CITY OF SOLANA BEACH

SOLANA BEACH CITY COUNCIL, SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY, PUBLIC FINANCING AUTHORITY, & HOUSING AUTHORITY

AGENDA

Joint REGULAR Meeting

Wednesday, May 24, 2017 * 6:00 P. M.

City Hall / Council Chambers, 635 S. Highway 101, Solana Beach, California

- City Council meetings are video recorded and archived as a permanent record. The video recording captures the complete proceedings of the meeting and is available for viewing on the City's website.
- Posted Reports & Supplemental Docs contain records up to the cut off time prior to meetings for processing new submittals. Complete records containing meeting handouts, PowerPoints, etc. can be obtained through a Records Request.

PUBLIC MEETING ACCESS

The Regular Meetings of the City Council are scheduled for the 2nd and 4th Wednesdays and are broadcast live on Cox Communications-Channel 19, Time Warner-Channel 24, and AT&T U-verse Channel 99. The video taping of meetings are maintained as a permanent record and contain a detailed account of the proceedings. Council meeting tapings are archived and available for viewing on the City's website.

AGENDA MATERIALS

A full City Council agenda packet including relative supporting documentation is available at City Hall, the Solana Beach Branch Library (157 Stevens Ave.), La Colonia Community Ctr., and online www.cityofsolanabeach.org. Agendas are posted at least 72 hours prior to regular meetings and at least 24 hours prior to special meetings. Writings and documents regarding an agenda of an open session meeting, received after the official posting, and distributed to the Council for consideration, will be made available for public viewing at the same time. In addition, items received at least 1 hour 30 minutes prior to the meeting time will be uploaded online with the courtesy agenda posting. Materials submitted for consideration should be forwarded to the City Clerk's department 858-720-2400. The designated location for viewing public documents is the City Clerk's office at City Hall during normal business hours.

SPEAKERS

Please submit a speaker slip to the City Clerk prior to the meeting, or the announcement of the Section/Item, to provide public comment. Allotted times for speaking are outlined on the speaker's slip for each agenda section: Oral Communications, Consent, Public Hearings and Staff Reports.

AMERICAN DISABILITIES ACT TITLE 2

In compliance with the Americans with Disabilities Act of 1990, persons with a disability may request an agenda in appropriate alternative formats as required by Section 202. Any person with a disability who requires a modification or accommodation in order to participate in a meeting should direct such request to the City Clerk's office (858) 720-2400 at least 72 hours prior to the meeting.

As a courtesy to all meeting attendees, please set cellular phones and pagers to silent mode and engage in conversations outside the Council Chambers.

CITY COUNCILMEMBERS

Mike Nichols, Mayor

Ginger Marshall, Deputy Mayor | **David A. Zito, Councilmember**

Jewel Edson, Councilmember | **Judy Hegenauer, Councilmember**

Gregory Wade, City Manager | Johanna Canlas, City Attorney | Angela Ivey, City Clerk

SPEAKERS:
Please submit your speaker slip to the City Clerk prior to the meeting or the announcement of the Item. Allotted times for speaking are outlined on the speaker's slip for Oral Communications, Consent, Public Hearings and Staff Reports.

READING OF ORDINANCES AND RESOLUTIONS:
Pursuant to Solana Beach Municipal Code Section 2.04.460, at the time of introduction or adoption of an ordinance or adoption of a resolution, the same shall not be read in full unless after the reading of the title, further reading is requested by a member of the Council. If any Councilmember so requests, the ordinance or resolution shall be read in full. In the absence of such a request, this section shall constitute a waiver by the council of such reading.

CALL TO ORDER AND ROLL CALL:

CLOSED SESSION REPORT: (when applicable)

FLAG SALUTE:

APPROVAL OF AGENDA:

PROCLAMATIONS/CERTIFICATES: *Ceremonial*

1. Public Works' Week

PRESENTATIONS: Ceremonial items that do not contain in-depth discussion and no action/direction.

1. Encinitas Half Marathon Recap
2. San Diego County Water Authority
3. Stevens Avenue Update

ORAL COMMUNICATIONS:
This portion of the agenda provides an opportunity for members of the public to address the City Council on items relating to City business and not appearing on today's agenda by submitting a speaker slip (located on the back table) to the City Clerk. Comments relating to items on this evening's agenda are taken at the time the items are heard. Pursuant to the Brown Act, no action shall be taken by the City Council on public comment items. Council may refer items to the City Manager for placement on a future agenda. The maximum time allotted for each presentation is THREE MINUTES (SBMC 2.04.190). Please be aware of the timer light on the Council Dais.

COUNCIL COMMUNITY ANNOUNCEMENTS / COMMENTARY:
An opportunity for City Council to make brief announcements or report on their activities. These items are not agendized for official City business with no action or substantive discussion.

A. CONSENT CALENDAR: (Action Items) (A.1. - A.15.)
Items listed on the Consent Calendar are to be acted in a single action of the City Council unless pulled for discussion. Any member of the public may address the City Council on an item of concern by submitting to the City Clerk a speaker slip (located on the back table) before the Consent Calendar is addressed. Those items removed from the Consent Calendar by a member of the Council will be trailed to the end of the agenda, while Consent Calendar items removed by the public will be discussed immediately after approval of the Consent Calendar.

A.1. Minutes of the City Council.

Recommendation: That the City Council

1. Approve the Minutes of the City Council Meetings held March 22, 2017 and March 29, 2017.

Item A.1. Report (click here)
Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.

A.2. Register Of Demands. (File 0300-30)

Recommendation: That the City Council

1. Ratify the list of demands for April 22, 2017 through May 5, 2017.

Item A.2. Report (click here)
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A.3. General Fund Adopted Budget for Fiscal Year 2016-2017 Changes. (File 0330-30)

Recommendation: That the City Council

1. Receive the report listing changes made to the Fiscal Year 2016-2017 General Fund Adopted Budget.

Item A.3. Report (click here)
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A.4. This Item was left blank.

A.5. Street Lighting District Annual Assessment. (File 0495-20)

Recommendation: That the City Council

1. Adopt **Resolution 2017-078** approving the Engineer's Report for proceedings for the annual levy of assessments within a special maintenance district.

