

## Amanda Lee

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**From:** Julie M. Hamilton <julie@jmhamiltonlaw.com>  
**Sent:** Thursday, August 09, 2018 2:40 PM  
**To:** Amanda Lee  
**Cc:** 'Jon Corn'; 'Jerry Jacobs'  
**Subject:** Red Dot for Tonight's STAC Hearing  
**Attachments:** 2018-08-09 Gaasterland Letter.pdf

Amanda,

I am so sorry for the late submittal – I was not aware of the Memo from the City Attorney until yesterday morning. Can you please assure that I am on the contact list for STAC and any other meetings related to the Sea-Level Rise Adaptation Plan?

Thank you. I will bring copies of the letter to the meeting tonight to assure all have an opportunity to review.

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The Law Office of  
Julie M. Hamilton

Ms. Terry Gaasterland  
Chairperson  
Sea Level Rise Stakeholders Technical Advisory Committee  
City of Del Mar  
1050 Camino Del Mar  
Del Mar, CA 92014

**RE: Del Mar Sea-Level Rise Adaptation Plan**

Dear Ms. Gaasterland:

On behalf of the Del Mar Beach Preservation Coalition I want to thank the members of the Sea-Level Rise Stakeholders Technical Advisory Committee (“STAC”) and the City of Del Mar staff for the time and energy they have put into development of the Del Mar Sea-Level Rise Adaptation Plan (“Adaptation Plan”). The residents of the City of Del Mar will benefit from this work through the incorporation of the Adaptation Plan into the Community Plan. The Adaptation Plan will likely fulfill the requirements of SB379 related to sea level rise and flooding. I urge STAC to recommend against submittal of the Adaptation Plan to the Coastal Commission as a Local Coastal Program Amendment (“LCPA”).

Jon Corn and I met with City Attorney Barry Schultz on July 11, 2018 to discuss the advantages and disadvantages of submitting an LCPA. We followed up this meeting with the attached Memorandum to the City Attorney providing further analysis of the disadvantages of submitting an LCPA. Our concerns remain, the Coastal Commission has made it clear staff will not recommend certification of the LCPA as submitted and will demand changes before the LCPA can be certified. Coastal Commission staff’s position puts the work and recommendations of the STAC, Planning Commission and City Council at risk as future decision-makers will be deciding whether to accept the modifications required by the Coastal Commission.

The City Attorney has provided a memo to the STAC opining that the Adaptation Plan can be part of the community plan in addition to the incorporation into the LCP. I challenge the opinion of the City Attorney expressed in this Memo. There is no dispute the adaptation plan can be included in the Community Plan. However, the City Attorney opines that any amendment to the Community Plan must be incorporated into the LCP to maintain consistency between the documents. The City Attorney does not analyze where the Community Plan would be inconsistent with the current LCP. Similarly, the City Attorney clearly states that the LCP contains “most” of the policies of the Community Plan – indicating that some of the Community Plan policies are not included in the LCP. This begs the question, how does the Adaptation Plan conflict with the current LCP? If other portions of the Community Plan are not incorporated into the LCP, why does the Adaptation Plan have to be included in the LCP?

The City Attorney continues to opine the Coastal Commission will not permit seawalls, when in fact permission for seawalls is included in the current LCP. As the City Attorney states, the standard of review for Coastal Commission consideration of the coastal development permits is the certified LCP. The current certified LCP provides for the development of seawalls consistent with the Beach Preservation Initiative. In the recent past, the Coastal Commission staff recommended approval of proposed seawalls consistent with the LCP and took a very strong position instructing the Commissioners they were limited to applying the standards of the certified LCP. Despite the adoption of a new guidance document on Sea Level Rise, the law still requires the Coastal Commission rely on the LCP as the guiding document for permit approval.<sup>1</sup> Under the existing LCP, the Coastal Commission has no basis to impose managed retreat on coastal development permits for shoreline protection that is consistent with the BPI. Providing language in the Adaptation Plan that allows consideration of managed retreat in the future if it becomes necessary and feasible opens the door for the Coastal Commission to rely on this language for future permit decisions. As has been asked in several public hearings, who determines if managed retreat is necessary and feasible?

The City Attorney then opines the grants awarded by the Coastal Commission require submittal of an LCP Amendment. As the attached grant application shows, the City did commit to submitting an LCP Amendment, but no money was budgeted for the preparation or submittal of an LCP Amendment. In fact, the City has performed all the tasks for which money has been allocated. Although an argument could be made the City is in breach of the contract for failing to submit the LCPA, there are no damages as a result of this breach. The City Attorney has stated there are specific consequences for failure to file the LCPA but fails to state what these consequences might be – certainly divulgement of the money paid for the preparation of the LCPA is little risk.

