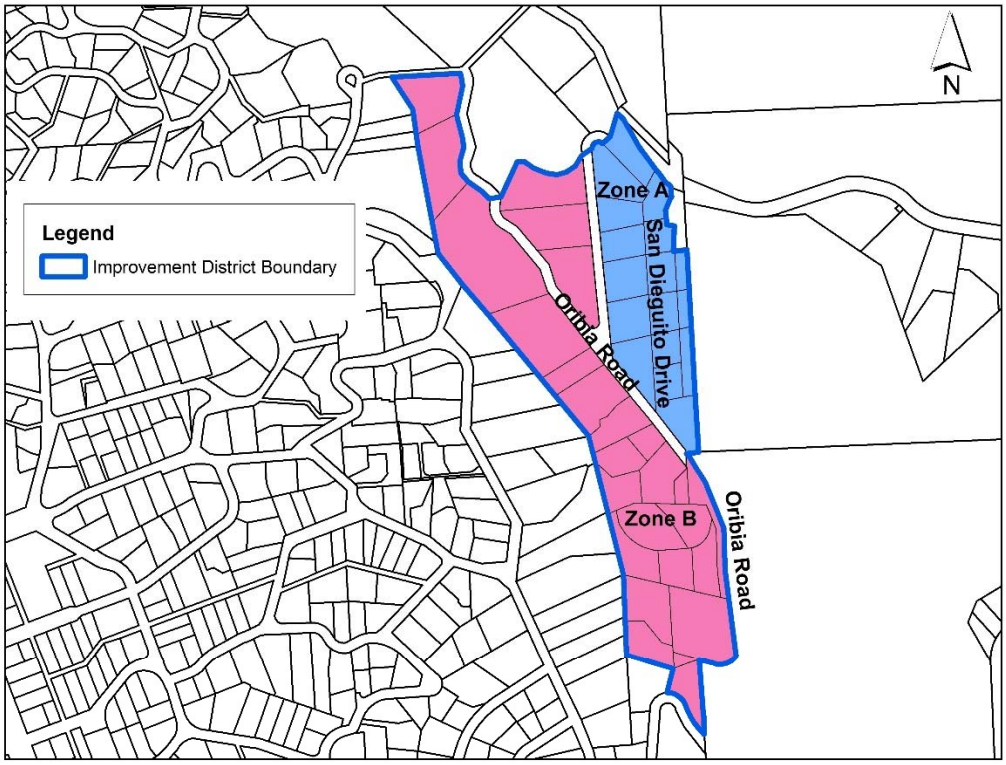


Engineer of Work

By: _____
John W. Bliss, License No. C052091

Assessment Diagram

The boundaries of the San Dieguito Drive Improvement District are displayed on the following Assessment Diagram, with Zone A in blue and Zone B in pink.



NOTE: REFERENCE IS HEREBY MADE TO THE MAPS AND DEEDS OF RECORD IN THE OFFICE OF THE ASSESSOR OF THE COUNTY OF SAN DIEGO FOR A DETAILED DESCRIPTION OF THE LINES AND DIMENSIONS OF ANY PARCELS SHOWN HEREIN. THOSE MAPS SHALL GOVERN FOR ALL DETAILS CONCERNING THE LINES AND DIMENSIONS OF SUCH PARCELS. EACH PARCEL IS IDENTIFIED IN SAID MAPS BY ITS DISTINCTIVE ASSESSOR'S PARCEL NUMBER.

FILED AND RECORDED IN THE OFFICE OF THE CLERK OF THE CITY COUNCIL OF THE CITY OF DEL MAR, COUNTY OF SAN DIEGO, CALIFORNIA, THIS _____ DAY OF _____, 20__.

_____
CITY CLERK

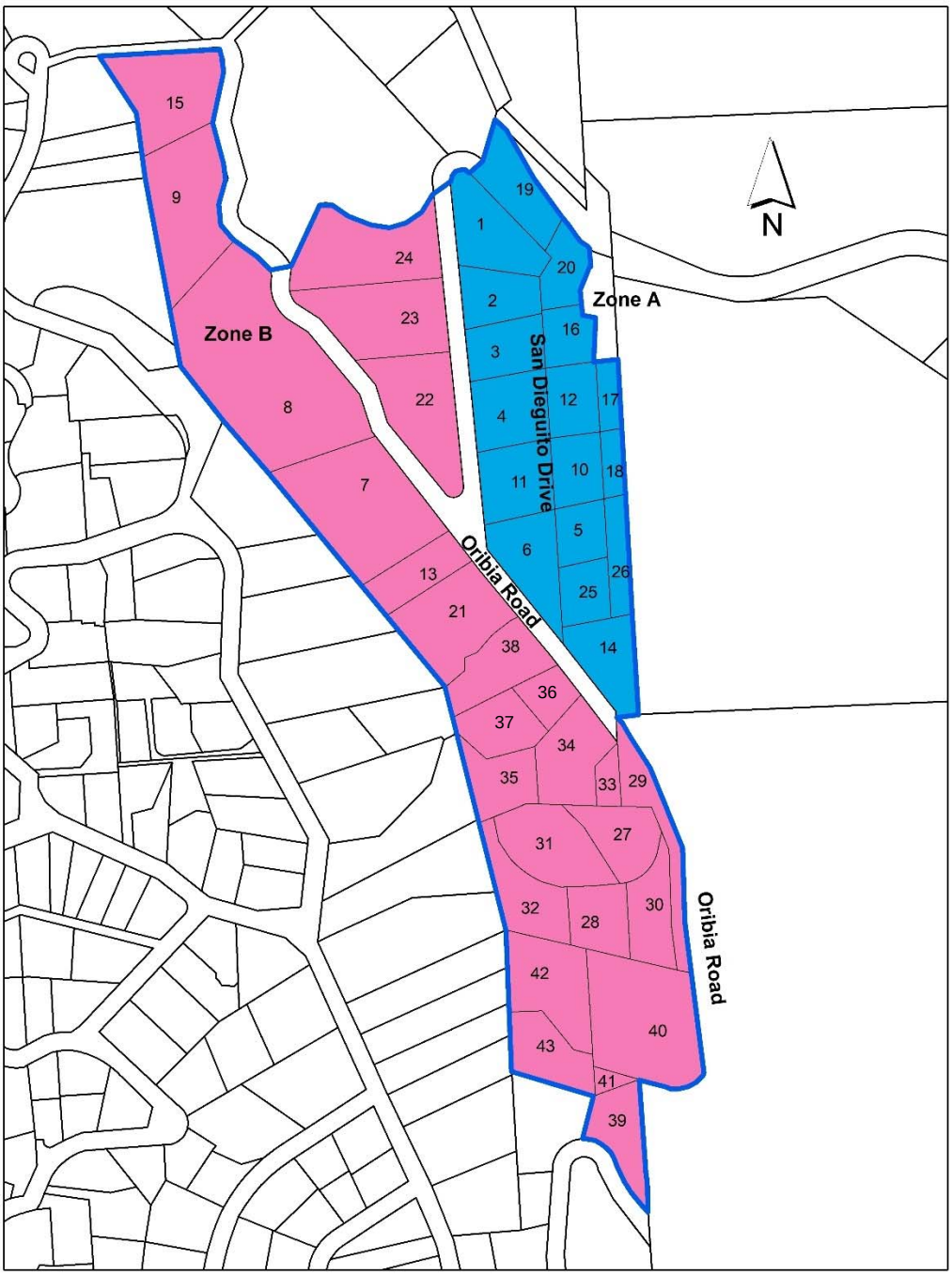
AN ASSESSMENT WAS CONFIRMED AND LEVIED BY THE CITY COUNCIL OF THE CITY OF DEL MAR ON THE LOTS, PIECES AND PARCELS OF LAND ON THIS ASSESSMENT DIAGRAM ON THE _____ DAY OF _____, 20__ FOR THE FISCAL YEAR 20__-__ AND SAID ASSESSMENT DIAGRAM AND THE ASSESSMENT ROLL FOR SAID FISCAL YEAR WERE FILED IN THE OFFICE OF THE COUNTY AUDITOR OF THE COUNTY OF SAN DIEGO ON THE _____ DAY OF _____, 20__. REFERENCE IS MADE TO SAID RECORDED ASSESSMENT ROLL FOR THE EXACT AMOUNT OF EACH ASSESSMENT LEVIED AGAINST EACH PARCEL OF LAND.

_____
CITY CLERK

Prepared by SCI Consulting Group
4745 Mangels Blvd, Fairfield, CA 94534

City of Del Mar
San Dieguito Drive Improvement District
Assessment Diagram

Below is a copy of the Improvement District map with each parcel numbered to match the numbers in the Assessment Roll on the next page.



Appendix A – Assessment Roll

An Assessment Roll (a listing of all parcels assessed within the Improvement District and the amount of the assessment) is shown below.

Each lot or parcel listed on the Assessment Roll is shown and illustrated on the latest County Assessor records and these records are, by reference made part of this report. These records shall govern for all details concerning the description of the lots or parcels.

CITY OF DEL MAR
San Dieguito Drive Improvement District
Assessment Roll 2024-25

	Assessment Number & Assessor Parcel Number	Owner Name(s)	Site Address	SFE Units	Assessment
1	2992001800	HAYWARD BETTE B TRUST 12-16-08	1567 SAN DIEGUITO DR	1.00	846.22
2	2992001900	CHESHIRE AMY A TRUST 05-31-12	1561 SAN DIEGUITO DR	1.00	846.22
3	2992002000	ANDREY JEFFREY W TRUST 06-28-16	1555 SAN DIEGUITO DR	1.00	846.22
4	2992002100	LABOSSIERE ROCKY & CHERYLE	1525 SAN DIEGUITO DR	1.00	846.22
5	2992002300	CLARK ERIC L JR & SUSAN E	1441 SAN DIEGUITO DR	1.00	846.22
6	2992002400	SHEPPARD FAMILY TRUST 08-13-14	1445 ORIBIA RD	1.00	846.22
7	2992002900	CALLE MAURICIO & NUBIA TRS	1522 ORIBIA RD	1.00	423.11
8	2992003000	VALLEY CANYON RANCH L L C		0.00	0.00
9	2992003100	VALLEY CANYON RANCH L L C		0.00	0.00
10	2992003300	SEDGWICK FAMILY CREDIT SHELTER TRUST	1515 SAN DIEGUITO DR	1.00	846.22
11	2992003400	KHATTAR TONY TRUST 10-12-21	1505 SAN DIEGUITO DR	1.00	846.22
12	2992003500	NOLEN FAMILY TRUST 08-15-22	1535 SAN DIEGUITO DR	1.00	846.22
13	2992003700	DEAKIN JOHN G JR	1490 ORIBIA RD	1.00	423.11
14	2992004000	DREYFUS EVE M	1435 ORIBIA RD	1.00	846.22
15	2992004600	VALLEY CANYON RANCH L L C		0.00	0.00
16	2992005000	LOREN TRUST 10-30-10	1557 SAN DIEGUITO DR	1.00	846.22
17	2992005300	SEDGWICK FAMILY CREDIT SHELTER TRUST		0.00	0.00
18	2992005400	NOLEN KEVIN T & JULIET A		0.00	0.00
19	2992005600	GROSS FAMILY TRUST 02-09-06	1604 SAN DIEGUITO DR	1.00	846.22
20	2992006000	MCFARLAND RYAN	1569 SAN DIEGUITO DR	1.00	846.22
21	2992006600	WILSON SCOTT B	1450 ORIBIA RD	1.00	423.11
22	2992006800	VALLEY CANYON RANCH L L C		0.00	0.00
23	2992006900	VALLEY CANYON RANCH L L C		0.00	0.00
24	2992007000	VALLEY CANYON RANCH L L C		0.00	0.00
25	2992007300	WESTBURG REID & BETH L	1439 ORIBIA RD	1.00	846.22
26	2992007400	WESTBURG REID & BETH L		0.00	0.00
27	3000600600	MCCARTHY THERESA L SEPARATE PROPERTY	1260 ORIBIA RD	1.00	423.11
28	3000600700	TRIFFON DOUGLAS W & THERESA C	1180 ORIBIA RD	1.00	423.11
29	3000600800	WILLIAMSON STANLEY G & JEAN A TRS	1352 ORIBIA RD	1.00	423.11
30	3000600900	STEGMAN FAMILY TRUST 12-01-08	1174 ORIBIA RD	1.00	423.11
31	3000601000	SCOTT WILLIAM T III & JEANETTE M	1200 ORIBIA RD	1.00	423.11
32	3000601100	M K S B TRUST 07-25-11	1402 ORIBIA RD	1.00	423.11
33	3000601200	WILLIAMSON STANLEY G & JEAN A TRS		0.00	0.00
34	3000601300	BODJANAC FAMILY TRUST 09-19-02	1346 ORIBIA RD	1.00	423.11
35	3000601500	LAIPENIEKS MARIS & CAITLIN	1340 ORIBIA RD	1.00	423.11
36	3000601600	REEF LIAN LLC	1420 ORIBIA RD	0.00	0.00
37	3000601700	GEISERMAN SANDRA K IRREVOCABLE INTER	1426 ORIBIA RD	1.00	423.11
38	3000602400	WALKER FAMILY TRUST 09-03-04	1440 ORIBIA RD	1.00	423.11
39	3001530300	WINNER-KORSMEYER IRREVOCABLE TRUST	1230 ORIBIA RD	1.00	423.11
40	3001530900	MOYER FAMILY SURVIVORS TRUST 09-20-89	1234 ORIBIA RD	1.00	423.11
41	3001531000	WINNER-KORSMEYER IRREVOCABLE TRUST		0.00	0.00
42	3001532400	RENNER FAMILY TRUST 10-26-16	1236 ORIBIA RD	1.00	423.11
43	3001532500	RENNER FAMILY TRUST 10-26-16	1238 ORIBIA RD	1.00	423.11
	TOTALS:			31.000	19039.95