2. Adopt **Resolution 2017-079** declaring intention to provide for an annual levy and collection of assessment in a special maintenance district and setting a time and date for a public hearing; and scheduling the public hearing for June 28, 2017.

Item A.5. Report (click here)
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A.6. Coastal Rail Trail Maintenance District Annual Assessment. (File 0495-20)

Recommendation: That the City Council

1. Adopt **Resolution 2017-075**, initiating the proceedings for the annual levy of assessments within the Coastal Rail Trail Maintenance District.

2. Adopt **Resolution 2017-076**, approving the Engineer's Report for proceedings of the annual levy of assessments within Coastal Rail Trail Maintenance District.

3. Adopt **Resolution 2017-077**, declaring intention to provide for the annual levy and collection of assessments in the Coastal Rail Trail Maintenance District and setting a time and date for a public hearing for June 28, 2017.

Item A.6. Report (click here)

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A.7. Fire Benefit Fee. (File 0390-23)

Recommendation: That the City Council

1. Adopt **Resolution 2016-070**:
   a. Setting the FY 2017-18 Fire Benefit Fee at $10.00 per unit, and
   b. Approving the Fee for levying on the tax roll.

Item A.7. Report (click here)

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A.8. Municipal Improvement Districts Benefit (MID) Fees. (File 0495-20)

Recommendation: That the City Council

1. Approve **Resolution 2017-080**, setting the Benefit Charges for MID No. 9C, Santa Fe Hills at $232.10 per unit for FY 2017-18.

2. Approve **Resolution 2017-081**, setting the Benefit Charges for MID No. 9E, Isla Verde at $68.74 per unit for FY 2017-18.

3. Approve **Resolution 2017-082**, setting the Benefit Charges for MID No. 9H, San Elijo Hills # 2 at $289.58 per unit for FY 2017-18.

4. Approve **Resolution 2017-083**, setting the Benefit Charges for MID No. 33, Highway 101/Railroad Right-of-Way at $3.12 per unit for FY 2017-18.

Item A.8. Report (click here)

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A.9. Appropriations Limit. (File 0330-60)

Recommendation: That the City Council

1. Adopt **Resolution 2017-073**, establishing the FY 2017-18 Appropriations Limit in accordance with Article XIIIB of the California Constitution and Government Code Section 7910 and choosing the County of San Diego's change in population growth to calculate the Appropriations Limit.

Item A.9. Report (click here)

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A.10. Genevieve Street Assisted Living Facility Project Agreement. (File 0600-40)

Recommendation: That the City Council

1. Adopt **Resolution 2017-067** authorizing the City Manager to execute a professional services agreement between the City and Summit in the amount of $45,000 plus a 15% administrative fee ($6,750) for a total of $51,750 to support the continued application processing and management of the CEQA process for the Genevieve Street Assisted Living Facility Project and authorizing ongoing authority for the City Manager to modify the contract as needed.

Item A.10. Report (click here)

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A.11. Community Development Block Grant and Home Investment Partnerships Programs. (File 0400-10)

Recommendation: That the City Council

1. Adopt **Resolution 2017-074** authorizing the automatic renewal of the Community Development Block Grant Cooperation Agreement for the qualification periods of July 1, 2018 to June 30, 2019; July 1, 2019 to June 30, 2020; and July 1, 2020 to June 30, 2021.

Item A.11. Report (click here)

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A.12. Americans with Disabilities Act (ADA) Pedestrian Ramps Project, Bid 2016-10. (File 0820-20)

Recommendation: That the City Council

1. Adopt **Resolution 2017-084**:
   a. Authorizing the City Council to accept as complete the ADA Pedestrian Ramps Project, Bid No. 2016-10, constructed by Miramar General Engineering.
   b. Authorizing the City Clerk to file a Notice of Completion.

Item A.12. Report (click here)

Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.

A.13. Palmitas Street Storm Drain Project, Bid 2016-11. (File 0850-40)

Recommendation: That the City Council

1. Adopt **Resolution 2017-085**:
   a. Authorizing the City Council to accept as complete the Palmitas Street Storm Drain Project, Bid 2016-11, constructed by Miramar General Engineering.
   b. Authorizing the City Clerk to file a Notice of Completion.

Item A.13. Report (click here)

Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.

A.14. Series 2006 Tax Allocation Bonds Refund and Professional Services Agreements for Bond Refunding. (File 0340-00)

Recommendation: That the City Council

1. **Resolution SA-013** authorizing the Executive Director to execute a Professional Services Agreement with Del Rio Advisors, LLC for Municipal Advisors services in connection with the possible refinancing of the TA Bonds.

2. **Resolution SA-014** authorizing the Executive Director to execute a Professional Services Agreement with Brandis Tallman, LLC for Placement Agent services in connection with the possible refinancing of the TA Bonds.

3. **Resolution SA-015** authorizing the Executive Director to execute a Professional Services Agreement with Quint & Thimmig, LLP for Bond Counsel services in connection with the possible refinancing of the TA Bonds.

4. **Resolution SA-016** authorizing the Executive Director to execute a Professional Services Agreement with Fraser & Associates for Fiscal Consultant services in connection with the possible refinancing of the TA Bonds.

5. **Resolution SA-017** requesting the Oversight Board to direct the Successor Agency to refund the TA Bonds, including approval of refunding costs.

Item A.14. Report (click here)

Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.

A.15. Residential Solid Waste Rate Review. (File 1030-15)

Recommendation: That the City Council

1. Approve **Resolution 2017-087** authorizing the City to proceed with the proper Proposition 218 noticing and majority protest voting procedures and setting the residential Solid Waste Rate Review Public Hearing protest vote for July 12, 2017.

Item A.15. Report (click here)

Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.