The LCPA grant cannot require the City Council to predetermine the outcome of the studies for which the grant paid. The City has performed the tasks for which money was granted, there was no money granted for drafting a LCPA, submitting a LCPA and coordinating with the Coastal Commission. The City must maintain its police power and its discretion in drafting the Adaptation Plan. The City must also maintain the discretion to determine, based on the studies, assessments and public input, that an LCPA is not appropriate and the current LCP is sufficient based on the information gleaned through the process. There is little doubt this will create a strained relationship with the Coastal Commission staff – this does not change the standard of review for coastal development permits. It is untenable that City staff moved forward with an LCP grant application based on a promise to consider and include planned retreat without full consideration by the decision-making body. It would be unfortunate if the City moved forward with a plan that opened the door to managed retreat based on City staff pre-determining the outcome without public input.

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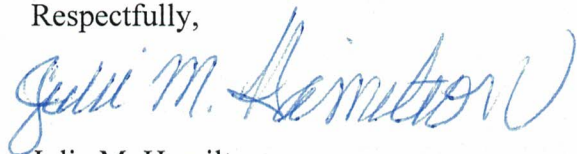
<sup>1</sup> As an aside, City and Coastal staff have made an assumption the Coastal Commission's original jurisdiction is located along the Beach Overlay Zone boundary – in fact, original jurisdiction is located on the mean high tide line. In most cases, this line is significantly west of the Beach Overlay Zone boundary. Few properties would be allowed a seawall in original jurisdiction under the current LCP and BPI.

The City Attorney further opines a LCPA would satisfy the requirements of SB379 without the need for a hazard mitigation plan or a safety element of the City's general plan. There is no basis for this opinion given the Adaptation Plan does not address fire hazards. The eastern edge of Del Mar is located in and adjacent to high and very high fire hazard areas. The Adaptation Plan does not address fire hazards and would not fulfill the requirements of SB379. The City of Del Mar must adopt a safety element meeting the requirements of SB379 and must comply with the requirements of the California Environmental Quality Act ("CEQA") in adopting this element. Certainly, the Adaptation Plan can be included in the required Safety Element and necessary CEQA documentation. The City Attorney's opinion that the adoption of an LCPA for the Adaptation Plan will fulfill the requirements of SB379 is without merit and is not consistent with the requirements of SB379.

The current LCP provides for sand replenishment and other types of shoreline protection outlined in the Adaptation Plan. Inclusion of the Adaptation Plan in the LCP opens the door to future consideration of managed retreat and provides a basis for the Coastal Commission to impose managed retreat if it determines managed retreat is necessary and feasible. Without the LCPA the Coastal Commission has no basis to impose managed retreat. In addition, inclusion of the Adaptation Plan in the LCP does not fulfill the requirements of SB379 – the City will still be required to adopt a safety element addressing fire hazards and comply with CEQA.

On behalf of the Del Mar Beach Preservation Coalition, I respectfully disagree with City Attorney's opinion and urge the STAC to recommend against submitting the Adaptation Plan to the Coastal Commission as an LCPA.

Respectfully,



Julie M. Hamilton  
Attorney for the  
Del Mar Beach Preservation Coalition

Attachments: July 17, 2018 Memorandum to Leslie Devaney and Barry Schultz  
LCP-16-13 Del Mar Grant

# **ATTACHMENT 1**

## MEMORANDUM

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

FROM: Jon Corn

DATE: July 17, 2018

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

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

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

#### **A. Senate Bill No. 379.**

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

#### **B. The California Coastal Act.**

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

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

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

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

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

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

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<sup>1</sup> Available at [https://documents.coastal.ca.gov/assets/slr/guidance/August2015/0\\_Full\\_Adopted\\_Sea\\_Level\\_Rise\\_Policy\\_Guidance.pdf](https://documents.coastal.ca.gov/assets/slr/guidance/August2015/0_Full_Adopted_Sea_Level_Rise_Policy_Guidance.pdf).

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

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

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

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

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

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

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<sup>2</sup> Available at

[http://www.opc.ca.gov/webmaster/ftp/pdf/docs/LCP2013/LCP\\_SLR\\_Program\\_Announcement\\_FINAL.pdf](http://www.opc.ca.gov/webmaster/ftp/pdf/docs/LCP2013/LCP_SLR_Program_Announcement_FINAL.pdf).

<sup>3</sup> Available at [https://documents.coastal.ca.gov/assets/lcp/grants/round-3-awarded-15-16/LCP-16-13\\_Del\\_Mar\\_Redacted.pdf](https://documents.coastal.ca.gov/assets/lcp/grants/round-3-awarded-15-16/LCP-16-13_Del_Mar_Redacted.pdf).