Appendix B – Project Cost Estimate

Below are the estimated costs for the improvement project.

Pre-Construction Costs	
Phase 1 Engineering (MBI)	$ 64,500
Phase 2 Engineering (MBI)	$ 165,797
Assessment Engineering (SCI)	$ 41,500
CEQA (MBI)	$ 15,485
Subtotal	**$ 287,282**
Construction Costs	
Construction Estimate	$ 876,846
Construction Estimate Credit	*($87,067)*
Construction Management Services	$ 95,000
Geotechnical Services	$ 18,000
Subtotal	**$ 902,779**
Project Contingency*	**$ 78,978**
TOTAL PROJECT ESTIMATE	**$ 1,269,039**

*10% of Construction Estimate minus Construction Estimate Credit for an additional savings of $8,707 and total project savings of $95,774.

City of Del Mar
SAN DIEGUITO DRIVE IMPROVEMENT PROJECT
ENGINEER'S ESTIMATE OF PROBABLE COSTS
Date: 3/20/2024

Michael Baker INTERNATIONAL

Item	Description	Total Quantity	Unit	Unit Price	Extension
	General				
1	Mobilization, Demobilization and Cleanup	1	LS	$40,000.00	$40,000.00
2	Clearing and Grubbing	1	LS	$35,000.00	$35,000.00
3	Traffic Control Implementation and Construction Staging	1	LS	$65,000.00	$65,000.00
4	Storm Water Pollution Prevention and Erosion Control (Includes SWPPP Development & Implementation and Erosion Control)	1	LS	$10,000.00	$10,000.00
5	Construction Survey Staking	1	LS	$15,000.00	$15,000.00
6	Record Drawing (As-Builts)	1	LS	$4,500.00	$4,500.00
				Subtotal=	**$169,500.00**
	Removals, Relocations, and Adjustments Improvements				
7	Remove Existing AC Pavement Section. 4.5" Minimum	20163	SF	$3.50	$70,570.50
8	Remove and Reinstall Mailbox	10	EA	$350.00	$3,500.00
9	Remove Existing AC Berm / Dike / Curb	40	LF	$3.00	$120.00
10	Remove and Reinstall Wooden Fence	100	LF	$25.00	$2,500.00
11	Remove and Reinstall Landscaping Block Wall	140	LF	$80.00	$11,200.00
12	Remove Storm Drain Curb Inlet Structure	1	EA	$10,000.00	$10,000.00
13	Adjust Water Vault to Finish Grade	1	EA	$1,500.00	$1,500.00
14	Adjust Water Valve to Finish Grade	7	EA	$500.00	$3,500.00
15	Adjust Water Meter Box to Finish Grade	1	EA	$610.00	$610.00
16	Adjust Gas Valve to Finish Grade	1	EA	$500.00	$500.00
17	Irrigation Relocation	1	LS	$12,000.00	$12,000.00
				Subtotal=	**$116,000.50**
	Earthwork				
18	Site Grading (Export)	220	CY	$58.00	$12,760.00
19	Remedial Grading	1,194	CY	$50.00	$59,693.50
				Subtotal=	**$72,453.50**
	Surface Improvements				
20	Asphalt Concrete (AC) Pavement	453	TN	$170.00	$77,010.00
21	Aggregate Base (AB)	375	CY	$50.00	$18,750.00
22	Gravel Parking Area (4" thick)	1924	SF	$9.00	$17,316.00
23	Rolled Curb, Type B, per SDRSD G-4A	1697	LF	$50.00	$84,850.00
24	Residential Concrete Driveway	678	SF	$17.00	$11,526.00
25	Asphalt Concrete Driveway	1505	SF	$8.00	$12,040.00
26	Type G Curb and Gutter per SDRSD G-02	75	LF	$45.00	$3,375.00
27	Type H Curb and Gutter per SDRSD G-02	235	LF	$45.00	$10,575.00
28	6" Curb per SDRSD G-01	64	LF	$45.00	$2,880.00
29	Type 6 Masonry Retaining Wall	2.5	CY	$1,335.00	$3,337.50
				Subtotal=	**$241,659.50**
	Drainage Improvements				
30	18" RCP Storm Drain	16	LF	$450.00	$7,321.50
31	24" RCP Storm Drain	41	LF	$650.00	$26,390.00
32	Curb Inlet, Type 'C', Per SDRSD D-03A	2	EA	$10,500.00	$21,000.00
33	Modular Wetland	2	EA	$45,000.00	$90,000.00
34	Splash Pad	1	EA	$250.00	$250.00
				Subtotal=	**$144,961.50**
	Traffic Improvements				
35	Traffic Sign and Post	9	EA	$600.00	$5,400.00
36	Striping	1	LS	$2,000.00	$2,000.00
37	Caltrans Midwest Railing	14	LF	$250.00	$3,500.00
				Subtotal=	**$10,900.00**
	Landscaping / Erosion Control Improvements				
38	Hydroseed	1	LS	$7,000.00	$7,000.00
				Subtotal=	**$7,000.00**
				Sub-Total=	**$762,475.00**
				15% Contingency	**$114,371**
				Total with Contingency	**$876,846**

City of Del Mar
Date: 4/8/2024

Construction Estimate Credit					
Item	Description	Total Quantity	Unit	Unit Price	Extension
1	Mobilization, Demobilization and Cleanup	10%	LS	$40,000.00	$4,000.00
2	Clearing and Grubbing	10%	LS	$35,000.00	$3,500.00
3	Traffic Control Implementation and Construction Staging	10%	LS	$65,000.00	$6,500.00
4	Storm Water Pollution Prevention and Erosion Control (Includes SWPPP Development & Implementation and Erosion Control)	10%	LS	$10,000.00	$1,000.00
5	Construction Survey Staking	10%	LS	$15,000.00	$1,500.00
6	Record Drawing (As-Builts)	10%	LS	$4,500.00	$450.00
7	Remove Existing AC Pavement Section. 4.5" Minimum	4223	SF	$3.50	$14,780.50
20	Asphalt Concrete (AC) Pavement	89	TN	$170.00	$15,130.00
21	Aggregate Base (AB)	44	CY	$50.00	$2,200.00
31	24” RCP Storm Drain	41	LF	$650.00	$26,650.00
				Subtotal=	$75,710.50

15%	Contingency	$11,357
Total with Contingency		$87,067

City of Del Mar
Agenda Report

TO: City Council

FROM: Mayor Dave Druker and Council Member Tracy Martinez
Via Irma Rodriguez Moisa, Special Counsel

DATE: April 15, 2024

SUBJECT: Council Consideration to Censure Council Member Daniel Quirk for Personal Violations of the Brown Act, City Council Policies, Del Mar Municipal Code, and Related Misconduct

REQUESTED ACTION/RECOMMENDATION:
Mayor Dave Druker and Council Member Tracy Martinez recommend that the City Council consider adoption of a Resolution (Attachment A) censuring Council Member Daniel Quirk for violations of the Brown Act, City Council Policies, Del Mar City Municipal Code, and related misconduct.

CITY STANDARDS DEFINING ROLES FOR COUNCIL MEMBERS AND CITY MANAGER:
The City of Del Mar follows the Council-Manager form of government, in which the City Council's role is to set policy and not to engage in daily operational or administrative activities, including direction of City employees and/or consultants, while the City Manager's role is to implement the policy set by the Council and to oversee daily operations of the City. While each Council Member brings their own points of views on policy subjects, ultimate decisions need to be discussed and decided by the whole Council at publicly noticed meetings. Individual Council Members do not make policy or direct the City Manager on how to carry out those policies or manage the affairs of the City. It remains critical for elected Council Members and the City Manager to adhere to these roles.

To clarify the contours and limits of these roles, on September 7, 2021, the City Council and City Manager agreed to adopt "Del Mar City Council and City Manager Guiding Principles", which set clearly defined standards on the roles of Council Members and the City Manager (Attachment B). For instance, Council Members are directed to "limit direct contacts with City staff (other than the Manager or City Attorney) regarding matters of City business and requests for information" as well as refrain from "giving direction or assign[ing] work to City staff on their own." The City sought to highlight the importance of this division of responsibilities by explicitly incorporating these standards into Section 5 of the Employment Contract, dated December 13, 2021, between City Manager Ashley Jones and the City (Attachment C). As a result of this inclusion, the Council agreed that the Del Mar City Council and City Manager Guiding Principles were a material part of the Employment Agreement with Ms. Jones.

City Council Action:

The City Council has also adopted a variety of policies that set expectations for the roles of Council Members, and standards regulating how Council Members interact with the City Manager, City staff, outside consultants, and members of the public. Relevant City Council Policies include Council Policy 102 – Direction to the City Manager (Attachment D); Council Policy 202 – Expectations of Council Liaisons to City Advisory Committees and of Council Representatives to Outside Agencies (Attachment E); Council Policy 301 – Request by Members of City Council to Place an Item on a City Council Agenda (Attachment F); and Council Policy 314 – Public Comment that Discloses Closed Session Information (Attachment G).

Finally, Section 2.24.010 of the Del Mar Municipal Code sets expectations on how the City Council interacts with the administration of the City, namely exclusively through the City Manager (Attachment H).

COMPLAINTS AND RETENTION OF OUTSIDE INVESTIGATOR:
On or about January 5, 2023, City Manager Ashley Jones informed City Attorney Leslie Devaney that Council Member Daniel Quirk had engaged in a pattern of communications with her, other City staff, and outside consultants that City Manager Ashley Jones believed violated City Council Policies, Del Mar City Council and City Manager Guiding Principles, and her Employment Agreement. The matter was set for a Closed Session of the City Council on January 9, 2023, and the Council was notified about City Manager Ashley Jones' claims. The Council unanimously concluded that City Manager Ashley Jones was to notify the Council in Closed Session if Council Member Daniel Quirk continued to engage in such communications to assess if corrective action were warranted, including a potential censure.

On or about July 23, 2023, City Manager Ashley Jones sent an email to City Attorney Leslie Devaney listing seven types of behavior in which Council Member Daniel Quirk had been consistently engaging towards her, other City staff, and outside consultants since 2021. This matter was discussed in Closed Session on July 24, 2023.