NOTE: The City Council shall not begin a new agenda item after 10:30 p.m. unless approved by a unanimous vote of all members present. (SBMC 2.04.070)

B. PUBLIC HEARINGS: (B.1. – B.2.)

This portion of the agenda provides citizens an opportunity to express their views on a specific issue as required by law after proper noticing by submitting a speaker slip (located on the back table) to the City Clerk. After considering all of the evidence, including written materials and oral testimony, the City Council must make a decision supported by findings and the findings must be supported by substantial evidence in the record. An applicant or designees for a private development/business project, for which the public hearing is being held, is allotted a total of fifteen minutes to speak, as per SBMC 2.04.210. A portion of the fifteen minutes may be saved to respond to those who speak in opposition. All other speakers have three minutes each. Please be aware of the timer light on the Council Dais.

B.1. Public Hearing: 216 Ocean St., Applicants: Jackel, Case: 17-16-10. (File 0600-40)

The proposed project meets the minimum objective requirements under the SBMC, is consistent with the General Plan and may be found, as conditioned, to meet the discretionary findings required as discussed in this report to approve a DRP and issue a SDP. Therefore, Staff recommends that the City Council:

1. Conduct the Public Hearing: Open the Public Hearing, Report Council Disclosures, Receive Public Testimony, and Close the Public Hearing.

2. Find the project exempt from the California Environmental Quality Act pursuant to Section 15303 of the State CEQA Guidelines; and

3. If the City Council makes the requisite findings and approves the project, adopt **Resolution 2017-062** conditionally approving a SDP and a DRP to demolish an existing single family residence, construct a new two-story, single-family residence with a subterranean basement and an attached two-car garage, and perform associated site improvements at 216 Ocean Street, Solana Beach.

Item B.1. Report (click here)

Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.

B.2. Introduce (1st Reading) Ordinance 478 to Prohibit the Establishment and Operation of all Commercial Marijuana Activities, Including Marijuana Cultivation, Processing, Delivery, and Dispensary Activities, in the City of Solana Beach. (File 0230-10)

Recommendation: That the City Council

1. Conduct the Public Hearing: Open the public hearing, Report Council disclosures, Receive public testimony, Close the public hearing.

2. Introduce **Ordinance 478** prohibiting the delivery, cultivation and dispensing of all marijuana.

Item B.2. Report (click here)

Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.

C. STAFF REPORTS: (C.1. - C.2.)
Submit speaker slips to the City Clerk.

C.1. Community Choice Aggregation (CCA) Consultant Services. (File 0480-70)

Recommendation: That the City Council

1. Adopt **Resolution 2017-043** and **Resolution 2017-044** authorizing the City Manager to execute all contracts with TEA and Calpine to provide CCA services to the City.

Item C.1. Report (click here)

Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.

C.2. Repayment of Funds Borrowed from the San Elijo Joint Powers Authority for the Water Reclamation Facility, Approving Sale of Bonds and Official Statement, and Authorizing Official Actions. (File 0150-80)

Recommendation: That the City Council

1. Approve **Resolution 2017-088** authorizing the Execution and Delivery of the Series 2017 Loan Agreement Providing for the Repayment of Funds Borrowed from the San Elijo Joint Powers Authority for the Water Reclamation Facility, Approving Sale of Bonds and Official Statement, and Authorizing Official Actions

Item C.2. Report (click here)

Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.

WORKPLAN COMMENTS:
Adopted June 8, 2016

COMPENSATION & REIMBURSEMENT DISCLOSURE:

GC: Article 2.3. Compensation: 53232.3. (a) Reimbursable expenses shall include, but not be limited to, meals, lodging, and travel. 53232.3 (d) Members of a legislative body shall provide brief reports on meetings attended at the expense of the local agency at the next regular meeting of the legislative body.

COUNCIL COMMITTEE REPORTS:

Regional Committees: (outside agencies, appointed by this Council)

a. City Selection Committee (meets twice a year) – Nichols (Edson, alternate).
b. County Service Area 17 – Marshall (Nichols, alternate).
c. Escondido Creek Watershed Authority – Marshall/Staff (no alternate).
d. League of Ca. Cities' San Diego County Executive Committee – Nichols (Edson, alternate) and any subcommittees.
e. League of Ca. Cities' Local Legislative Committee – Nichols (Edson, alternate)
f. League of Ca. Cities' Coastal Cities Issues Group (CCIG) – Nichols (Edson, alternate)
g. North County Dispatch JPA – Marshall (Edson, alternate).
h. North County Transit District – Edson (Nichols, alternate)
i. Regional Solid Waste Association (RSWA) – Nichols (Hegenauer, alternate).
j. SANDAG – Zito (Primary), Edson (1st alternate), Nichols (2nd alternate) and any subcommittees.
k. SANDAG Shoreline Preservation Committee – Zito (Hegenauer, alternate).
l. San Dieguito River Valley JPA – Hegenauer (Nichols, alternate).
m. San Elijo JPA – Marshall, Zito (City Manager, alternate).
n. 22nd Agricultural District Association Community Relations Committee – Marshall, Edson.

Standing Committees: (All Primary Members) *(Permanent Committees)*

a. Business Liaison Committee – Zito, Edson.
b. Highway 101 / Cedros Ave. Development Committee – Edson, Nichols.
c. Fire Dept. Management Governance & Organizational Evaluation – Edson, Hegenauer
d. I-5 Construction Committee – Zito, Edson.
e. Parks and Recreation Committee – Nichols, Zito
f. Public Arts Committee – Marshall, Hegenauer.
g. School Relations Committee – Nichols, Hegenauer.

ADJOURN:

AFFIDAVIT OF POSTING

STATE OF CALIFORNIA
COUNTY OF SAN DIEGO } §
CITY OF SOLANA BEACH

I, Angela Ivey, City Clerk of the City of Solana Beach, do hereby certify that this Agenda for the May 24, 2017 Council Meeting was called by City Council, Successor Agency to the Redevelopment Agency, Public Financing Authority, and the Housing Authority of the City of Solana Beach, California, was provided and posted on May 17, 2017 at 7:55 p.m. on the City Bulletin Board at the entrance to the City Council Chambers. Said meeting is held at 6:00 p.m., May 24, 2017, in the Council Chambers, at City Hall, 635 S. Highway 101, Solana Beach, California.

Angela Ivey, City Clerk
City of Solana Beach, CA

UPCOMING CITIZEN CITY COMMISSION AND COMMITTEE MEETINGS:

Regularly Scheduled, or Special Meetings that have been announced, as of this Agenda Posting. Dates, times, locations are all subject to change. See the City's Commission's website or the City's Events Calendar for updates.