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

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

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

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

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

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

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

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

### **III. CONCLUSION.**

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

# **ATTACHMENT 2**

## EXHIBIT B1

### Project Work Plan, Schedule, and Budget

**Name of local government:** City of Del Mar

**Name of project:** City of Del Mar Supplemental Sea-Level Rise Analysis

**Grantee Contact Information:**

Person Authorized to sign grant agreement and any amendments:

*Scott Huth, City Manager*  
1050 Camino del Mar  
Del Mar, CA 92014  
858.755.9313 / [shuth@delmar.ca.us](mailto:shuth@delmar.ca.us)

Main Project Manager/Point of Contact:

*Kathy Garcia, Planning and Community Development Director*  
1050 Camino del Mar  
Del Mar, CA 92014  
858.755.9313 x1157 / [kgarcia@delmar.ca.us](mailto:kgarcia@delmar.ca.us)

**Federal Employer Identification Number:** 95-6006231

**Budget Summary:**

Commission funding:	\$211,220
Other funding:	<u>\$ 28,932</u>
Total project cost:	\$240,152

**Term of Project:** Upon Grant Execution or December 1, 2016 – September 30, 2018  
October 31, 2018

#### **A. PROJECT DESCRIPTION**

This project supports an ongoing project previously supported by the state. On December 2, 2014, the California Ocean Protection Council (OPC) awarded a Round 2 planning grant to the City for the City of Del Mar LCP Amendment (LCPA) to Address Sea-Level Rise, Storm Surge, and Coastal Flooding. Administration of the grant award was transferred from OPC to the California Coastal Commission (CCC). In accordance with the grant Work Program, the City has completed the Draft Coastal Hazards, Vulnerability, and Risk Assessment Report (Assessment Report, available at: <http://www.delmar.ca.us/sealevelrise>). The Assessment Report shows how the City's current vulnerabilities are projected to increase in both frequency and intensity, resulting in increased damage risk to the Del Mar shoreline. This assessment is based on an initial analysis using an approach developed to specifically address the increase in frequency of Del Mar's existing hazards and supplement results from the initial release of the U.S. Geological Survey's (USGS) Coastal Storm Modeling System 3.0 (CoSMoS 3.0). The assessment is also based on key assumptions on the long-term sediment dynamics of

## EXHIBIT B1

the San Dieguito River Lagoon and Del Mar beach, which were identified as data gaps in the Gaps Analysis and Data Summary deliverable (also available at the above website). In addition, the Assessment Report includes an initial analysis of San Dieguito Lagoon wetland habitat vulnerability to sea-level rise, which shows that existing wetland habitats will be inundated more frequently and vegetated wetland habitats will be “drowned out” and converted to intertidal mudflats and subtidal habitat.

The goal of the City of Del Mar Supplemental Sea-Level Rise Analysis is to complete supplemental best-practice sea-level rise and climate change analyses and planning, thereby providing a strong scientific basis to inform and enhance the preparation and implementation of the City’s Adaptation Plan and LCPA. The supplemental sea-level rise analyses will specifically address the City’s vulnerability to the increased frequency of existing flood and erosion hazards, long-term sediment management for Del Mar’s beach and the San Dieguito River Lagoon, and San Dieguito Lagoon wetland habitat resiliency with sea-level rise and climate change. The City and ESA will perform the following:

1. Apply supplemental hazard analyses: Complete supplemental hazard analyses and apply the results to the development of the Adaptation Plan and LCPA. Also, as requested by STAC, the City and ESA will review the final results of CoSMoS 3.0 (which are expected to be completed and released this fall), compare CoSMoS results to the supplemental analysis for Del Mar, and incorporate the CoSMoS results into the hazard analyses as appropriate.
2. Del Mar Sediment Management Plan: The City and ESA will prepare a Del Mar Sediment Management Plan that identifies “soft” sediment management solutions to protect development and coastal resources, including beach nourishment, dune management, San Dieguito River Lagoon mouth and channel dredging (for river flood management and beneficial reuse of dredge material for beach nourishment), and integration with the San Diego Regional Sediment Management Program.
3. San Dieguito Lagoon Wetland Habitat Migration Assessment: The City and ESA will assess the potential for San Dieguito Lagoon wetland habitats to migrate upstream and to upland areas adjacent to Lagoon to complete the wetland vulnerability assessment and develop adaptation measures that facilitate habitat migration and avoid habitat disruption per the CCC Sea Level Policy Guidance.