On or about August 2, 2023, City Manager Ashley Jones sent a confidential memorandum to City Attorney Leslie Devaney advising that a member of the public had reported that Council Member Daniel Quirk had disclosed confidential information learned during a Closed Session of the Council to that member of the public. City Manager Ashley Jones also advised City Attorney Leslie Devaney that Council Member Daniel Quirk had allegedly stated to City staff and outside consultants that he was "going after" City Manager Ashley Jones to remove her from City employment. These matters were discussed in Closed Session on August 9, 2023, during which the Council voted unanimously, including Council Member Quirk, to initiate an independent investigation into Council Member Daniel Quirk's conduct toward City Manager Ashley Jones and his alleged disclosure of confidential information discussed during a prior Closed Session to a member of the public.

The City identified and retained an independent, third-party investigator. However, the investigator was unable to complete the investigation and the City was not charged for those services. The City then proceeded to select another independent investigator. On October 6, 2023, the City retained the services of Public Safety Consulting, Inc. to conduct an

independent investigation, and the firm assigned Betty P. Kelepecz as investigator. Ms. Kelepecz considered nine allegations:

(1) Whether Council Member Daniel Quirk interfered with City Manager Ashley Jones' ability to implement policy set by the Council and oversee daily operations;
(2) Whether Council Member Daniel Quirk caused present City Manager Ashley Jones and prior City Manager Christa Johnson to incur additional City funds and resources beyond authorized expenditure limits;
(3) Whether Council Member Daniel Quirk provided direction and feedback to City Manager Ashley Jones and City staff which was consistent with his own personal views, but directly conflicted with the position taken by the Council and the policy set by the Council;
(4) Whether Council Member Daniel Quirk also failed to limit his direct contacts with City staff (other than City Manager Ashley Jones and City Attorney Leslie Devaney) regarding matters of City business to requests for information in violation of the City Manager's Employment Agreement;
(5) Whether Council Member Daniel Quirk coerced or otherwise pressured City Manager Ashley Jones, City staff, and outside consultants on how to complete their work;
(6) Whether Council Member Daniel Quirk violated the confidentiality of the July 24, 2023, Closed Session of the Council by disclosing information and discussions from this session to one or more members of the public, concerning San Dieguito Drive road improvements;
(7) Whether Council Member Daniel Quirk made disparaging comments about other City officials, City staff and outside consultants, including City Manager Ashley Jones and City Attorney Leslie Devaney;
(8) Whether Council Member Daniel Quirk violated the terms of City Manager Ashley Jones's Employment Agreement; and
(9) Whether Council Member Daniel Quirk violated Del Mar City Council Policies and/or Guiding Principles through various improprieties.

PRIOR DIRECTION ON ISSUES:
During his time in office, Council Member Daniel Quirk has been provided explicit direction on the impropriety of certain recurring actions. The Council has also been advised that any violations of the Del Mar City Council and City Manager Guiding Principles could be a breach of the City Manager's Employment Agreement, which would be a liability to the City. That liability could result in the loss of the City Manager, low morale and/or turnover of City Staff and/or create financial exposure.

Additionally, on August 2, 2023, City Attorney Leslie Devaney sent an email to all Council Members, including Council Member Daniel Quirk, advising them in part about the impropriety and legal exposure resulting from an unauthorized disclosure of confidential information shared during a Closed Session meeting to another party. Further, Council Members, including Council Member Daniel Quirk, are regularly provided training on the Brown Act and the impropriety of disclosing confidential information or discussions raised during Closed Sessions of the Council, including with members of the public. Despite this advisement and recurring training, the issues with Council Member Daniel Quirk's behavior persisted.

As such, on December 4, 2023, the City Council adopted Resolution No. 2023-49 (Attachment I), censuring Council Member Daniel Quirk for failing to provide proper disclosure and transparency in his public communications. The Council noted that as part of the recurring Brown Act training, Council Member Daniel Quirk had been counseled about the necessity to properly disclose whether or not he is speaking on behalf of himself or the Council in his communications with the public. The Council also cited prior instances between May 2, 2022, and October 16, 2023, in which the Council had to take action to "set the record straight" about a variety of issues following communications to the public by Council Member Daniel Quirk that were in conflict with the positions taken by the Council.

RETENTION OF SPECIAL COUNSEL AND ISSUANCE OF INVESTIGATION REPORT:
On October 9, 2023, the City Council decided to retain Special Counsel Irma Rodriguez Moisa, Esq. of Atkinson, Andelson, Loya, Ruud & Romo APC to advise the Council concerning the investigation, and how to proceed once Ms. Kelepecz provided her final investigation report and findings.

Between October 24, 2023, and January 3, 2024, Ms. Kelepecz conducted 15 interviews of 13 witnesses, the complainant City Manager Ashley Jones, and the investigative subject Council Member Daniel Quirk. Ms. Kelepecz also reviewed over 800 pages of documents in connection with the investigation, as well as relevant City Council Policies, Del Mar Municipal Code, Del Mar City Council and City Manager Guiding Principles, and City Manager Ashley Jones's Employment Agreement.

The investigation report (Attachment J-linked due to file size: https://www.delmar.ca.us/DocumentCenter/View/9265/InvReport) was finalized on February 15, 2024, and subsequently revised on March 30, 2024, by Special Counsel to correct typographical errors and for clarity. Ultimately, Ms. Kelepecz sustained all nine of the allegations within the scope of her investigation, namely:

(1) Council Member Daniel Quirk interfered with City Manager Ashley Jones' ability to implement policy set by the Council and oversee daily operations;
(2) Council Member Daniel Quirk caused present City Manager Ashley Jones and prior City Manager Christa Johnson to incur additional City funds and resources beyond authorized expenditure limits;
(3) Council Member Daniel Quirk provided direction and feedback to City Manager Ashley Jones and City staff which was consistent with his own personal views, but directly conflicted with the position taken by the Council and the policy set by the Council;
(4) Council Member Daniel Quirk also failed to limit his direct contacts with City staff (other than City Manager Ashley Jones and City Attorney Leslie Devaney) regarding matters of City business to requests for information in violation of the City Manager's Employment Agreement;
(5) Council Member Daniel Quirk coerced or otherwise pressured City Manager Ashley Jones, City staff, and outside consultants on how to complete their work;
(6) Council Member Daniel Quirk violated the confidentiality of the July 24, 2023, Closed Session of the Council by disclosing information and discussions from this session to

one or more members of the public, concerning San Dieguito Drive road improvements;
(7) Council Member Daniel Quirk made disparaging comments about other City officials, City staff and outside consultants, including City Manager Ashley Jones and City Attorney Leslie Devaney;
(8) Council Member Daniel Quirk violated the terms of City Manager Ashley Jones's Employment Agreement; and
(9) Council Member Daniel Quirk violated Del Mar City Council Policies and/or Guiding Principles through various improprieties.

Ms. Kelepecz reached findings based on a preponderance of the evidence, evaluating whether it was more likely than not that an incident occurred based on witness statements and documentation reviewed.

DISCUSSION/ANALYSIS:
As a self-regulating legislative body, and when the Council wishes to express its opinion on the conduct of a Council Member, it can do so with a range of responses from "off the record" informal counseling to a formal censure resolution, which may include penalties such as loss of committee assignments or other such measures that are within the Council's authority. When no penalty is included, censure is essentially a formal reprimand and the expression of an opinion by a majority of the legislative body. The Council has already taken this step with respect to Council Member Daniel Quirk back on December 4, 2023.

The Council has provided explicit and unambiguous direction to Council Member Daniel Quirk about its expectations about Council policy and legally mandated standards arising from the Brown Act. Council Member Daniel Quirk's conduct reflects a recurring issue with complying with or following these expectations, legal standards and policies.

The investigation conducted by an outside neutral investigator finds that Council Member Daniel Quirk engaged in recurring acts of impropriety between December 13, 2020, and November 30, 2023, which violate the Brown Act, Council Policies, Del Mar City Council and City Manager Guiding Principles, and the Del Mar Municipal Code sections cited in this report. Further, the investigation finds that Council Member Daniel Quirk has engaged in a years-long pattern of conduct that violates the terms of City Manager Ashley Jones' Employment Agreement. Based on this multi-faceted and long-standing issue, Mayor Druker and Council Member Martinez recommend that the City Council take formal action to censure Council Member Daniel Quirk, which may include penalties as determined by majority of the City Council.

It is worth noting, as stated in the prior censure issued to Council Member Daniel Quirk on December 4, 2023, that this proposed censuring is not in any way an attempt to silence or censor Council Member Daniel Quirk. The Council Member and all members of the City Council, as well as the Council body as a whole, have First Amendment free speech rights. Further, Council Members have the right and responsibility as elected officials to interact with members of the public and convey their position on proposed City policy. However, in doing so, it is critically important for Council Members to abide by the clear standards set by law

under the Brown Act, and to refrain from interfering with the administration of City operations by seeking to direct work done by City staff.

ATTACHMENTS:
Attachment A – Resolution to Censure Council Member Daniel Quirk
Attachment B – Del Mar City Council and City Manager Guiding Principles
Attachment C – Agreement Employing Ashley Jones as City Manager for the City of Del Mar
Attachment D – Council Policy 102 – Direction to the City Manager
Attachment E – Council Policy 202 – Expectations of Council Liaisons to City Advisory Committees and of Council Representatives to Outside Agencies
Attachment F– Council Policy 301 – Request by Members of City Council to Place an Item on a City Council Agenda
Attachment G – Council Policy 314 – Public Comment that Discloses Closed Session Information
Attachment H – Del Mar Municipal Code Section 2.24.010
Attachment I – December 4, 2023 City Resolution No. 2023-49
Attachment J – City of Del Mar Administrative Investigation, Executive Summary, and Addenda – Confidential Investigation Report, prepared by Betty P. Kelepecz, Esq. (redacted) *(provided as hyperlink)*: https://www.delmar.ca.us/DocumentCenter/View/9265/InvReport

RESOLUTION NO. 2024-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, CENSURING COUNCIL MEMBER DANIEL QUIRK FOR PERSONAL VIOLATIONS OF THE BROWN ACT, COUNCIL POLICIES, DEL MAR MUNICIPAL CODE, AND RELATED MISCONDUCT

WHEREAS, the City of Del Mar ("City") is a municipal corporation and charter city created by the City Council under Resolution No. 22 on December 21, 1959 ("City Charter"); and

WHEREAS, Section 201 of the City Charter reserves the City's authority to pass all necessary ordinances and resolutions for the regulation of the City; and

WHEREAS, a censure is generally understood to be "an official reprimand or condemnation; an authoritative expression of disapproval or blame" (Black's Law Dictionary (10th ed. 2014)); and

WHEREAS, the United States Supreme Court has long recognized the practice of censuring legislative body members, which has been more commonly observed at the state and local level, and as early as 1833 (*Houston Community College System v. Wilson* (2022) 595 U.S. 468, 475); and

WHEREAS, public officials have the authority to censure an individual member of a legislative body (*Braun v. City of Taft* (1984) 154 Cal.App.3d 332, 347-348); and

WHEREAS, a censure is one approach of distancing the public agency from inappropriate behaviors that interfere with the agency's ability to conduct the public's business and protect its employees and the public; and

WHEREAS, following a series of inappropriate behavior, the Council unanimously (including Council Member Daniel Quirk) decided to retain the services of independent investigator Betty Kelepecz to conduct an exhaustive attorney-client confidential personnel investigation of allegations regarding Council Member Daniel Quirk; and

WHEREAS, the Council has placed an item on a regular open session meeting of the City Council on April 15, 2024, to address misconduct by Council Member Daniel Quirk and the legal liability to the City such conduct has created; and

WHEREAS, the Council finds it necessary to protect the City Manager and employees of the City from Council Member Daniel Quirk's behavior, limit the legal liability of the City, and demonstrate to the public that improper behavior and misconduct by any City official will be addressed in an open and transparent manner to preserve the public's and employees' trust in the City and the Council; and

WHEREAS the findings of this Resolution are based upon the confidential personnel investigation report prepared by Independent Investigator Betty Kelepecz ("Investigation"); and

WHEREAS the impetus to censure Council Member Daniel Quirk includes, but is not limited to the following actions taken between December 13, 2020, and November 30, 2023:

- Council Member Daniel Quirk violated the confidentiality of the July 24, 2023, Council Closed Session by disclosing information and discussions from this meeting to others, concerning improvements to San Dieguito Drive, based on but not limited to the following actions:
    - Council Member Daniel Quirk requested and did in fact meet in person with several members of the public following the July 24, 2023 closed council session; and
    - Council Member Daniel Quirk shared with several members of the public confidential details shared during the closed council session, including the positions verbally taken on the project by other Council Members, specific statements made by Council Members about the project, and Council Member Daniel Quirk's belief that he could influence the opinions held by other Council Members about the project; and
    - On August 5, 2023, Council Member Daniel Quirk contacted via telephone one of the members of the public with whom he had previously discussed confidential information regarding improvements to San Dieguito Drive; and
    - During this August 5 telephone call, Council Member Daniel Quirk advised the member of the public that City Attorney Leslie Devaney had sent each Council Member a confidential email which had indicated (i) that the Council learned of a potential disclosure of confidential closed session information sharing with an outside party, and (ii) not to take any action to investigate or intervene in the matter; and
    - During this August 5 telephone call, Council Member Daniel Quirk confronted the member of the public, inquired whether they were the party who had alerted the Council of the potential disclosure of confidential information to an outside party, and inquired if the member of the public would agree to be "a mole" and ascertain who had alerted the Council about the potential disclosure; and
- Council Member Daniel Quirk interfered with City Manager Ashley Jones' ability to implement policy set by the Council and oversee daily operations, specifically:
    - Council Member Daniel Quirk contacted vendors and obtained cost estimates for projects and materials; and
    - Council Member Daniel Quirk questioned City Manager Ashley Jones on numerous occasions as to purchasing, materials, consultant hours, and project management; and
    - Council Member Daniel Quirk questioned City employees about project related matters on numerous occasions, including but not limited to the Undergrounding project and its various phases, the River Path Trail project, Measure Q fund use, and others; and
    - Council Member Daniel Quirk requested that City Manager Ashley Jones replace specific project leads with proposed alternative candidates, including but not limited to replacing the Undergrounding project lead; and
    - By engaging in this conduct, Council Member Daniel Quirk also failed to limit his direct contacts with City staff (other than City Manager Ashley Jones and City Attorney Leslie Devaney) regarding matters of City business to requests for information in violation of the City Manager's contract.
- Council Member Daniel Quirk caused present City Manager Ashley Jones and prior City Manager Christa Johnson to incur additional City funds and resources beyond

authorized expenditure limits, based on but not limited to the following actions:

- City staff and outside consultants were required to spend two to three hours to respond to each exchange of questions sent by Council Member Daniel Quirk on the Undergrounding project; and
- As to this project alone, the City incurred approximately $22,000 in additional consultant costs as of June 29, 2023 related to responding to Council Member Daniel Quirk's questions; and
- These additional consultant costs exceeded authorized expenditure limits set by the Council; and
- By engaging in this conduct, Council Member Daniel Quirk's inquiries also interfered with the ability of City staff and outside consultants to execute their routine duties.

- Council Member Daniel Quirk provided direction and feedback to City Manager Ashley Jones and City staff that was consistent with his own personal views, but directly conflicted with the position taken by the Council and the policy set by the Council, based on but not limited to the following actions:
  - Council Member Daniel Quirk provided direction to City staff as to the Undergrounding project in 2021, which resulted in numerous concrete project changes such as vertical profiles in the civil design, lack of a full-time onsite construction manager during construction activities, and reduced communications with affected residents during construction; and
  - The changes or actions taken at the direction of Council Member Daniel Quirk as to the Undergrounding project resulted in damage to underground utilities and an increase in community complaints from affected residents; and
  - The Council was required to resolve this unauthorized direction by advising City Manager Ashley Jones on September 19, 2022, to direct City staff to take corrective action as the Undergrounding project.
- Council Member Daniel Quirk coerced or otherwise pressured City Manager Ashley Jones, City staff, and outside consultants on how to complete their work, based on but not limited to the following actions:
  - Council Member Daniel Quirk engaged with City staff in an aggressive and confrontational manner on multiple occasions, resulting in City staff reporting feelings of being pressured or City staff bursting into tears; and
  - Council Member Daniel Quirk directly contacted department directors via email or in person, about operational issues without the involvement or authorization of City Manager Ashley Jones; and
  - Council Member Daniel Quirk engaged in over a dozen phone calls (each lasting 30 to 45 minutes on average) with project managers and outside consultants, using condescending language which frustrated call recipients;
  - Within a month of Council Member Daniel Quirk's election to office, he acted in an unprofessional and aggressive manner to pressure the Undergrounding Project Advisory Committee (UPAC) to replace key project members, which was done at his direction.
- Council Member Daniel Quirk made disparaging comments about other City officials, City staff and outside consultants, based on but not limited to the following actions:
  - Council Member Daniel Quirk told more than one member of the public on multiple occasions that City Manager Ashley Jones should be fired; and
  - Council Member Daniel Quirk repeatedly made disparaging comments to City Manager Ashley Jones about the work done by department directors regarding projects; and

    - Council Member Daniel Quirk repeatedly made disparaging comments during council sessions about the work done by City staff and consultants;
    - Council Member Daniel Quirk made disparaging comments via email about the work done by City environmental consultants; and
    - Council Member Daniel Quirk told other City officials that City Attorney Leslie Devaney should be fired and reported to the California State Bar and disbarred.
- The vast majority of the explanations Council Member Daniel Quirk provided to the outside investigator concerning the allegations made against him were found to be discredited, insincere, and/or illegitimate; and

WHEREAS, such unprofessional, interfering, and reckless behavior not only poses immediate legal risks but also has the potential to compromise the City's strategic objectives, relationships with current and potential outside consultants, and erode the public's trust in its leadership; and

WHEREAS, Council Member Daniel Quirk's actions have decreased productivity and morale and potentially increased attrition, which in turn harms the City's operational capabilities, and impacts the public and City staff; and

WHEREAS, such actions are diverting essential resources away from the City's core functions, thereby impacting its ability to serve the public effectively; and

WHEREAS, the Council has previously provided explicit direction to Council Member Daniel Quirk on the impropriety of many of the actions listed above, namely:

- On August 2, 2023, City Attorney Leslie Devaney sent an email to all Council Members, including Council Member Daniel Quirk, advising them in part about the impropriety and legal exposure resulting from an unauthorized disclosure of confidential information shared during a closed council session meeting to another party; and
- Via Resolution No. 2023-49 adopted on December 4, 2023, the Council censured Council Member Daniel Quirk for failing to provide proper disclosure and transparency in his public communications, based on the following findings:
    - The Council observed that Council Member Daniel Quirk had been counseled in a Brown Act compliant manner for failing to properly disclose whether or not he is speaking on behalf of himself or the Council in his communications with the public; and
    - Despite the Council's prior actions and requests from members of the public for Council Member Daniel Quirk to provide clear and transparent disclosure regarding his individual views and opinions, the issue persisted; and

WHEREAS, a resolution of censure must be considered by the legislative body at an open public meeting, which was done on April 15, 2024, and the subject member, Council Member Daniel Quirk, given notice of the censure, which he was provided; and

WHEREAS, the subject member, Council Member Daniel Quirk, must be given an opportunity to be heard prior to a vote on the censure, which the Council provided during its April 15, 2024, regular open session meeting.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Del Mar, as follows:

The City Council hereby finds, based on the Investigation, that:

1. Council Member Daniel Quirk violated City Council Policy 314 as well as the Brown Act by disclosing confidential information and discussions circulated during the July 24, 2023, closed council session, with one or more members of the public on several occasions; and
2. Council Member Daniel Quirk violated the terms of City Manager Ashley Jones' Employment Agreement, by giving direction on numerous occasions to subordinates of the City Manager (including full-time City staff and outside consultants), requesting the replacement of project managers or City staff, interfering with the City Manager's duty to execute the policy set by the Council and daily operations of the City; and
3. Council Member Daniel Quirk violated Del Mar City Council and City Manager Guiding Principles, as well as City Policies 102, 202, and 301 by interfering with the ability of City Manager Ashley Jones to implement policy set by the Council and oversee daily operations; and
4. Council Member Daniel Quirk violated Del Mar City Council and City Manager Guiding Principles, as well as City Policies 102, 202, and 301, by providing feedback or direction to City Manager Ashley Jones and City staff which was consistent with his own personal views, but directly conflicted with the position taken by the Council and the policy set by the Council; and
5. Council Member Daniel Quirk violated the Del Mar City Council and City Manager Guiding Principles, as well as City Council Policies 102, 202, and 301 by causing present City Manager Ashley Jones and prior City Manager Christa Johnson to incur additional City funds and resources beyond authorized expenditure limits, specifically due to Council Member Daniel Quirk's inquiries of City staff and outside consultants; and
6. Council Member Daniel Quirk violated the Section 2.24.010 of the Del Mar Municipal Code, the Del Mar City Council and City Manager Guiding Principles, and City Council Policies 102, 202, and 301 by coercing or otherwise pressuring City Manager Ashley Jones, City staff, and outside consultants on how to complete their work; and
7. Council Member Daniel Quirk violated the Section 2.24.010 of the Del Mar Municipal Code and the Del Mar City Council and City Manager Guiding Principles by making unprofessional, disrespectful, discourteous, and/or disparaging comments about City officials, City Manager Ashley Jones, and City staff; and
8. None of the explanations provided by Council Member Daniel Quirk were found to be credible, sincere, legitimate or exculpatory; and
9. Council Member Daniel Quirk's self-interested, reckless and potentially malicious behavior not only poses immediate legal risks but also has the potential to compromise the City's strategic objectives and erode the public's trust in its leadership; and
10. Council Member Daniel Quirk's actions (particularly his repeated inquiries to City staff and consultants about project details and costs) are diverting

essential resources away from the City's core functions, thereby impacting its ability to serve the public effectively.

NOW, THEREFORE, BE IT FURTHER RESOLVED by the City Council of the City of Del Mar, as follows:

A) Council Member Daniel Quirk is hereby censured for personal violations of the Brown Act, Del Mar City Council and City Manager Guiding Principles, City Council Policy 314, Del Mar Municipal Code, and related misconduct as set forth in the findings above; and

B) Council Member Daniel Quirk is prohibited from disclosing confidential discussions and information from Closed Council Sessions to residents or others; and

C) Council Member Daniel Quirk is directed not to engage in one-on-one discussions with City Manager Ashely Jones. Council Member Daniel Quirk remains entitled to engage with City Manager Ashley Jones during open and closed council sessions; and

D) Should Council Member Daniel Quirk engage in such discussions, City Manager Ashley Jones shall be entitled to either request that Assistant City Manager Clem Brown or designee be physically present during any one-on-one discussions with Council Member Daniel Quirk, or to exercise her discretion to decline to engage in one-on-one discussions with Council Member Daniel Quirk; and

E) Council Member Daniel Quirk is directed not to engage in one-on-one discussions with City Attorney Leslie Devaney. Council Member Daniel Quirk remains entitled to engage with City Attorney Leslie Devaney during open and closed council sessions; and

F) Should Council Member Daniel Quirk engage in such discussions, City Attorney Leslie Devaney shall be entitled to either request that a third party be physically present during any one-on-one discussions with Council Member Daniel Quirk, or to exercise her discretion to decline to engage in one-on-one discussions with Council Member Daniel Quirk; and

G) Council Member Daniel Quirk is directed to refrain from taking any adverse, punitive, or other retaliatory action any person who participated or whom he perceives participated in the investigation, including but not limited to City Attorney Leslie Devaney, City Manager Ashley Jones, or any City staff based on the findings cited in this Resolution, the findings contained in the investigative report, or the actions taken by this Council on this matter.

PASSED, APPROVED, AND ADOPTED by the City Council of the City of Del Mar, California, at the Regular Meeting held this 15th day of April, 2024.