- **Budget & Finance Commission**
  Thursday, June 15, 2017, 6:30 p.m. (City Hall)
- **Climate Action Commission**
  Wednesday, June 21, 2017, 5:30 p.m. (City Hall)
- **Parks & Recreation Commission**
  Thursday, June 8, 2017, 4:00 p.m. (Fletcher Cove Community Center)
- **Public Arts Commission**
  Tuesday, June 27, 2017, 5:30 p.m. (City Hall)
- **View Assessment Commission**
  Tuesday, June 20, 2017, 6:00 p.m. (Council Chambers)

CITY OF SOLANA BEACH

SOLANA BEACH CITY COUNCIL, SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY, PUBLIC FINANCING AUTHORITY, & HOUSING AUTHORITY

MINUTES

Joint Meeting - Closed Session
Wednesday, March 22, 2017 * 5:30 p.m.
City Hall / Council Chambers, 635 S. Highway 101, Solana Beach, California

CITY COUNCILMEMBERS

Mike Nichols, Mayor

Ginger Marshall, Deputy Mayor | **David A. Zito, Councilmember**

Jewel Edson, Councilmember | **Judy Hegenauer, Councilmember**

Gregory Wade	Johanna Canlas	Angela Ivey
City Manager	City Attorney	City Clerk

CALL TO ORDER AND ROLL CALL:

Mayor Nichols called the meeting to order at 5:32 p.m.

Present:	Mike Nichols, Ginger Marshall, David A. Zito, Jewel Edson, Judy Hegenauer
Also Present:	Gregory Wade, City Manager Johanna Canlas, City Attorney

PUBLIC COMMENT ON CLOSED SESSION ITEMS *(ONLY)*:

Report to Council Chambers and submit speaker slips to the City Clerk before the meeting recesses to closed session.

CLOSED SESSION:

1. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
   Pursuant to Government Code Section 54956.9(d)(1)
   - Homeowners Associations: Solana Beach & Tennis Club, Del Mar Beach Club, Surfsong, Seascape Shores, Seascape Chateau, Seascape Surf, Del Mar Shores Terrace v. City of Solana Beach (Case 37-2013-00046245-CU-WM-NC)
   - Beach & Bluff Conservancy v. City of Solana Beach, California Coastal Commission, Surfrider (Case No. 37-2013-00046561-CU-WM-NC)

2. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**
   Pursuant to Government Code Section 54956.9(d)(2)
   One (1) Potential case(s).

ACTION: No reportable action.

ADJOURN:

Mayor Nichols adjourned the meeting at 5:55 p.m.

Angela Ivey, City Clerk Approved:_____

CITY OF SOLANA BEACH

SOLANA BEACH CITY COUNCIL, SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY, PUBLIC FINANCING AUTHORITY, & HOUSING AUTHORITY

MINUTES

Joint REGULAR Meeting
Wednesday, March 22, 2017 * 6:00 P. M.

City Hall / Council Chambers, 635 S. Highway 101, Solana Beach, California

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CITY COUNCILMEMBERS

Mike Nichols, Mayor

Ginger Marshall, Deputy Mayor | **David A. Zito, Councilmember**

Jewel Edson, Councilmember | **Judy Hegenauer, Councilmember**

Gregory Wade, City Manager | Johanna Canlas, City Attorney | Angela Ivey, City Clerk

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CALL TO ORDER AND ROLL CALL:
Mayor Nichols called the meeting to order at 6:02

Present:	Mike Nichols, Ginger Marshall, David A. Zito, Jewel Edson, Judy Hegenauer
Absent:	None
Also Present:	Greg Wade, City Manager Johanna Canlas, City Attorney Angela Ivey, City Clerk, Mo Sammak, City Engineer/Public Works Dir. Marie Berkuti, Finance Manager Bill Chopyk, Community Development Dir. Danny King, Assistant City Manager

CLOSED SESSION REPORT: (when applicable)
Johanna Canlas, City Attorney, stated that there was no reportable action.

FLAG SALUTE:

APPROVAL OF AGENDA:
Motion: Moved by Deputy Mayor Marshall and second by Councilmember Zito. **Approved 5/0.** Motion carried unanimously.

PRESENTATIONS: Ceremonial items that do not contain in-depth discussion and no action/direction.

Stevens Avenue Update

Mo Sammak, Public Works/Engineering Dir., presented a PowerPoint (on file) reviewing the project status.

Council and Staff discussed communications from business owners regarding construction disruption specifically about one property's driveway which had been resolved, that the property owner was informed about the plan, that a lack of coordination between the contractor and Santa Fe Christian School regarding the storm drain had been managed, that bike lanes would be going in on both sides of the street and a portion of the corridor would have a buffer bike lane which would be separated by parked cars which was a preference of the bike community, and that all bike lanes would be stripped lanes and not physical barriers.

ORAL COMMUNICATIONS:
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Johnny Chou stated that he was the District 12 President for California Parks and Recreation Society which had a mission of advancing the Park and Recreation profession through education, networking, resources and advocacy, that their awards program recognized outstanding achievements of agencies in San Diego and Imperial Counties and presented Mayor Nichols an achievement award for the La Colonial Park Veterans Honor courtyard.

Mayor Nichols accepted the award and stated that it was a special project which honored Veterans, a place where Memorial Day celebrations were held, and that the community contributed to the courtyard by purchasing donation tiles.

Cindy Clemmons and Michele Stribling
Cindy Clemmons stated that she was a Board member of the Civic and Historical Society and Michele Stribling was the President, that they were presenting a check for $2,000 to the Coastal Community Foundation for developing the skate park in La Colonia Park.

Mayor Nichols said that the check was appreciated, that there was a lot of excitement with many donations and community involvement, that the Civic and Historical Society was the longest standing organization in Solana Beach.

Cindy Clemmons also stated that the Civic and Historical Society and the Friends of the Library were offering two $1,000 scholarships towards graduating seniors or returning continuing education students that lived in or attended school in Solana Beach and that

more information was at the High School counseling offices, the library, and the Civic and Historical Society and Friends of the Library websites, and the deadline to apply was April 30, 2017.