**The City of Del Mar’s Round 2 LCP grant (LCP-14-13) was closed out on October 31, 2017, at which time Tasks 4 through 7 were to be transferred to the Round 3 grant, which include the following:**

4. **Amendment Drafting: The City and ESA will prepare draft amendments to the Del Mar LCP including an Adaptation Plan, Land Use Plan Amendments, and Zoning Code Amendments. This will be incorporated as new Task 4 in grant LCP 16-13.**

## EXHIBIT B1

5. City Public Hearings: The City will schedule public hearings before the Planning Commission and the City Council for the Adaptation Plan, Land Use Plan Amendments, and Zoning Code Amendments. Separate public hearings may be held by the City to help focus discussion (i.e. an Adaptation Plan hearing held separately from the Land Use Plan Amendment and Zoning Code Amendment hearing). This will be combined with existing grant LCP 16-13 Task 4 and will be incorporated as new Task 5 in grant LCP 16-13.
6. LCPA Submittal to CCC: Following adoption, the City will submit the LCPA package to CCC for review and certification. The grant commitment shall be complete upon submittal of a complete LCPA application to CCC for certification. This will be incorporated as new Task 6 in grant LCP 16-13.
7. CCC Coordination: Coordination between the City and CCC shall continue to occur in bi-monthly meetings. This will be incorporated as new Task 7 in grant LCP 16-13.

## B. TASKS

### Task 1. Application of Supplemental Hazard Analyses

The City and ESA have performed an initial analysis for the Draft Del Mar Coastal Hazards, Vulnerability, and Risk Assessment Report to meet the LCP-14-13 work program and schedule, stakeholder and STAC input, and CCC Sea-Level Rise Policy Guidance, as well as the Safeguarding California Plan for Reducing Climate Risk. In this task, the City and ESA will complete supplemental hazard analyses to inform the Adaptation Plan and LCPA. (Note that the Adaptation Plan and LCPA will be completed as described in the City of Del Mar's Round 2 LCP Grant, LCP-14-13). These supplemental hazard analyses will:

- Respond to City Sea-Level Rise Stakeholder Technical Advisory Committee (STAC) input to present a coastal hazard analysis that would be relevant to the public, other LCP planning grant recipients, regional local governments, and other entities by analyzing near-term hazards (prior to 2100) and the increase in the frequency of flooding, rather than the increase in the severity of rare flood events (e.g., the 100-year event).
- Address how existing flood hazards will increase in the future as identified in the CCC Sea-Level Rise Policy Guidance.
- Provide a complete hazard analysis to supplement results from the initial release of the USGS CoSMoS 3.0 model. Initial CoSMoS 3.0 results included shoreline and bluff positions in 2100 and 100-year coastal flood information for the present shoreline under different sea-level rise scenarios.

## EXHIBIT B1

The following supplemental analyses initiated in the Draft Assessment Report will be completed and applied to the development of the Adaptation Plan and LCPA:

1. Beach erosion analysis for 2030, 2050, 2070, and 2100 to identify the timeframe for beach loss, triggers for adaptation, and adaptation measures. Initial CoSMoS 3.0 results provided shoreline positions in 2100 only and included a sediment supply term that accounts for the continuation of past beach nourishment, which is effectively an imbedded adaptation measure. The City and ESA will estimate the amount of beach nourishment necessary to maintain beach width and the time period over which beach nourishment is expected to be an effective adaptation measure.
2. Wave runup and coastal flooding analysis for 2050 and 2100 to account for the reduction in beach width, identify the extent of flooding and high wave velocity zones, and develop adaptation measures for the high wave velocity zone. Initial CoSMoS 3.0 flooding results were modeled using only the present beach width and therefore under-predict future flooding with sea-level rise. Initial CoSMoS 3.0 results also only include flooding extents for areas inundated for more than one minute and therefore do not include wave runup, which occurs approximately every 20 seconds and causes flooding and wave damage. The City and ESA will finalize and apply the results of the initial wave runup and coastal flooding analysis from the Draft Assessment Report to identify and detail adaptation measures specific to the high wave velocity zone (i.e., FEMA V-zone) estimated from this supplemental analysis, which may include identifying approximate elevations for raised structures based on wave runup calculations. These results shall be applied as appropriate to the LCPA.
3. San Dieguito River flood analysis for 2030, 2050, 2070, and 2100 considering sea-level rise, changes in precipitation due to climate change, and channel deposition. Initial CoSMoS 3.0 flooding results show the increase in flood extent due to the estimated 20-year river discharge accompanying the 100-year coastal storm; however, the City is currently vulnerable to river flooding without a coastal storm or sea-level rise and the CoSMoS does not provide a useful river flood scenario for assessing vulnerability. Other prior studies of San Dieguito River flooding have only considered the increase in tide level due to sea level rise and have not addressed the potential for long-term deposition of sand in the channel, which has a much greater potential effect on river flood hazards. The City and ESA will finalize and apply the initial analysis of San Dieguito River flooding from the Draft Assessment Report, which considers sea-level rise, the potential for long-term channel deposition, and projected changes in extreme precipitation based on down-scaled Global Climate Models. This analysis will be applied to further develop river flooding adaptation measures, which may include identifying potential river channel dredging extents and elevations and triggers for dredging and/or other adaptation measures. These results shall be applied as appropriate to the LCPA. These results will also inform the development of the Sediment Management Plan (Task 2), for example by identifying channel bed elevation and

## EXHIBIT B1

extent criteria (e.g., elevations by channel reach) to maintain an acceptable level of flood risk.