_____
Dave Druker, Mayor
City of Del Mar

APPROVED AS TO FORM:

_____
Leslie E. Devaney, City Attorney
City of Del Mar

ATTEST AND CERTIFICATION:
STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
CITY OF DEL MAR

I, SARAH KRIETOR, Administrative Services Manager/City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY, that the foregoing is a true and correct copy of Resolution No. 2024-XX, adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the 15th day of April, 2024, by the following vote:

AYES:

NOES:

RECUSE:

ABSENT:

ABSTAIN:

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

DEL MAR CITY COUNCIL AND CITY MANAGER GUIDING PRINCIPLES

Under California law, the Council-Manager form of City government followed in Del Mar requires elected Councilmembers and the City Manager to understand and adhere to their respective roles. These roles are defined by the general law of California, Del Mar Municipal Code[1], and City Manager's employment contract. Generally, the Council's role is to set policy much as does a board of directors of a corporation and not to engage in day to day activities or to direct City staff. The Manager's role is to implement the policy set by the Council and oversee the day-to-day operations of the City. The City Manager and City Attorney work for and are hired and fired by the City Council. All other City employees work for, are hired and fired by, and take direction from the City Manager, not the City Council.

To make the best use of City resources, to be effective and efficient, to adhere to their respective roles, and to foster working as a team, the Council and City Manager agree to the following guiding principles to carry out their respective roles. These guiding principles are intended to compliment the requirements imposed by state law, Del Mar Municipal Code, and the Manager's employment contract.

COUNCIL AND CITY MANAGER INTERACTIONS

Councilmembers will:

- Copy the City Manager on their communications (emails, texts, etc.) to City staff regarding City business.
- Limit direct contacts with City staff (other than the Manager or City Attorney) regarding matters of City business to requests for information, except as authorized by the City Manager.
- Not give direction or assign work to City staff on their own.

The City Manager will:

- In conformance with the Ralph M. Brown Act, share information equally with all five Councilmembers except where a Councilmember's conflict of interest prevents sharing.
- Promptly respond to all Councilmember requests for information.
- Keep the City Councilmembers equally informed on pending matters of importance.

[1] See, generally, Cal. Const. art. XI, § 5(b); Cal Gov't Code Section 36501; and DMMC Chapter 2.20 (City Council) and Chapter 2.24 (City Manager Manager.) The city manager's role is further defined by employment contract.

REPRESENTING CITY POSTIONS TO OUTSIDE PARTIES

With respect to matters of substantive City business, Councilmembers and the City Manager will:

- Follow Council Policy 202, Section B (Attachment A) regarding their representation of the City to outside agencies, boards, commissions, committees, and subcommittees.

- If it is not clear what the adopted City position is on an issue, Councilmembers and the Manager shall so state and as needed may bring the matter to Council for clarification before stating a City position.

COUNCIL CONTACT WITH OUTSIDE AGENCIES

Council Contact with Outside Boards, Commissions, and Committees

Councilmembers may contact an outside agency on which the Councilmember serves as a primary or alternate representative of the City, or as a liaison, at any time and as-needed, on matters related to their representation. However, Councilmembers are encouraged to keep the City Manager informed of matters of importance related to City business so that information can be shared with the full Council.

Council Contact with Other Elected Officials

Councilmembers may contact their peers (elected and appointed officials) on matters of City business but are encouraged to keep the City Manager informed of such contacts so that relevant information can be shared with the full Council.

On matters of non-City legislation related to City affairs, Councilmembers are encouraged to refer proposed contacts with federal, state, and local elected officials to the Council's Legislative Subcommittee with a copy to the City Manager so the Subcommittee and Manager can keep the full Council informed.

Council Contact with Staff Members at Outside Agencies

Except for a Councilmember's representation on outside Boards, Commission, and Committee's and discussions with staff members of those agencies specific to that representation, contacts with staff from outside agencies should primarily occur at the staff level initiated by City staff, not the City's elected officials. This is the normal practice and expectation for agency-to-agency communications and it causes concern and confusion for other agencies and City staff when not adhered to. As occasions arise when it would be appropriate for members of the Council (i.e., Council liaisons for specific topics) to participate in staff level meetings or discussions with outside agencies, this will be facilitated by the City Manager or City staff. It is expected that

whenever members of the Council are communicating with staff members from outside agencies, specific to City of Del Mar business or City programs or projects, that the City Manager is included and made aware of the communications.

VIOLATIONS/ENFORCEMENT

First Offense: Will result in discussion in closed session or, if required by the Brown Act, in open session. The discussion shall focus on the nature of the alleged transgression and how it might be remediated.

Second or Subsequent Offense: Will result in discussion in closed session or, if required by the Brown Act, in open session as noted above under First offense. In addition, the offender may be subjected to remediation requirements as directed by the Council. Such measures may include the issuance of corrections to any improper communications, to removing the offender from Council committee assignments, and/or from regional agency representation of the City, or to formal censure. Where such proceedings are required to be held in open session, they shall be placed on the Council agenda for action.

PUBLIC RECORDS

The Council and Manager recognize that all written communications (by letter, email, text, or other written or electronic means) are potentially disclosable as public records under the California Public Records Act and the Del Mar Municipal Code.

COMMENTS

- Each Councilmember is independently elected. These guidelines are intended to facilitate communication, information sharing, and effective City governance without diminishing the authority and responsibilities of any elected Councilmember.
- Only the City Manager and the City Attorney report directly to the Council. All other department heads and City employees report to the Manager. These guidelines are not intended to change that.
- These guidelines are a working document to be revised and updated by the full council as needed.

Adopted by the Del Mar City Council on September 7, 2021

	CITY OF DEL MAR CITY COUNCIL POLICY BOOK		
202	**RESPONSIBILITIES AND EXPECTATIONS OF COUNCIL LIASIONS TO CITY ADVISORY COMMITTEES AND OF COUNCIL REPRESENTATIVES TO OUTSIDE AGENCIES**	**DATE REVISED:** **BY RESOLUTION:** **PAGES:**	11-19-2018 2018-82 1 OF 4

POLICY:

The following are guidelines to assist council members in performing their duties as liaisons to city advisory committees, Del Mar Community Connections (DMCC), Del Mar Village Association (DMVA), various Del Mar non-profits, and as Del Mar representatives to outside agencies. These guidelines also apply to the appointed community representatives to outside agencies, including the Del Mar Representative to the San Diego County Water Authority Board.

A. City Advisory Committees

1. Council Liaison primary responsibilities include:

a. Assist with the recruitment of qualified volunteers and encourage them to apply to serve on the committee when vacancies occur, recognizing that the city's goal is to have at least two qualified applicants for each position.

b. Recruit another Council member to attend meetings in their place when the liaison is unable to attend.

c. Assist Committee Chairs with the following:
   i. How to run a meeting;
   ii. How to accommodate public testimony and input;
   iii. How to prepare and distribute agendas, including review of draft agendas with the chair (A sample agenda is attached to use as a template);
   iv. Clarifying the process for committee members and the public to get something on the committee agenda;
   v. Ensuring that the committee stays on task;
   vi. Knowing when city staff should, and should not, be asked for assistance. Generally, simple requests for information from staff can be made directly by the chair or committee members while requests for staff work should go through the Liaison(s) who can carry them to the City Manager and staff for response;
   vii. Establishing goals and a work plan for the committee each March in conjunction with the City's budget and goal setting process.

d. Inform and assist the committee as a whole including:
   i. Understanding the city's system of advisory committees including:

1. Understanding the role of a committee member;
2. Understanding the scope of the committee's charge;
3. Understanding the relationship between the committee, council, public, and city staff; and
4. Understanding any budgetary constraints applicable to the committee's work.

e. Ensuring the committee stays on task and within the scope of its charter and mission, adopted council goals, and any direction provided by council.

f. Ensuring the committee understands its role is advisory only.

g. Assisting the committee in completing its advisory recommendations to Council in a timely manner.

h. Effectively communicating committee advisory recommendations to Council.

i. Facilitating transition to a successor liaison when there is change.

j. Where appropriate, advocating for committee recommendation.

2. Reporting:

a. **To the committee**. The liaison(s) to a committee should give a brief report to the committee at the beginning of each meeting covering:
   i. Any recent actions of the City Council or upcoming Council agenda items relevant to the committee's work; and
   ii. Any recent actions of outside entities or governments, of which the liaison has knowledge, relevant to the committee's work.

b. **To the Council, staff, and public**. The liaison(s) should give a report, in public session, at council meetings covering:
   i. Updates on the committee's work;
   ii. Identification, and discussion as appropriate, of any difficulties the committee is experiencing and recommendations for how assistance can be provided;
   iii. Any committee actions/recommendations;

iv. Any specific requests from the committee for assistance, guidance, or other support; and

v. In addition to providing oral updates to the Council, written reports are encouraged for matters of importance as a written report can be included in the public agenda packet and accessible following the Council meeting. A sample form for such reports is attached.

3. Attendance:

a. Council Liaison attendance. It shall be the policy of the City Council that Council Liaison(s) assigned to Council advisory committees make it their goal to attend the advisory committee meetings. The liaison(s), in communication with the committee chair and each other, may determine whether one, both, or neither of the committee liaison(s) are needed at a particular committee meeting. It is also the goal of the City Council to promote the continued progress of the advisory committees and not require that a Council liaison be in attendance in order for that committee to meet.

b. Committee member attendance. Del Mar Municipal Code, Chapter 2.30 states that if a member of a commission, board, or committee is absent from three meetings within a 12-month period without cause, the term of said member is automatically vacated. Council liaison(s) shall work with committee chairs to determine whether absences are for cause and will notify the Administrative Services Department when a committee member has three or more absences without cause within a 12-month period.

B. Council or Council Appointed Representatives to Outside Agencies

1. Responsibilities:

a. Represent Del Mar to the outside agency, its staff, and to the public in conformance with the city's goals, priorities, and objectives in a manner consistent with the city's adopted policies and priorities and with any direction from council as a whole.

b. Attend meetings of the outside agency to which the Council member or appointee serves as a representative, securing the services of an alternate where possible on those occasions where the primary Council member or appointee is unable to attend.

c. Be diligent in reviewing agenda materials and preparing for meetings.

d. Speak up, orally or in writing, to the outside agency to represent Del Mar's positions on issues relevant to Del Mar and be an advocate for Del Mar's positions.

4. **Reporting:** The Council representative or appointee should report to the Council, staff, and public at council meetings as follows:
   a. A summary of the outside agency's activities since the prior report.

   b. Any specific actions, polices, or directions of the outside agency that affect Del Mar.

   c. Any significant upcoming activities of the outside agency of potential interest to Del Mar.

   d. On any outside agency committee or subcommittee changes affecting Del Mar.

   e. In addition to providing oral updates to the Council, written reports are encouraged for matters of importance as a written report can be included in the public agenda packet and accessible following the Council meeting. A sample form for such reports is attached.

5. **Arranging Presentations.** From time to time it may be appropriate for a Council liaison or appointee to an outside agency to arrange for a presentation by the agency to the full Council in a public meeting. When this seems appropriate, the following guidelines can be followed:
   a. Bring the request to Council for discussion and concurrence before taking it up with the outside agency;

   b. Work with the Mayor and staff to put the presentation on a Council meeting agenda; and

   c. Work with the outside agency to assist them in preparing their presentation.

AGREEMENT EMPLOYING ASHLEY JONES AS CITY MANAGER FOR THE CITY OF DEL MAR

This City Manager Employment Agreement ("Agreement") is entered into by and between the CITY OF DEL MAR ("City") and ASHLEY JONES ("Manager"), together referred to as the "Parties", effective as of December 13, 2021 ("Effective Date").

NOW, THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. EMPLOYMENT

Under this Agreement, the City offers, and Manager accepts, employment as City Manager of the City. Manager agrees that employment with City is "at will," at the will of the City Council, which may terminate said employment in its sole discretion, without cause. There has been no express or implied promise made to Manager concerning continued employment, and any continuation of employment beyond the initial term of this Agreement will be done in accordance with the provisions included in Section 4 below.

2. DUTIES

Manager shall perform those duties and have those responsibilities that are prescribed by California law, City Charter, and the Del Mar Municipal Code and commonly assigned to a city manager of a city in California. Manager shall perform such other legally permissible and proper duties and functions consistent with the office of City Manager, as the City Council shall from time to time assign.

3. DEVOTION TO CITY BUSINESS

During the term of this Agreement, Manager shall not accept any other employment and shall be exclusively employed by City, unless prior authorization is received from the City Council in writing, at its sole and exclusive discretion.