Kristine Schindler stated that she had lived in Solana Beach for over 15 years, that she had sent an email thanking the City for the efforts made to the community walk audit on Lomas Santa Fe, that it was well done, City Staff was well represented, there was a wonderful turnout, and she was speaking on behalf of *bikewalksolana* to encourage and educate others for more active transportation. She announced that, on behalf of the Clean and Green, this Saturday was Earth Hour held 8:30 p.m.-9:30 p.m., which would be held around the world, with the purpose to pause and think about doing something different and change daily habits to contribute towards environmental sustainability.

Council and Staff discussed that the walk audit would provide high level concepts and that there would be another community outreach effort, that anyone who had participated would be invited and that it would be Eblast and placed on the City's website.

COUNCIL COMMUNITY ANNOUNCEMENTS / COMMENTARY:
An opportunity for City Council to make brief announcements or report on their activities. These items are not agendized for official City business with no action or substantive discussion.

A. CONSENT CALENDAR: (Action Items) (A.1. - A.6.)
Items listed on the Consent Calendar are to be acted in a single action of the City Council unless pulled for discussion. Any member of the public may address the City Council on an item of concern by submitting to the City Clerk a speaker slip (located on the back table) before the Consent Calendar is addressed. Those items removed from the Consent Calendar by a member of the Council will be trailed to the end of the agenda, while Consent Calendar items removed by the public will be discussed immediately after approval of the Consent Calendar.

A.1. Minutes of the City Council.

Recommendation: That the City Council

1. Approve the Minutes of the City Council Meetings held February 22, 2017.

Item A.1. Report (click here)
Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.
Motion: Moved by Deputy Mayor Zito and second by Councilmember Marshall. **Approved 5/0.** Motion carried unanimously.

A.2. Register Of Demands. (File 0300-30)

Recommendation: That the City Council

1. Ratify the list of demands for February 18, 2017 through March 3, 2017.

Item A.2. Report (click here)
Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.
Motion: Moved by Deputy Mayor Zito and second by Councilmember Marshall. **Approved 5/0.** Motion carried unanimously.

A.3. General Fund Adopted Budget for Fiscal Year 2016-2017 Changes. (File 0330-30)

Recommendation: That the City Council

1. Receive the report listing changes made to the Fiscal Year 2016-2017 General Fund Adopted Budget.

Item A.3. Report (click here)

Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.

Motion: Moved by Deputy Mayor Zito and second by Councilmember Marshall. **Approved 5/0.** Motion carried unanimously.

A.4. Administrative Policy No. 16 – Anti-Harassment Policy and Complaint Resolution Procedures. (File 0180-05)

Recommendation: That the City Council

1. Approve **Resolution 2017-042** adopting the updated Administrative Policy No. 16 – Anti-Harassment Policy and Complaint Resolution Policy and authorizing the City Manager to make any subsequent changes to the Policy.

Item A.4. Report (click here)

Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.

Motion: Moved by Deputy Mayor Zito and second by Councilmember Marshall. **Approved 5/0.** Motion carried unanimously.

A.5. Underground Utility District along Glenmont, Canyon, Mar Vista, Marview and Rawl. (File 1010-90)

Recommendation: That the City Council

1. Adopt **Resolution 2017-039**, approving the payment of $44,679 from the City's share of CPUC Rule 20A funds in seed money to cover the design costs for the preparation of preliminary plans and preliminary cost estimate by SDG&E for the Glenmont Avenue Underground Utility District that would include all of the properties along Glenmont Avenue, Rawl Place, Mar Vista Drive and some of the properties along Canyon Drive, Marview Drive and Marview Lane.

Item A.5. Report (click here)

Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.

Motion: Moved by Deputy Mayor Zito and second by Councilmember Marshall. **Approved 5/0.** Motion carried unanimously.

A.6. Claims Procedures Administrative Policy No. 27 Amendment. (File 0180-05)

Recommendation: That the City Council

1. Adopt **Resolution 2017-036** amending Administrative Policy No. 27 – Claims Procedures and authorizing the City Manager to make any subsequent changes to the Policy

This item was removed from the agenda.

A.7. AB (Assembly Bill) 805 Letter of Opposition

Item A.7. Report (click here)

Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.

Motion: Moved by Deputy Mayor Zito and second by Councilmember Marshall. **Approved 5/0.** Motion carried unanimously.

C. STAFF REPORTS: (C.1.)

Submit speaker slips to the City Clerk.

C.1. Skate Park at La Colonia Park Design Contract. (File 0720-30)

Recommendation: That the City Council

1. Adopt **Resolution 2017-045**
   a. Authorizing the City Manager to execute a Professional Services Agreement, in the amount of $91,000, with Van Dyke Landscape Architects for design and construction support of the Skate Park at La Colonia Park.
   b. Appropriating $91,000 in the City CIP fund to the Skate Park at La Colonia Park project from the Reserve in the City CIP fund set aside for the Skate Park element of the Master Plan.
   c. Authorizing the City Treasurer to amend the FY 2016/17 Adopted Budget accordingly.

Item C.1. Report (click here)

Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.

Greg Wade, City Manager, presented a PowerPoint (on file) and stated that there would be two community outreach efforts and that the intention was to create what was expected for a state of the art park.

Linda Swindell (time donated by Steve Ostrow) thanked council for expediting the project, and made clarifications on the bid stating that it was going to include the whole northern portion from the skate park all the way through the basketball court. She asked if the breakdown of costs for the basketball court part could be provided which would benefit their funding efforts.

Mayor Nichols stated that the breakdown of costs could be provided including the bid form that outlined the different items including the skate park, lighting, and basketball court.

Linda Swindell said that she was glad that Site Design was involved, that she met with California Ramp Works who was a big company that created skate parks in San Diego as well as work for the X Games and that it was good to see that a solid company was working alongside her, that there were many community members getting involved in the project helping with fundraising efforts and the workshops, that many people were interested with the design of the skate park, and that The Tony Hawk Foundation put requirements on the funds that they donated and that safety guidelines were followed.