In addition, given that the final release of CoSMoS 3.0 is scheduled for fall 2016 and the STAC has asked whether these final results can be used for the Del Mar LCPA, the City and ESA will review the final CoSMoS 3.0 results when available and compare and assess differences between the Del Mar hazard analyses and CoSMoS results. The CoSMoS results will be incorporated into the Final Del Mar coastal Hazards, Vulnerability, and Risk Assessment as appropriate. The City and ESA will also prepare a separate memorandum with observations and recommendations for applying CoSMoS results and supplemental hazard analyses as a case study for the CCC and coastal managers to consider and use in preparing sea-level rise LCPAs.

**Public outreach and coordination:** The supplemental analysis described above, including the memorandum for applying CoSMoS results and supplemental hazard analyses would be made available for use by other LCP planning grant recipients, regional local governments, the public, and other entities, as appropriate. The City and ESA will also coordinate with relevant stakeholders for this task, which may include the North Coast Transit District, SANDAG, and landowners.

### **Deliverables:**

- Final Del Mar Coastal Hazards, Vulnerability, and Risk Assessment document with completed supplemental hazard analyses and incorporating final CoSMoS 3.0 results.
- Adaptation Plan and LCPA content that applies the results of the Final Assessment document.
- Application of CoSMoS 3.0 to LCPAs Memorandum.

### **Task 2. Sediment Management Plan**

The Draft Assessment Report results show significant vulnerabilities and risks due to beach erosion and the potential for long-term river channel deposition to increase San Dieguito River flooding. The City and ESA will therefore develop a Del Mar Sediment Management Plan (SMP) to inform the development of sediment management adaptation measures to reduce these risks. The SMP will serve as a companion document to the Adaptation Plan and LCPA. Preparation of a SMP is consistent with the CCC Policy Guidance's discussion of the need for sediment management planning in LCPs.

The Del Mar SMP will include the following:

1. Long-term sediment budget assessment. Note that prior studies of the San Dieguito Lagoon have not analyzed long-term deposition and erosion. This assessment will assess rates and patterns of deposition and erosion with future sea-level rise for the Lagoon and beach system based on estimates of river sediment load, Lagoon

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channel and wetland deposition, inlet dynamics, and beach and bluff erosion. This assessment will be based on the beach erosion analysis from Task 1 and available data such as Southern California Edison monitoring and dredging reports for the Lagoon inlet, estimates of the river sediment load considering the effects of the Lake Hodges dam upstream and prior watershed sediment supply studies such as Inman and Jenkins (1999) and prior Lagoon restoration studies. The City and ESA will apply a quantified conceptual model of lagoon inlet dynamics (based on Battalio et al. 2006 and Behrens et al. 2015) to simulate deposition and changes in the inlet cross-section with sea-level rise and sediment budget that identifies areas and rates of sediment deposition and erosion.

2. Channel dredging plan. Based on the long-term sediment budget assessment above and the San Dieguito River flood analysis from Task 1, the City and ESA will identify a potential program for river flood management with channel dredging above and beyond what Southern California Edison is required to perform. This component of the SMP will provide estimated extents, volumes, frequency, and triggers for potential future channel dredging with sea-level rise.
3. Beach nourishment plan. The City and ESA will develop a beach nourishment plan that identifies and evaluates potential sand sources including reuse of river channel dredge material. The City and ESA will develop a plan for sand placement at the Del Mar beach that is optimized to reduce risks with sea-level rise, including placement locations, volumes, and frequency.

The SMP will also include planning-level cost estimates and schedules for sediment management measures including channel dredging and beach nourishment.

A draft outline of the Sediment Management Plan will be submitted to the CCC along with the Sea-Level Rise LCPA to obtain CCC review and input on the approach and integration of the SMP into the LCPA. The City and ESA will meet with stakeholders to obtain public input and review of a Draft SMP. A summary document will be prepared along with the Final SMP that can be used for the City's Sea-Level Rise LCPA website or brochures to effectively communicate the SMP to the public. The SMP will be made available for use by other LCP planning grant recipients, regional local governments, and other entities, as appropriate. City and CCC staff shall coordinate during the initial stage of this task as well as for review of a Draft Outline and Draft Del Mar Coastal Sediment Management Plan. CCC staff comments will be incorporated into final deliverables.