4. TERM

Manager's employment will be for an initial period of five (5) years commencing on December 13, 2021, and continuing until December 13, 2026, or the date of earlier termination in accordance with the provisions in this Agreement.

On December 13, 2026, and on each succeeding December 13th while this Agreement is in effect, this Agreement shall be automatically extended for one (1) additional year unless prior to that date the City Council notifies Manager of its intent not to extend the Agreement for one (1) additional year. City's election not to extend this Agreement shall not entitle Manager to Severance pursuant to Section 6 of this Agreement. Where City elects not to extend the Agreement, City must give Manager written notice of non-renewal at least six (6) calendar months prior to the initial termination date or any succeeding termination date, unless such notice is waived by the Manager. Unless such notice of non-renewal is timely given, this Agreement shall automatically renew for an additional one-year term, and a new termination date shall be accordingly established.

5. CITY COUNCIL COMMITMENTS

A. Neither the City Council nor any member thereof shall give direction to any subordinate of the Manager, including City full or part-time staff, City contractors, subcontractors and consultants, either publicly or privately, except as authorized in advance by Manager.

B. Neither the City Council nor any member of the City Council will order the appointment or removal of any person to any office or employment under the supervision and control of the Manager.

C. Neither the City Council nor any of its members shall interfere with the execution of the powers and duties of the Manager, as specified by California law, in the City's Charter and/or Municipal Code, this Agreement, or any other lawfully adopted and authorized document.

D. The City Council is committed to adhering to the City Council – City Manager Guiding Principles that were adopted by the City Council on September 7, 2021, as the same may be amended from time to time by the City Council.

6. TERMINATION OF EMPLOYMENT AND THIS AGREEMENT; GENERAL RELEASE; SEVERANCE

A. If City terminates this Agreement (thereby terminating Manager's employment) without Cause, as determined by the affirmative votes of a majority of the members of the City Council at a Regular Meeting of the City Council, or at a Closed Session Meeting of the City Council if agreed upon by the Parties, and if Manager signs, delivers to the City Council, and does not revoke, the General Release Agreement ("Release Agreement") in the form attached hereto as Exhibit A, City shall provide the Manager with a cash payment and continuing health benefits, collectively "Severance", as follows:

   (I) Pay Manager a lump sum benefit equal to six (6) months of Manager's then Base Salary; and

   (II) Provide up to six (6) months of continuing health (medical, dental, and vision) benefits under the benefit plans in which Manager and any dependents are then enrolled (the cash payment and continuing benefits, collectively "Severance"), which shall be discontinued when health benefits become available through alternative employment or at the end of the 6-month period, whichever occurs sooner.

B. Notwithstanding the foregoing, and in accordance with Government Code section 53260, if the remaining term of Manager's Agreement is less than six (6) months, the maximum Severance that Manager may receive shall be an amount equal to Manager's monthly salary multiplied by the number of months left on the unexpired term of the Agreement.

C. If City terminates this Agreement (thereby terminating Manager's employment) with Cause, as determined by the affirmative votes of a majority of the members of the City Council at a Regular Meeting of the City Council, or at a Closed Session Meeting of the City Council if agreed upon by the Parties, Manager shall not be entitled to any additional compensation or payment, including Severance, but shall be entitled only to accrued Base Salary and vacation pay, and any other accrued and unused benefit allowances according to their terms ("Accrued Salary and Benefits"). As used in this Agreement, Cause shall only mean any of the following:

1. Conviction of, or plea of guilty or nolo contendre to, any crime or offense (other than minor traffic violations or similar offenses) which is likely to have a material adverse impact on the City or on the Manager's reputation;
2. Proven failure of the Manager to observe or perform any duties and obligations, if that failure continues for a period of thirty (30) business days from the date of receipt of notice from the City Council specifying the acts or omissions deemed to amount to that failure;
3. Conviction of any crime involving an "abuse of office or position," as that term is defined in Government Code Section 53243.4;
4. Repeated failure to carry out a directive or directives of the City Council made by the City Council as a body at a Brown Act compliant meeting; and
5. Any grossly negligent action or inaction by Manager that materially and adversely: (a) impedes or disrupts the operations of City or its organizational units; (b) is detrimental to employees or public safety; or (c) violates City's properly established rules or procedures.

D. In no event may Manager be terminated within ninety (90) calendar days before or after any municipal election for the selection or recall of one or more of the members of the City Council.

E. If, during the Term or any extended Term, Manager dies, Manager's estate shall receive Accrued Salary and Benefits, but shall not be entitled to any additional compensation or payment, including Severance.

F. In the event Manager is permanently disabled or is otherwise unable to perform the essential duties of the position, with or without reasonable accommodation, because of sickness, accident, injury, or mental incapacity for a period of three (3) consecutive months beyond any provided sick leave, the City may terminate Manager's employment and this Agreement. This provision is subject to and is not intended to supersede any legal rights provided to Manager as an employee or to preclude Manager from participating in the interactive process for reasonable accommodation and/or any other standard legal process as may be required prior to the City Council terminating Manager's employment pursuant to this section.

G. Manager may resign from employment at any time, upon giving forty-five (45) days written notice to the City Council.

7. COMPENSATION AND ANNUAL EVALUATION

A. Manager's initial annual Base Salary shall be Two Hundred Forty Thousand Dollars ($240,000) payable in equal installments at the same time and in the same manner as other employees of the City are paid.

B. At least once annually, on or around the anniversary date of the commencement of Manager's employment agreement (December 13), the City Council shall conduct an evaluation of Manager's performance and discuss the results of the evaluation with Manager ("Annual Evaluation"). As part of this process, the City Council and Manager may set mutually agreed upon performance goals and objectives for each year under this Agreement.

C. Upon satisfactory performance, the City Council shall adjust the Manager's compensation annually ("Annual Adjustment"), which will be based upon the San Diego Regional Consumer Price Index (CPI) as reported by the Bureau of Labor Statistics and regional compensation data, in an amount generally not less than 3% (unless CPI is less than 3%, in which case the increase may be less, consistent with CPI) nor more than 5% (even if CPI exceeds 5%). The City Council has the discretion to implement the Annual Adjustment as a base salary adjustment, one-time bonus, or a combination thereof. The Annual Adjustment will take place annually on Manager's anniversary date (December 13), and shall be subject to taxes and other required withholdings.

D. Annual Adjustments to the Manager's compensation shall be set forth in an annual salary resolution or approved by the City Council at a Regular Meeting and ratified by resolution, as is required by PERS.

8. DEFERRED COMPENSATION

City will make, in equal proportionate amounts each pay period, an annual contribution of Twelve Thousand Dollars ($12,000) into one of City's qualified Deferred Compensation Plans. Amounts contributed under this section shall be to the benefit of Manager in accordance with the Deferred Compensation Participation Plan Agreement.

9. PENSION

A. City agrees to continue with Manager's enrollment as a member of the Public Employees Retirement System (PERS).

B. City agrees to provide Manager with the same retiree health coverage options and/or participation in a retirement health saving (RHS) program as may be provided to other City management employees.

10. HEALTH AND MEDICAL BENEFITS INSURANCE

City shall provide Manager with health benefits (medical, dental, and vision) in the same manner they are provided to other City management employees. All actions taken by the City Council relating to those benefits for other management employees of City

shall be considered actions relating to these benefits of Manager, and shall be deemed to be agreeable amendments to this Agreement.

11. LIFE INSURANCE

The City agrees to provide a supplemental term life insurance benefit in the face amount of Three Hundred Thousand Dollars ($300,000). City reserves the right to provide supplemental insurance in a lesser amount if Manager's medical review results in higher cost insurance. Manager shall also be entitled to participate in any group life or disability insurance programs approved by the City Council for all employees.

12. CAR ALLOWANCE

Manager's duties require being available and to respond to the demands of City business at all times and outside of regular business hours, including weekends. City shall pay Manager Five Hundred Dollars ($500) monthly in compensation for the use and maintenance of a personal vehicle for City business.

13. TECHNOLOGY EQUIPMENT

City shall provide a One Hundred Fifty Dollar ($150) monthly stipend for the use of a cell phone or other technology devices to conduct City business.

14. TAX LIABILITY FOR BENEFITS

Manager shall be responsible for any income or other tax liability arising out of receipt of benefits allowed under this Agreement including, but not limited to, the benefits provided under Sections 12 and 13 above, and agrees to hold City harmless and indemnify it for any liabilities, costs and expenses caused by any tax authority relating to these benefits.

15. BUSINESS AND PROFESSIONAL EXPENSES

A. City recognizes that Manager may incur expenses of a non-personal, job-related nature that are reasonably necessary to Manager's service to City. City agrees to either pay such expenses in advance or to reimburse the expenses, so long as the expenses are incurred and submitted according to City's normal expense reimbursement procedures or such other procedure as may be designated by the City Council. To be eligible for reimbursement, all expenses must be supported by documentation meeting City's normal requirements for reimbursement related to City business and must be submitted within time limits established by City.

B. City agrees to pay the professional dues and subscriptions on behalf of Manager which are necessary for Manager's continuation or full participation in international, national, regional, state, or local associations and organizations necessary and desirable for Manager's continued professional participation, growth and advancement, or for the good of the City, as approved by the City Council and set forth in the City's budget.

C. City agrees to pay Manager's travel and subsistence expenses for official travel, meetings, and occasions reasonably necessary to continue Manager's professional development, and for Manager's reasonable participation in

necessary official and other functions for the City; including, but not limited to, national, regional, state, and local conferences, and governmental groups and committees on which Manager serves as a member. Notwithstanding the above, the number of conferences or meetings City will pay for each year, and attendance at out-of-state conferences and meetings, shall be at the discretion of the City Council as set forth in the City's budget.

16. VACATION, MANAGEMENT, AND SICK LEAVE

A. Manager shall accrue vacation leave and consistent with City policy relating to its management employees. Manager shall also be allowed to cash out vacation leave consistent with City policy relating to its management employees. Upon termination or resignation from employment or the non-renewal of this Agreement, Manager shall be paid for all accrued and unused vacation time.

B. Manager shall receive and accrue management leave consistent with City policy relating to its management employees. Such leave must be used during the fiscal year and total management leave will be capped at annual fiscal year accruals, i.e., total management leave will not exceed the amounts accrued on a fiscal year basis. Upon termination of the employment of Manager, Manager shall be compensated for that portion of the remaining balance at Manager's base hourly rate.

C. Sick leave shall accrue in accordance with the City policy relating to its management employees. Manager shall be entitled to use sick leave consistent with the City's Personnel Rules and State and federal law. Consistent with the City's policy regarding sick leave, Manager shall not be compensated for any accrued or unused sick leave upon termination or separation from employment.

17. ABUSE OF OFFICE OR POSITION

If Manager is convicted of a crime involving an abuse of office or position, all of the following shall apply: (a) if Manager is provided with administrative leave pay pending an investigation, Manager shall be required to fully reimburse City such amounts paid; (b) if City pays for the criminal legal defense of Manager (which would be in its sole discretion, to the extent allowed by law, as it is generally not obligated to pay for a criminal defense), Manager shall be required to fully reimburse City such amounts paid; and (c) if this Agreement is terminated, any Severance Pay and Severance Benefits related to the termination that Manager may receive from City shall be fully reimbursed to City or shall be void if not yet paid to Manager. For purposes of this Section, abuse of office or position means either: (a) an abuse of public authority, including waste, fraud, and violation of the law under color of authority; or (b) a crime against public justice. Any reimbursement required by this section shall be in such time and manner as the City may specify, following an informal meet and confer process by City and Manager.

18. ENFORCEMENT OF THIS AGREEMENT

The prevailing party in any actions brought to enforce this Agreement or to resolve any dispute or controversy arising under its terms and conditions, shall be entitled to payment of his/her/its reasonable attorneys' fees and costs. Prior to filing any formal

claim, action or suit related to this Agreement, the Parties agree to engage in good faith discussions to attempt to resolve any dispute informally and, unless waived by mutual agreement of the Parties, to submit the dispute to nonbinding mediation.