Council discussed that the steps at La Colonia Park had been in skate videos and were famous in the skateboard world and to incorporate those steps in the park to honor the history in the design and discussed about the timeline for bidding documents.

Mitch Van Dyke stated that there was no specific schedule yet, but that he could have the first workshop in a month, a second workshop in another 4-6 weeks and, after the second workshop was completed, it would take 4 months to get the documents ready.

Council and Mr. Van Dyke discussed having the Parks and Recreation Committee and the Parks and Recreation Commission continue to be involved in moving the project forward, that the workshops would be located at La Colonia and schedule them on Saturdays when people were off of work but tag them with previously planned events, to consider combining fundraising along with the workshops, that a few trees might be removed in the design but that the aim would be to preserve the best specimen trees, and that the location of the park was set so addressing noise issues may be difficult.

Motion: Moved by Deputy Mayor Zito and second by Councilmember Marshall. **Approved 5/0.** Motion carried unanimously.

B. PUBLIC HEARINGS: (B.1. – B.2.)

This portion of the agenda provides citizens an opportunity to express their views on a specific issue as required by law after proper noticing by submitting a speaker slip (located on the back table) to the City Clerk. After considering all of the evidence, including written materials and oral testimony, the City Council must make a decision supported by findings and the findings must be supported by substantial evidence in the record. An applicant or designees for a private development/business project, for which the public hearing is being held, is allotted a total of fifteen minutes to speak, as per SBMC 2.04.210. A portion of the fifteen minutes may be saved to respond to those who speak in opposition. All other speakers have three minutes each. Please be aware of the timer light on the Council Dais.

B.1. Public Hearing: 426 N. Granados, Applicant: Kakimoto, Case 17-16-34. (File 0600-40)

Recommendation: The proposed project meets the minimum objective requirements under the SBMC, is consistent with the General Plan and may be found, as conditioned, to meet the discretionary findings required as discussed in this report to approve a DRP. Therefore, Staff recommends that the City Council:

1. Conduct the Public Hearing: Open the Public Hearing, Report Council Disclosures, Receive Public Testimony, Close the Public Hearing;
2. Find the project exempt from the California Environmental Quality Act pursuant to Section 15303 of the State CEQA Guidelines; and
3. If the City Council makes the requisite findings and approves the project, adopt **Resolution 2017-041** conditionally approving a DRP to construct a new one-story, single family residence with a partially subterranean garage, fully subterranean basement level and rooftop deck located at 426 N Granados Avenue, Solana Beach.

Item B.1. Report (click here)
B.1. Updated Report # 1 - R
Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.

Mayor Nichols and Councilmember Hegenauer recused themselves due to owning properties within 500 ft. of the project.

Deputy Mayor Marshall opened the public hearing.

Applicant, Bill Kakimoto, stated that he requested a continuance to the date certain via email to work out some items with the neighbors.

Motion: Moved by Zito and seconded by Edson **to continue the item to a date certain of April 26, 2017. Approved 3/0/2** (Recused: Nichols, Edson) **Motion carried.**

Johanna Canlas, City Attorney, reminded the public that no discussion could take place with the Council since the public hearing was open.

B.2. Public Hearing: 781 E. Solana Circle, Applicant: Corsetti, Case 17-16-42. (File 0600-40)

The proposed project meets the minimum objective requirements under the Park Del Mar Development regulations and the underlying SBMC, could be found to be consistent with the General Plan and could be found, as conditioned, to meet the discretionary findings required as discussed in this report to approve a Development Review Permit (DRP). Therefore, Staff recommends that the City Council:

1. Conduct the Public Hearing: Open the Public Hearing, Report Council Disclosures, Receive Public Testimony, and Close the Public Hearing.

2. Find the project exempt from the California Environmental Quality Act pursuant to Section 15303 of the State CEQA Guidelines; and

3. If the City Council makes the requisite findings and approves the project, adopt **Resolution 2017-040** conditionally approving a DRP to allow for the construction of a 948 square foot addition to the existing, one-story, single-family residence and garage at 781 East Solana Circle.

Item B.2. Report (click here)
Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.

Councilmember Edson recused herself due to owning property within 500 ft. of the project.

Greg Wade, City Manager, introduced the item.

Corey Andrews, Principal Planner, presented a PowerPoint (on file).

Mayor Nichols opened the public hearing.

Council disclosures.

Allen Jaffe, applicant, waived his option to make a presentation.

Motion: Moved by Councilmember Zito and second by Deputy Mayor Marshall to close the public hearing. **Approved 4/0/1** (Recused: Edson). Motion carried.

Motion: Moved by Councilmember Zito and second by Deputy Mayor Marshall. **Approved 4/0/1** (Recused: Edson). Motion carried.

C. STAFF REPORTS: (C.2. - C.4.)
Submit speaker slips to the City Clerk.

C.2. Introduce Ordinance 474 (1st Reading) regarding California Public Employees Retirement System's (CalPERS) Contract Amendment. (File 0520-50)

Recommendation: That the City Council

1. Adopt Resolution of Intention, **Resolution 2017-038,** and introduce **Ordinance 474** approving the City's intention to amend its CalPERS contract in order to implement California Public Employees Retirement System's Government Code Section 20516 (Employees Sharing Additional Cost) for the Solana Beach Fire Association employee group.

Item C.2. Report (click here)
Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.

Greg Wade, City Manager, introduced the item, and stated that an adoption of the MOU for the Solana Beach Fire Association included a negotiated additional employee contribution of 3% of employer costs, and presented a PowerPoint (on file).

Council and Staff discussed that the savings was a ball park but that annually they would fluctuate due to change in salaries, retirements, and incoming tier 1 employees, that it was a big deal for the firemen to pick up the 3% costs on their retirement, and thanked Greg Wade, Dan King, Pouneh Sammak, and Marie Berkuti for their work on this issue.

Motion: Moved by Councilmember Edson and second by Councilmember Zito. **Approved 5/0**. Motion carried unanimously.

C.3. Adopt Ordinance 473 (2nd Reading) regarding Speed limits. (File 086-20)

Recommendation: That the City Council

1. Adopt **Ordinance 473** amending Chapter 10.36, Articles I and II, allowing speed limits to be declared by City Council resolution and repealing sections related to individual street segment speed limit changes.