**Public outreach:** The City will hold a STAC meeting to obtain stakeholder input on and review of the SMP.

**Deliverables:** Draft Outline, Draft, and Final Del Mar Coastal Sediment Management Plan; Summary Document; and STAC meeting materials, including agenda and meeting minutes.

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### **Task 3. Lagoon Wetland Habitat Migration Assessment**

The Draft Assessment Report identifies the potential for San Dieguito Lagoon wetland habitat conversion and vegetated wetland loss with sea-level rise by 2070. The City and ESA will assess the potential for San Dieguito Lagoon wetland habitats to migrate upstream and to upland areas adjacent to Lagoon to complete the wetland vulnerability assessment and develop adaptation measures that facilitate habitat migration and avoid habitat disruption per the CCC Sea Level Policy Guidance. The City and ESA will perform a spatial analysis of wetland habitat evolution and migration using ESA's GIS-based Habitat Evolution Model (HEM). The HEM is similar to the Sea Levels Affecting Marshes Model (SLAMM), but was developed and customized by for California coastal wetlands and has been applied to Los Peñasquitos Lagoon for the development of the Los Peñasquitos Lagoon Enhancement Plan (in progress).

This assessment will identify potential areas where wetland habitats will or could migrate to with sea-level rise, including upland areas adjacent to the Lagoon and areas upstream. This assessment will identify and evaluate measures to reserve these potential habitat migration areas and corridors, including potential land acquisition, use designations, zoning buffers, setbacks, and conservation easements. The deliverables from this assessment will be used to inform and serve as a companion to the Adaptation Plan and LCPA. (Note that the Adaptation Plan and LCPA will be completed as described in the City of Del Mar's Round 2 LCP Grant, LCP-14-13).

A draft outline of the Lagoon Wetland Habitat Migration Assessment will be submitted to the CCC along with the Sea-Level Rise LCPA to obtain CCC review and input on the approach and integration of the Assessment Report into the LCPA. The City and ESA will meet with stakeholders to obtain public input and review of the Draft Lagoon Wetland Habitat Migration Assessment. A summary document will be prepared along with the Final Lagoon Wetland Habitat Migration Assessment that can be used for the City's Sea-Level Rise LCPA website or brochures to effectively communicate the assessment to the public. The Assessment will be made available for use by other LCP planning grant recipients, regional local governments, and other entities, as appropriate. City and CCC staff shall coordinate during the initial stage of this task as well as for review of the Draft Outline and Draft San Dieguito Lagoon Wetland Habitat Migration with Sea Level Rise Assessment. CCC staff comments will be incorporated into final deliverables.

**Public outreach and coordination:** The City will hold a STAC meeting to obtain stakeholder input on and review of the Lagoon Wetland Habitat Migration Assessment. The City and ESA will coordinate with the San Dieguito River Park Joint Powers Authority. The City and ESA will also coordinate with the Southern California Wetlands Recovery Project (SCWRP), for example through participation in the SCWRP stakeholder engagement process and through the dissemination of the Task 3 results to be included as a case study in the Wetlands Recovery Project as practicable within the grant term.

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**Deliverables:** Draft Outline, Draft, and Final San Dieguito Lagoon Wetland Habitat Migration with Sea Level Rise Assessment; Summary Document; and STAC meeting agenda and meeting minute notes.

### Task 4. Amendment Drafting

The City and ESA will prepare draft amendments to the Del Mar LCP including an Adaptation Plan, Land Use Plan Amendments, and Zoning Code Amendments. The City will hold a STAC meeting(s) to obtain stakeholder input.

**Deliverables:** Prepare a Draft Adaptation Plan; prepare a Draft Land Use Plan Amendment; and prepare a Draft Zoning Code Amendment. Provide copies of the applicable STAC meeting agendas and meeting minutes.

### Task 4. Task 5. City Public Hearings

The City will schedule public hearings before the Planning Commission and the City Council for the Adaptation Plan, Land Use Plan Amendments, and Zoning Code Amendments. Separate public hearings may be held by the City to help focus discussion (i.e. an Adaptation Plan hearing held separately from the Land Use Plan Amendment and Zoning Code Amendment hearing). The City, with ESA's support, will may also hold a separate public hearings before the City's Planning Commission (as applicable) and the City Council to review the Sediment Management Plan, and San Dieguito Lagoon Wetland Habitat Migration Assessment, and any associated updates to the LCPA. Ordinances and Resolutions will be processed accordingly to document decision maker actions. will be developed for each hearing for consideration, approval, and authorizing the submittal of the supplemental analyses to the CCC for review and approval. At the completion of the public hearings and approvals, the City will submit the Local Coastal Program Amendment Package Supplemental Sea Level Rise Analysis to the CCC.