19. COMMUNICATIONS UPON MANAGER'S SEPARATION

In the event the City terminates the Manager for any reason or no reason, or in the event the Manager resigns, the City and the Manager agree that no member of the City Council, City Management staff, nor Manager, shall make any written, oral or electronic statement to any member of the public, the press, or any city employee concerning the Manager's termination except in the form of a joint press release or statement, the content of which is mutually agreeable to the City and the Manager. The joint press release or statement shall not contain any text or information that is disparaging to either party. Either party may verbally repeat the substance of the joint press release or statement in response to any inquiry.

20. INDEMNIFICATION

Consistent with and to the extent allowed by law including, but not limited to, the California Government Code (including section 825 and section 995, *et seq.*), City shall defend, hold harmless, and indemnify Manager using legal counsel of City's choosing, against expense or legal liability for acts or omissions by Manager occurring within the course and scope of Manager's employment under this Agreement, provided that such indemnity shall not extend to any judgment or damages arising out of any willful wrongdoing. Legal representation, provided by City for City Manager, shall extend until a final determination of the issues including any and all losses, damages, judgments, interest, settlements, fines, court costs, and the reasonable costs and expenses of legal proceedings, including appeals, and including attorneys' fees, and expert witness fees and all other trial and appellate costs, and other liabilities incurred, imposed upon, or suffered by Manager in connection with or resulting from any claim, action, suit, or proceeding, actual or threatened. In the event there is a conflict of interest between City and Manager such that independent counsel is required for Manager, Manager may engage Manager's own legal counsel, in which event City shall indemnify Manager, including direct payment of all such reasonable costs related thereto.

21. NOTICES

Any notices to be given hereunder by either party to the other shall be in writing and may be provided either by personal delivery, mail, or email. Mailed notices shall be addressed to the parties as set forth below, but each party may change his/her/its address by written notice given in accordance with this Section. Notices delivered personally or by email will be deemed communicated as of actual receipt. Mailed notices will be deemed communicated and received as of three (3) calendar days following the date of mailing.

CITY:
City of Del Mar
Attention: Mayor
1050 Camino Del Mar
Del Mar, CA 92014

MANAGER:
Ashley Jones
13029 Camino del Valle
Poway, CA 92064
ahjones@san.rr.com

22. CONFLICT WITH CITY CHARTER OR MUNICIPAL CODE

The City personnel ordinances, resolutions, rules and policies shall apply to Manager in the same manner as applied to other management employees, provided, however, in the event of a conflict between the provisions of this Agreement and the City Charter, or this Agreement and the Municipal Code, the City Charter or the Municipal Code shall prevail over this Agreement.

23. ENTIRE AGREEMENT

This Agreement represents the entire agreement between the parties and supersedes any and all other agreements, either oral or in writing, between the parties with respect to the employment of Manager by City, and contains all of the covenants and agreements between the parties with respect to that employment. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, oral or otherwise, have been made by either party, or by anyone acting on behalf of either party, which are not embodied herein, and that no other employment agreement, statement, or promise not contained in this Agreement shall be valid or binding upon either party.

24. MODIFICATIONS

Any modifications to this Agreement shall be effective only if in writing and signed by the Parties hereto, following approval of the modifications and adoption of a resolution by the City Council at a Regular Meeting.

25. EFFECT OF WAIVER

The failure of either party to insist upon strict compliance with any of the terms, covenants, or conditions of this Agreement by the other party shall not be deemed a waiver of that term, covenant, or condition, nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other times.

26. PARTIAL INVALIDITY

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

27. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of California.

[SIGNATURES ON THE FOLLOWING PAGE]

This Agreement is entered into this 13th day of December, 2021.

CITY OF DEL MAR

By: _____
Terry Gaasterland , Mayor

MANAGER

_____
Ashley Jones

ATTEST:

_____
Sarah Krietor, Acting City Clerk

APPROVED AS TO FORM:

_____
Leslie E. Devaney, City Attorney

EXHIBIT "A"

GENERAL RELEASE AGREEMENT

This General Release Agreement ("Agreement") is entered into by and between ASHLEY JONES ("Manager") and CITY OF DEL MAR ("City"), in light of the following facts:

A. City and Manager entered into an agreement for Manager's employment as City Manager of City (the "Employment Agreement").

B. Manager's employment with City concluded on _____.

C. Certain disputes have arisen between City and Manager.

D. City and Manager each deny any liability whatsoever to the other.

E. City and Manager wish to fully and finally resolve any and all disputes they may have with each other.

F. Manager is hereby informed that he/she has twenty-one (21) days from receipt of this Agreement to consider it. City hereby advises Manager to consult with his/her legal counsel before signing this Agreement.

G. Manager acknowledges that for a period of seven (7) days following the signing of this Agreement ("Revocation Period"), he/she may revoke the Agreement. This Agreement shall not become effective or enforceable until the day the Revocation Period has expired.

H. Manager acknowledges that the Salary Payment referenced in Section 1 of this Agreement, below, represents all compensation, including salary, accrued benefit balances and reimbursed expenses, due and payable to him/her through the date of employment termination. Manager also acknowledges that City has made this Salary Payment without regard to whether he/she signs this Agreement. The Salary Payment does not constitute consideration for this Agreement.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. Receipt of Salary Payment. Manager hereby acknowledges receipt of a check or checks for all compensation owing to him/her, including salary, accrued benefit balances and reimbursed expenses ("Salary Payment") from City.

2. Severance. Within five (5) days of expiration of the Revocation Period following Manager's signing and delivering this Agreement to the City, City shall provide the Manager with a gross cash payment, less any required deductions, and continuing health benefits, collectively "Severance", as provided for in Section 6.A. of the attached Employment Agreement.

Manager acknowledges that the Severance is in excess of all amounts due and owing her as a result of her employment by City, and that by accepting the Severance, Manager is acknowledging that such Severance is intended to supplant

unemployment benefits during the Severance period and that Manager waives any rights to separately file for unemployment benefits through the State or otherwise.

3. General Release. In consideration of the Severance to be paid and provided to Manager, and other good and valuable consideration, Manager hereby releases and discharges City and its past and present City Council Members, employees, representatives and agents (together, the "Released Parties"), from all rights, claims, causes of action, and damages, both known and unknown, in law or in equity, concerning and/or arising out of his/her employment by City which he/she now has, or ever had, including but not limited to any rights, claims, causes of action or damages arising under Title VII of the Civil Rights Act of 1964, the Vocational Rehabilitation Act of 1973, the Employee Retirement Income Security Act, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the Older Workers Benefits Protection Act, the Family and Medical Leave Act of 1993, the Domestic Partners Act of 2003, the California Labor Code (including, but not limited to, claims for unemployment benefits), the Private Attorneys General Act of 2004, the California Moore-Brown-Roberti Family Rights Act, the California Unruh Civil Rights Act, the California Fair Employment and Housing Act, any other federal, state, or local employment practice legislation, or any federal or state common law, including wrongful discharge, breach of express or implied contract, or breach of public policy.

Manager hereby waives and relinquishes all rights and benefits afforded by Section 1542 of the Civil Code of California. Manager understands and acknowledges the significance and consequences of this specific waiver of Section 1542. Section 1542 of the Civil Code of California states as follows:

> "A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."

Notwithstanding the provisions of Section 1542, and for the purpose of implementing a full and complete release and discharge of the Released Parties, Manager expressly acknowledges that this General Release is intended to include in its effect, without limitation, all claims which he/she does not know or suspect to exist in his/her favor.

Manager further acknowledges that he/she has read this Agreement and that he/she understands that this is a general release, and that he/she intends to be legally bound by the same.

4. Fees and Costs. Manager and City agree that in the event of litigation relating to this Agreement, the prevailing party shall be entitled to recover his/her/its reasonable attorneys' fees and costs.

[SIGNATURES ON FOLLOWING PAGE]

NOW, THEREFORE, by signing below the Parties agree to the terms outlined above, which shall become effective as of the final date of signing by the Parties below.

CITY OF DEL MAR

By: _____
Mayor

Date: _____

MANAGER

By: _____
Ashley Jones

Date: _____

APPROVED AS TO FORM:

By: _____
City Attorney

ATTEST:

By: _____
City Clerk

	CITY OF DEL MAR CITY COUNCIL POLICY BOOK		
102	DIRECTION TO THE CITY MANAGER	DATE REVISED:	9-15-2014
		BY RESOLUTION:	2014-70
		PAGES:	1 OF 1

POLICY:

The City Council shall give orders and instruction to the City Manager only when sitting in a duly held meeting of the Council. Orders and instructions to the City Manager shall be given only after a motion and vote supported by a majority of the City Council. No individual Councilmember shall give orders or instructions to the City Manager or his/her subordinates.

	CITY OF DEL MAR CITY COUNCIL POLICY BOOK		
202	RESPONSIBILITIES AND EXPECTATIONS OF COUNCIL LIASIONS TO CITY ADVISORY COMMITTEES AND OF COUNCIL REPRESENTATIVES TO OUTSIDE AGENCIES	DATE REVISED: BY RESOLUTION: PAGES:	1/10/2022 2022-07 PAGE 1 OF 4

POLICY:
The following guidelines are to assist City Council members in performing their duties as liaisons to City advisory committees, ad hoc committees, Del Mar Community Connections (DMCC), Del Mar Village Association (DMVA), various Del Mar non-profits, and as Del Mar representatives to outside agencies. These guidelines also apply to the appointed community representatives to outside agencies, including the Del Mar Representative to the San Diego County Water Authority Board.

A. CITY ADVISORY COMMITTEES

1. Council Liaison Primary Responsibilities

a) Assist with the recruitment of qualified volunteers and encourage them to apply to serve on the committee when vacancies occur, recognizing that the City's goal is to have at least two qualified applicants for each position.

b) Recruit another Council member to attend meetings in their place when the liaison is unable to attend.

c) Assist Committee Chairs with the following:
   i. How to run a meeting.
   ii. How to accommodate public testimony and input.
   iii. How to work with the committee's staff liaison to prepare agendas, including review of draft agendas with the Chair and staff liaison (A sample agenda is attached to use as a template);
   iv. Clarify the process for committee members and the public to get something on the committee agenda.
   v. Ensure that the committee stays on task.
   vi. Determining when City staff should, and should not, be asked for assistance. Generally, simple requests for information from staff can be made directly by the Chair or committee members while requests for staff work should go through the Council liaison(s) who can carry them to the City Manager and staff for response.
   vii. Establishing goals and a work plan for the committee at the beginning of each year in conjunction with the City's budget and goal setting process.

d) Inform and assist the committee as a whole including:
   i. Understanding the City's system of advisory committees including:
      1. Understanding the role of a committee member.

2. Understanding the scope of the committee's charge.
3. Understanding the relationship between the committee, Council, public, and City staff.
4. Understanding any budgetary constraints applicable to the committee's work.

e) Ensures the committee stays on task and within the scope of its charter and mission, adopted Council goals, and any direction provided by Council.

f) Ensures the committee understands its role is advisory only.

g) Assist the committee in completing its advisory recommendations to Council in a timely manner.

h) Effectively communicates committee advisory recommendations to Council.

i) Facilitates in transition to a successor Council liaison when there is change.

j) Where appropriate, advocates for committee recommendations.

k) Ensuring that meetings are welcoming and that the Code of Civil Discourse is followed.

2. Reporting

a) **To the Committee**. The Council liaison(s) should give a brief report to the committee at the beginning of each meeting covering:
   i. Any recent actions of the City Council or upcoming Council agenda items relevant to the committee's work; and
   ii. Any recent actions of outside entities or governments, of which the liaison has knowledge, relevant to the committee's work.

b) **To the Council, Staff, and Public**. The Council liaison(s) should give a report, in public session, at Council meetings covering:
   i. Updates on the committee's work;
   ii. Identify, and discuss as may be appropriate, any difficulties the committee is experiencing and provide recommendations for how assistance can be provided;
   iii. Any committee actions/recommendations;

iv. Any specific requests from the committee for assistance, guidance, or other support; and

v. In addition to providing oral updates to the Council, written reports are encouraged for matters of importance which can be included in the public agenda packet and accessible following the Council meeting.