Item C.3. Report (click here)

Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.

Johanna Canlas, City Attorney, read the title of the ordinance.

Council asked to clarify that the City could enforce the lower speed limits and that they would be enforceable now.

Johanna Canlas, City Attorney, stated that it was her understanding that there were circumstances and specific traffic conditions that warranted the speed limits that were adopted.

Motion: Moved by Councilmember Zito and second by Deputy Mayor Marshall. **Approved 5/0.** Motion carried unanimously.

C.4. Introduce Ordinance 475 (1st Reading) regarding Renewal of Public, Education, and Government (PEG) fees for State Franchises. (File 086-20)

Recommendation: That the City Council

1. Introduce **Ordinance 475** amending Section 13.20.020(B) of Solana Beach Municipal Code to renew the PEG fee for State franchisees.

Item C.4. Report (click here)

C.4. Updated Report #1

Posted Reports & Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.

Greg Wade, City Manager, introduced the item and explained that the City was advised by Cox, who is the City's primary franchise company, to update our ordinance in order to continue to receive PEG funds.

Council and Staff discussed that if the funds were not taken that there would not be a savings

from Cox and that as it was understood that they had no provision to give up the funds collected.

Motion: Moved by Councilmember Edson and second by Deputy Mayor Zito. **Approved 5/0.** Motion carried unanimously.

WORKPLAN COMMENTS: *Adopted June 8, 2016*
Special meeting schedule for Wed, March 29th 5:30 pm

COMPENSATION & REIMBURSEMENT DISCLOSURE: None
GC: Article 2.3. Compensation: 53232.3. (a) Reimbursable expenses shall include, but not be limited to, meals, lodging, and travel. 53232.3 (d) Members of a legislative body shall provide brief reports on meetings attended at the expense of the local agency at the next regular meeting of the legislative body.

COUNCIL COMMITTEE REPORTS:

Regional Committees: (outside agencies, appointed by this Council)

a. City Selection Committee (meets twice a year) – Nichols (Edson, alternate).
b. County Service Area 17 – Marshall (Nichols, alternate).
c. Escondido Creek Watershed Authority – Marshall/Staff (no alternate).
d. League of Ca. Cities' San Diego County Executive Committee – Nichols (Edson, alternate) and any subcommittees.
e. League of Ca. Cities' Local Legislative Committee – Nichols (Edson, alternate)
f. League of Ca. Cities' Coastal Cities Issues Group (CCIG) – Nichols (Edson, alternate)
g. North County Dispatch JPA – Marshall (Edson, alternate).
h. North County Transit District – Edson (Nichols, alternate)
i. Regional Solid Waste Association (RSWA) – Nichols (Hegenauer, alternate).
j. SANDAG – Zito (Primary), Edson (1st alternate), Nichols (2nd alternate) and any subcommittees.
k. SANDAG Shoreline Preservation Committee – Zito (Hegenauer, alternate).
l. San Dieguito River Valley JPA – Hegenauer (Nichols, alternate).
m. San Elijo JPA – Marshall, Zito (City Manager, alternate).
n. 22nd Agricultural District Association Community Relations Committee – Marshall, Edson.

Standing Committees: (All Primary Members) *(Permanent Committees)*

a. Business Liaison Committee – Zito, Edson.
b. Highway 101 / Cedros Ave. Development Committee – Edson, Nichols.
c. Fire Dept. Management Governance & Organizational Evaluation – Edson, Hegenauer
d. I-5 Construction Committee – Zito, Edson.
e. Parks and Recreation Committee – Nichols, Zito
f. Public Arts Committee – Marshall, Hegenauer.
g. School Relations Committee – Nichols, Hegenauer.

Citizen Commission:

a. Climate Action Commission – Hegenauer.

ADJOURN:
Mayor Nichols adjourned the meeting at 7:18 p.m.

Angela Ivey,City Clerk Approved:

CITY OF SOLANA BEACH

SOLANA BEACH CITY COUNCIL, SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY, PUBLIC FINANCING AUTHORITY, & HOUSING AUTHORITY

MINUTES

Joint SPECIAL Meeting
Wednesday, March 29, 2017 * 5:30 P. M.
City Hall / Council Chambers, 635 S. Highway 101, Solana Beach, California

- City Council meetings are video recorded and archived as a permanent record. The video recording captures the complete proceedings of the meeting and is available for viewing on the City's website.
- Posted Reports & Supplemental Docs contain records up to the cut off time prior to meetings for processing new submittals. Complete records containing meeting handouts, PowerPoints, etc. can be obtained through a Records Request.

CITY COUNCILMEMBERS

Mike Nichols, Mayor

Ginger Marshall, Deputy Mayor | **David A. Zito, Councilmember**

Jewel Edson, Councilmember | **Judy Hegenauer, Councilmember**

Gregory Wade	Johanna Canlas	Angela Ivey
City Manager	City Attorney	City Clerk

CALL TO ORDER AND ROLL CALL:

Deputy Mayor Marshall called the meeting to order at 5:32 p.m.

Present:	Ginger Marshall, David A. Zito, Jewel Edson, Judy Hegenauer
Absent:	Mike Nichols
Also Present:	Greg Wade, City Manager Johanna Canlas, City Attorney Angela Ivey, City Clerk, Mo Sammak, City Engineer/Public Works Dir. Marie Berkuti, Finance Manager Bill Chopyk, Community Development Dir. Danny King, Assistant City Manager

FLAG SALUTE:

APPROVAL OF AGENDA:

Motion: Moved by Councilmember Zito and second by Councilmember Edson. **Approved 4/0/1** (Absent: Nichols). Motion carried.

ORAL COMMUNICATIONS: None

C. STAFF REPORTS: (C.1.)

Submit speaker slips to the City Clerk.

C.1. Draft Work Plan for Fiscal Year 2017-2018. (File 0410-08)

Recommendation: That the City Council

1. Review, discuss and provide direction on the potential modifications to the draft Fiscal Year 2017-2018 Work Plan and provide direction to Staff.