### **Deliverables:**

- Planning Commission hearing and Recommending Resolution to the City Council
- City Council hearing and **Ordinances or Resolutions (as applicable)** resolution approving the **Adaptation Plan, Land Use Plan Amendment, Zoning Code Amendment, Final Vulnerability Assessment (including Supplemental Sea Level Rise Analysis)**, and authorizing submittal to the CCC for review and approval
- ~~Submittal of the Approved Supplemental Sea Level Rise Analysis to the CCC~~

### Task 6. LCPA Submittal to CCC

- Submittal of LCPA package to CCC prior to the grant deadline

### Task 7. Coordination with CCC

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Coordination between the City and CCC shall continue to occur in bi-monthly meetings.

**C. SCHEDULE**

<b>Task 1. Application of Supplemental Hazard Analyses</b>	Begin date: 12/1/16* End Date: 8/31/18
1.1 Final Del Mar Coastal Hazards, Vulnerability, and Risk Assessment with supplemental hazard analyses	Begin date: 12/1/16* End Date: 3/31/17
1.2 Application of CoSMoS 3.0 to LCPAs Memorandum	Begin date: 4/3/17 End Date: 9/29/17 <i>(Assuming final CoSMoS 3.0 results are released in Fall 2016; if release is delayed beyond Fall 2016, schedule will follow schedule for 1.2 above)</i>
<b>Task 2. Sediment Management Plan</b>	Begin date: 12/1/16* End Date: 6/1/18
2.1 Draft Sediment Management Plan Outline	Begin date: 12/1/16* End Date: 5/26/17 <b>12/7/17</b>
CCC review period	Begin date: <del>5/30/17</del> <b>12/1/17</b> End Date: <del>6/16/17</del> <b>12/22/17</b>
2.2 Draft Sediment Management Plan	Begin date: 12/1/16* End Date: 3/2/18
CCC review period	Begin date: 3/5/18 End Date: 3/30/18
2.3 / 3.3 STAC Meeting #1	<del>3/15/18</del> <b>3/22/18</b>
2.4 Final Sediment Management Plan	Begin date: 4/2/18 End Date: 4/20/18
2.5 / 3.5 STAC Meeting #2	4/26/18
CCC review period	Begin date: 4/23/18 End Date: 5/18/18
2.6 Summary Document	Begin date: 5/21/18 End Date: 6/1/18
<b>Task 3. San Dieguito Lagoon Wetland Habitat Migration Assessment</b>	Begin date: 12/1/16* End Date: 6/1/18
3.1 Draft Assessment Outline	Begin date: 12/1/16* End Date: 5/26/17 <b>12/7/17</b>
CCC review period	Begin date: <del>5/30/17</del> <b>12/1/17</b> End Date: <del>6/16/17</del> <b>12/22/17</b>
3.2 Draft Assessment Report	Begin date: 12/1/16* End Date: 3/2/18
CCC review period	Begin date: 3/5/18 End Date: 3/30/18
3.3 / 2.3 STAC Meeting #1	<del>3/15/18</del> <b>3/22/18</b>
3.4 Final Assessment Report	Begin date: 4/2/18 End Date: 4/20/18
3.5 / 2.5 STAC Meeting #2	4/26/18
CCC review period	Begin date: 4/23/18 End Date: 5/18/18
<b>Task 4. Amendment Drafting</b>	<b>Begin date: 12/21/17 End Date: TBD</b>
<b>4.1 Revised Draft Adaptation Plan to CCC</b>	<b>12/21/17</b>
<b>CCC review period</b>	<b>Begin date: 12/14/17 End Date: 2/2/18</b>
<b>4.2 Draft Land Use Plan Amendments to CCC</b>	<b>TBD</b>
<b>CCC review period</b>	

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<b><u>4.3 Draft Zoning Code Amendments to CCC</u></b>	<b><u>TBD</u></b>
<b><u>CCC review period</u></b>	
<b><u>Task 4. Task 5. City Public Hearings</u></b>	Begin date: <del>6/4/18</del> <b><u>2/13/18</u></b> End Date: <del>8/31/18</del> <b><u>9/30/18</u></b>
4.15.1 Planning Commission Hearing	7/10/18
<b><u>Adaptation Plan</u></b>	<b><u>3/13/18</u></b>
<b><u>Sediment Management Plan</u></b>	
<b><u>Wetland Habitat Migration Assessment</u></b>	
<b><u>Land Use Plan/Zoning Code Amendments</u></b>	<b><u>TBD</u></b>
4.25.2 City Council Hearing	8/6/18 <b><u>TBD</u></b>
<b><u>Adaptation Plan</u></b>	
<b><u>Sediment Management Plan</u></b>	
<b><u>Wetland Habitat Migration Assessment</u></b>	
<b><u>Land Use Plan/Zoning Code Amendments</u></b>	
Outcome/Deliverables	
4.1 <b><u>5.1</u></b> Planning Commission Resolution to City Council	7/10/18
4.2 <b><u>5.2</u></b> City Council Resolution approving the SMP and Migration Assessment Report	8/6/18
Submittal of SMP and Migration Assessment to the CCC	8/31/18
<b><u>Task 6. Submit to CCC</u></b>	<b><u>10/31/2018</u></b>
<b><u>Task 7. Coordination with CCC</u></b>	<b><u>ongoing</u></b>

\*A "Begin date" of "12/1/16" is either 12/1/16 or the Grant Execution Date, whichever is later.