3. Attendance

a) Council Liaison Attendance. It shall be the policy of the City Council that Council liaison(s) assigned to Council advisory committees make it their goal to attend the advisory committee meetings. The liaison(s), in communication with the committee Chair and each other, may determine whether one, both, or neither of the committee Council liaison(s) are needed at a particular committee meeting. It is also the goal of the City Council to promote the continued progress of the advisory committees and not to require that a Council liaison be in attendance in order for that committee to meet.

b) Committee Member Attendance. Del Mar Municipal Code, Chapter 2.30 states that if a member of a commission, board, or committee is absent from three meetings within a 12-month period without cause, the term of said member is automatically vacated. Council liaison(s) shall work with committee chairs to determine whether absences are for cause and will notify the City Clerk and the City staff liaison for the committee when a committee member has three or more absences without cause within a 12-month period. Examples of absences for cause include but are not limited to injury or illness of the member or their immediate family member, family obligations, and observance of religious holidays.

B. COUNCIL APPOINTED REPRESENTATIVES TO OUTSIDE AGENCIES

1. Responsibilities

a) Represents Del Mar to the outside agency, its staff, and to the public in conformance with the City's goals, priorities, and objectives in a manner consistent with the City's adopted policies and priorities and with any direction from Council as a whole.

b) Attends meetings of the outside agency to which the Council member or appointee serves as a representative, securing the services of an alternate when the primary Council member or appointee is unable to attend.

c) Diligent in reviewing agenda materials and preparing for meetings.

d) Speaks up, orally or in writing, to the outside agency to represent Del Mar's positions on issues relevant to Del Mar and be an advocate for Del Mar's positions.

2. Reporting

The Council representative or appointee should report to the Council, staff, and public at Council meetings as follows:

a) When appropriate, a summary of the outside agency's significant activities since the prior report.

b) Any specific actions, polices, or directions of the outside agency that affect Del Mar.

c) Any significant upcoming activities of the outside agency of potential interest to Del Mar.

d) On any outside agency committee or subcommittee changes affecting Del Mar.

e) In addition to providing oral updates to the Council, written reports are encouraged for matters of importance which can be included in the public agenda packet and accessible following the Council meeting.

Arranging Presentations. From time to time it may be appropriate for a Council liaison or appointee to an outside agency to coordinate a presentation by the agency to the full Council in a public meeting. When this seems appropriate, the following guidelines can be followed:

a) Bring the request to Council for discussion and concurrence before taking it up with the outside agency;

b) Work with the Mayor and City Manager to put the presentation on a Council meeting agenda; and

c) Work with the outside agency to assist them in preparing their presentation.

CITY OF DEL MAR
CITY COUNCIL POLICY BOOK

301	**REQUEST BY MEMBERS OF CITY COUNCIL TO PLACE AN ITEM ON A CITY COUNCIL AGENDA**	**DATE REVISED:**	7-1-2019
		BY RESOLUTION:	2019-34
		PAGES:	1 OF 1

POLICY:

1. Any two City Councilmembers may request that an item be placed on a City Council Agenda for discussion and possible action.

2. For the item to be placed on the agenda:

   a. Councilmembers intending to request that an item be placed on a City Council Agenda shall notify staff as soon as possible, but not later than a week and a half prior to the agenda packet distribution.

   b. The request must be submitted to the City Manager in writing and include the wording of the agenda item and a brief explanation of the issue to be discussed; and

   c. The information and materials needed for agenda packet distribution must be submitted no later than 5:00 p.m. on the Thursday prior to the City Council agenda packet distribution date.

   d. Exceptions will be made for requests that are time sensitive or are deemed an emergency.

3. Generally, a staff report will not be prepared for the item.

DISCUSSION: The agenda is a lawful tool used by the City Council to conduct the public's business. To accommodate the diversity of the City's citizens, City Councilmembers, as representatives of the public, should be afforded the opportunity to present matters for City Council consideration.

CITY OF DEL MAR CITY COUNCIL POLICY BOOK			
314	**PUBLIC COMMENT THAT DISCLOSES CLOSED SESSION INFORMATION**	**DATE REVISED:**	9-15-2014
		BY RESOLUTION:	2014-70
		PAGES:	1 OF 1

POLICY:

1. City Council members and interested staff are not to improperly disclose information generated in a Closed Session of the City Council on any matter which may come before the Council in Closed Session. The Council shall, as a body and in accordance with the Brown Act and other appropriate laws and regulations, determine that information which is appropriate for disclosure and the method of such disclosure. In general, information generated during a Closed Session is not to be discussed publicly unless:

    a. Disclosure is required by law, or;

    b. When disclosure is not prohibited by law, and the City Council authorizes such disclosure.

2. Such disclosure shall be made by the City Attorney in open session.

3. City Councilmembers who, for any reason, do not participate in a closed session shall disclose their non-participation either prior to or following the closed session.

DISCUSSION:

This policy is intended to regulate a City Official's public comment that discloses Closed Session information.

Chapter 2.24 CITY MANAGER

2.24.010 Office of City Manager Created.

A. The office of City Manager is hereby created and established.

B. The City Manager shall be the administrative head of the municipal government under the direction and control of the City Council and shall exercise those general powers necessary for the efficient administration of the City as well as those powers set forth in this Chapter.

C. The City Council and its members shall deal with the administration of the City only through the City Manager. Except for purposes of inquiry, neither the City Council nor a member of the City Council shall give orders to subordinates of the City Manager.

(Ord. No. 391)

2.24.020 Appointment.

A. The City Manager shall be appointed by the City Council wholly on the basis of the City Manager's executive and administrative qualifications and ability.

B. The residence of the City Manager shall be located so as to allow for the effective and timely performance of the duties and responsibilities of the position.

C. No person elected or appointed as a Council-member of the City shall, subsequent to such election or appointment, be eligible for appointment as City Manager until one year has elapsed since such person has held the position of City Councilmember.

D. The City Manager may appoint a City officer or employee to serve as temporary City Manager. If required, failing such an appointment, the City Council may designate a temporary City Manager.

2.24.030 Removal.

A. The City Manager shall hold the office at the pleasure of the City Council.

B. To remove the City Manager, at least three members of the City Council must approve a written notice of removal with an effective date no sooner than 30 days after the giving of such notice.

C. Upon the giving of written notice for removal, the City Council may suspend the City Manager from duty with pay until the effective date of removal.

D. In no event shall the City Manager be served with a notice of removal within a period of 90 days from a municipal election in which an individual is newly elected as a member of the City Council.

2.24.040 Full-time Position.

The City Manager shall expend full time on the performance of the duties enumerated herein and shall not take on additional employment without the consent of the City Council.

2.24.050 Compensation.

A. The City Manager shall receive such compensation and expense allowances as the City Council shall, from time to time, determine and fix by resolution.

B. The City Manager shall be reimbursed for all sums necessarily incurred or paid by the City Manager in the performance of the City Manager's duties to include travel on City business.

2.24.060 Bond.

The City Manager shall furnish a corporate surety bond from a surety and in an amount approved by the City Council for the faithful performance of the duties imposed upon the City Manager. The premium for such bond shall be a proper charge against the City.

2.24.070 Duties, Responsibilities and Authority.

The duties, responsibilities, and authority of the City Manager shall include, without limitation, the following:

A. To enforce all laws and ordinances of the City;

B. To enforce all franchises, permits, and privileges granted by the City;

C. To appoint, remove, promote, and demote all department heads serving at the pleasure of the City Manager;

D. To control, order, and give directions to all department heads;

E. To attend all meetings of the City Council, unless excused therefrom;

F. To attend Commission meetings upon the City Manager's own volition or upon the direction of the City Council;

G. To recommend to the City Council the adoption of such measures and ordinances as the City Manager deems necessary;

H. To keep the City Council fully advised at all times as to the financial conditions and needs of the City and to furnish quarterly financial reports to the City Council;

I. To control the purchases of all supplies for all departments or divisions of the City to include submitting or recommending expenditures to the City Council;

J. To prepare and submit a proposed annual budget and a proposed salary plan to the City Council by June 1st of each year;

K. To investigate into the affairs of the City and any department or division thereof, and into the proper performance of any contract or other obligation pertaining to the City;

L. To investigate all complaints in relation to matters concerning the administration of the City to include services maintained by public utilities in the City;

M. To supervise the use of all public buildings, public parks, and all other public property which are under the control and jurisdiction of the City;

N. To perform such other duties and exercise such other powers and authority as may be delegated to the City Manager from time to time by action of the City Council.

RESOLUTION NO. 2023-49

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DEL MAR, CALIFORNIA, CENSURING DEPUTY MAYOR DAN QUIRK FOR FAILING TO PROVIDE PROPER DISCLOSURE AND TRANSPARENCY IN PUBLIC COMMUNICATIONS AND FOR INAPPROPRIATE USE OF PUBLIC RESOURCES

WHEREAS, Del Mar City Council Members are elected by the residents of Del Mar to represent the interests of the community at the local, regional, state, and the federal level; and

WHEREAS, the City Council has adopted various policies and procedures to establish the roles and responsibilities of Council representatives to outside boards and commissions, as well as the roles and responsibilities of City Council Members in general when speaking to the public, outside entities, or press; and

WHEREAS, these policies include: City Council Policy 118 - Roles & Responsibilities of the Council Appointed Mayor and Deputy Mayor; City Council Policy 202 - Responsibilities of Council Liaisons to City Advisory Committees and of Council Representatives to Outside Agencies; and Del Mar City Council - City Manager Guiding Principles; and

WHEREAS, included in these policies is the requirement that City Council Members represent Del Mar to the outside agency, its staff, and to the public in conformance with the city's goals, priorities, and objectives in a manner consistent with the city's adopted policies, priorities, and/or with any direction from Council as a whole; and

WHEREAS, the Del Mar City Council respects each member's first amendment right to free speech and simply asks each City Council Member to make clear when they are speaking as an individual Councilmember and not in an official capacity on behalf of the City of Del Mar or Del Mar City Council; and

WHEREAS, during his time in office, Deputy Mayor Quirk has been counseled in a Brown Act complaint manner for failing to properly disclose whether or not he is speaking on behalf of himself or the City Council in his communications to the public, which has required staff to frequently provide clarification to outside entities on the City's official position and has resulted in an inappropriate use of City resources; and

WHEREAS, specifically, this issue has been discussed with the Deputy Mayor as part of publicly agendized City Council meetings on May 2, 2022, and October 16, 2023; and

WHEREAS, despite requests from members of the public and actions by the Council requesting that Deputy Mayor Quirk provide clear and transparent disclosure to the public regarding his individual views and opinions, the issue persists; and

WHEREAS, the City Council as a self-regulating body, may express its opinions on the conduct of a City Council Member, using a range of responses including a formal censure; and

WHEREAS, the City Council has publicly discussed this issue with Deputy Mayor Quirk for over 18 months and provided ample opportunity for corrective action to no avail and as such have determined that issuing a formal censure is appropriate.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Del Mar, California, hereby censure Deputy Mayor Dan Quirk for failing to provide proper disclosure and transparency in his public communications leading to confusion and perceived misrepresentation of City views and positions on important public topics and inappropriate use of public resources.

NOW, BE IT FURTHER RESOLVED that the Del Mar City Council does hereby proclaim that should the issue continue, the Council may take additional action to impose penalties as may be appropriate and within the authority of the City Council.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Del Mar, California, at the Regular Meeting held this 4th day of December 2023.

Tracy Martinez, Mayor
City of Del Mar

APPROVED AS TO FORM:

Leslie E. Devaney, City Attorney
City of Del Mar

ATTEST AND CERTIFICATION:
STATE OF CALIFORNIA
COUNTY OF SAN DIEGO
CITY OF DEL MAR

I, SARAH KRIETOR, Administrative Services Manager/City Clerk of the City of Del Mar, California, DO HEREBY CERTIFY, that the foregoing is a true and correct copy of Resolution No. 2023-49, adopted by the City Council of the City of Del Mar, California, at a Regular Meeting held the 4th day of December 2023, by the following vote:

AYES:	Mayor Martinez, Councilmembers Druker,Gaasterland, and Worden
NOES:	Deputy Mayor Quirk
ABSENT:	None
ABSTAIN:	None

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