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**D. BENCHMARK SCHEDULE**

ACTIVITY	COMPLETION DATE
<b>Task 1. Application of Supplemental Hazard Analyses</b>	
1.1 Final Del Mar Coastal Hazards, Vulnerability, and Risk Assessment with supplemental hazard analyses	3/31/2017
1.2 Application of CoSMoS 3.0 to LCPAs Memorandum	9/29/2017
<b>Task 2. Sediment Management Plan</b>	
2.4 Final Sediment Management Plan	4/20/2018
2.5 Summary Document	6/1/2018
<b>Task 3. San Dieguito Lagoon Wetland Habitat Migration Assessment</b>	
3.4 Final Assessment Report	4/20/2018
3.5 Summary Document	6/1/2018
<b>Task 4. Amendment Drafting</b>	
<u>4.1 Revised Draft Adaptation Plan to CCC</u>	<u>12/21/17</u>
<u>4.2 Draft Land Use Plan Amendments to CCC</u>	<u>TBD</u>
<u>4.3 Draft Zoning Code Amendments to CCC</u>	<u>TBD</u>
<b><del>Task 4. Task 5. City Public Hearings</del></b>	
<del>4.1 Planning Commission Resolution to City Council</del>	<del>7/10/2018</del> <u>TBD</u>
<del>4.2 City Council Resolution approving the SMP and Migration Assessment Report</del>	<del>8/6/2018</del> <u>TBD</u>
<del>Submittal of SMP and Migration Assessment Report to the CCC</del>	<del>8/31/2018</del>
<b><u>Task 6. Submit to CCC</u></b>	<u>10/31/2018</u>
<b><u>Task 7. Coordination with CCC</u></b>	<u>ongoing</u>

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E. BUDGET

	CCC Grant Total	Match/ Other Funds (Applicant's)	Match/ Other Funds	Total (LCP Grant Funds + Match/ Other Funds)
<b>LABOR COSTS</b>				
<b>County/City Staff Labor</b>				
Task 1 – Application of Supplemental Hazard Analyses		\$6,204		\$6,204
Task 2 – Sediment Management Plan		\$10,146		\$10,146
Task 3 – San Dieguito Lagoon Wetland Habitat Migration Assessment		\$6,114		\$6,114
<b>Task 4 – Amendment Drafting</b>				
Task 4 Task 5– City Public Hearings		\$4,608		\$4,608
Task 6–Submittal to CCC				
Task 7 – Coordination with CCC				
<b>Total Labor Costs</b>		<b>\$27,072</b>		<b>\$27,072</b>
<b>DIRECT COSTS</b>				
<b>County/City Staff Project Supplies and Travel in State</b>				
<b>Total</b>				
<b>Consultants<sup>2</sup></b>				
City engineering consultant				
Task 1 – Application of Supplemental Hazard Analyses		\$1,860		\$1,860
ESA				
Task 1 – Application of Supplemental Hazard Analyses	\$68,830			\$68,830
Task 2 – Sediment Management Plan	\$87,580			\$87,580
Task 3 – San Dieguito Lagoon Wetland Habitat Migration Assessment	\$48,090			\$48,090
<b>Task 4 – Amendment Drafting</b>				
Task 4 Task 5 – City Public Hearings	\$6,720			\$6,720
Task 6–Submittal to CCC				
Task 7 – Coordination with CCC				
<b>Total</b>	<b>\$211,220</b>	<b>\$1,860</b>		<b>\$213,080</b>
<b>Total Direct Costs</b>	<b>\$211,220</b>	<b>\$1,860</b>		<b>\$213,080</b>
<b>OVERHEAD/INDIRECT COSTS</b>				
<b>Total Staff Overhead/ Indirect Costs</b>				
<b>TOTAL PROJECT COST</b>	<b>\$211,220</b>	<b>\$28,932</b>		<b>\$240,152</b>

<sup>2</sup> Consultants were selected pursuant to a competitive bidding process that included three (3) bids from responsible bidders. The City selected ESA as the Sea-Level Rise LCPA consultant through this process.