Supplemental Docs contain records up to the cut off time, prior to the start of the meeting, for processing new submittals. The final official record containing handouts, PowerPoints, etc. can be obtained through a Records Request to the City Clerk's Office.

Greg Wade, City Manager, introduced the item.

Dan King, Assistant City Manager, and department heads presented a PowerPoint (on file).

Public speaker

Dave Roberts stated that he was speaking on behalf of the Parks and Recreation Committee, offerred to speak with the City Manager about additional funding to complete the Skate Park project, stated that the La Colonia and Fletcher Cove Tot Lots needed some maintenance, that they supported the potential purchase of the vacant property north of La Colonia Park and would help finding fundraising strategies to obtain it. Dave Roberts further suggested to make an off leash dog park on Santa Helena, to create Pocket Parks by the Fire Station and the golf course, and suggested to use the phone application called "See Click Fix" that alerted the City about street lights, abandon vehicles, etc. that was used by the City of Encinitas.

Council and Staff discussion ensued regarding requiring or encouraging new and substantial construction remodels to install photo voltaic systems both residential and commercial and get it set up by 2020, to develop a working committee with Del Mar and Encinitas to work on sea level rise and mitigations that would be appropriate, to develop a joint city working group with Del Mar to determine common priorities for the 16 acre parcel proposed for a resort hotel by Zephyr and how it would impact Solana Beach, investigate below ground parking and look at incentives for commercial structures that include electrical vehicle parking stations, to offer residential and commercial rain barrels and educate the public on the best way to use them, establish a small working group to address the equity issue with the Fairgrounds, Fletcher Cove Community Center and La Colonial Community Center repairs and upgrades, identify more affordable housing, purchase a building for low income housing apartments, and revise Solana Beach municipal code to allow for a flexibility in requirements for existing buildings that change uses and cannot accommodate current parking standards.

Council discussion continued regarding review of View Assessment Commission, guidelines and toolkit for a DRP, general plan update for roadways, prioritize Skate Park project more clearly with outlined objectives, improvements for Fletcher Cove park, ramp, tot lot, and the RFP for the City Hall parking lot.

Council and Staff discussed the elevator project being delayed because they were waiting on parts to come in, that the Bike Friendly City application was being worked on but had not been submitted, sea level rise and studies had estimated the change to be about 3-5 ft. by the year 2100, push for a dog park, more funding into the unfunded pension liability for

retirement funds and medical expenses for retired city and public safety employees, that the $5.2 million for the pump station had been set aside in the sewer reserve fund, there would be no rate increase beyond what was already approved and that the City was comfortable that it could meet the goals without additional rate increases.

Discussion continued regarding that two complexes had been hooked up and that four were programmed to connect to the Recycled Water Project on Via De La Valle, other options for affordable housing beyond the lots on S. Sierra, being against mandating residents to purchase energy star appliances for their home but rather incentivizing them to make changes, online services for payments and tracking code violations, potential online permitting program to access information of the permit process online, review comments from various departments, to allow more coordination and more access and efficient processing of permits since all records now were hard copy paper.

Discussion continued regarding using a resident friendly application to report community issues, to make all Staff Reports electronic, text searchable, tabbed, and have the ability to easily be downloaded as one document, to have multiple forums to gather input on a potential CCA, possible air sampling jointly with surrounding cities due to concerns about people living near freeways.

ADJOURN:

Deputy Mayor Marshall adjourned the meeting at 7:09 p.m.

STAFF REPORT
CITY OF SOLANA BEACH

TO: Honorable Mayor and City Councilmembers
FROM: Gregory Wade, City Manager
MEETING DATE: May 24, 2017
ORIGINATING DEPT: Finance
SUBJECT: **Register of Demands**

BACKGROUND:

Section 3.04.020 of the Solana Beach Municipal Code requires that the City Council ratify a register of demands which represents all financial demands made upon the City for the applicable period.

Register of Demands- 04/22/17 through 05/05/17			
Check Register-Disbursement Fund (Attachment 1)		$	766,637.73
Council Payroll	May 4, 2017		3,981.49
Federal & State Taxes	May 4, 2017		411.61
PERS Retirement (EFT)	May 4, 2017		517.90
Net Payroll	May 5, 2017		138,444.66
Federal & State Taxes	May 5, 2017		39,044.23
PERS Retirement (EFT)	May 5, 2017		38,943.90
TOTAL		$	987,981.52

DISCUSSION:

Staff certifies that the register of demands has been reviewed for accuracy, that funds are available to pay the above demands, and that the demands comply with the adopted budget.

CEQA COMPLIANCE STATEMENT:

Not a project as defined by CEQA.

FISCAL IMPACT:

The register of demands for April 22, 2017 through May 5, 2017 reflects total expenditures of $987,981.52 from various City funding sources.

CITY COUNCIL ACTION: _____

_____

WORK PLAN:

N/A

OPTIONS:

- Ratify the register of demands.
- Do not ratify and provide direction.

DEPARTMENT RECOMMENDATION:

Staff recommends that the City Council ratify the above register of demands.

CITY MANAGER'S RECOMMENDATION:

Approve Department Recommendation.

Gregory Wade, City Manager

Attachments:

1. Check Register – Disbursement Fund

SELECTION CRITERIA: transact.ck_date between '20170422 00:00:00.000' and '20170505 00:00:00.000'
ACCOUNTING PERIOD: 11/17

FUND - 001 - GENERAL FUND

CASH ACCT	CHECK NO	ISSUE DT	VENDOR	NAME	BUDGET UNIT	-----DESCRIPTION------	SALES TAX	AMOUNT
1011	90035	04/27/17	1561	CDW GOVERNMENT INC	00150005450	BATTERIES	0.00	73.05
1011	90036	04/27/17	127	COX COMMUNICATIONS INC	00150005450	TV BRDCAST 04/10-5/09	0.00	1,160.75
1011	90037	04/27/17	38	DEPARTMENT OF CONSERVATI	001	SMIP FEE JAN-MAR 2017	0.00	1,180.99
1011	90038	04/27/17	739	DEPARTMENT OF JUSTICE	00150005400	FINGERPRINT APPS-MAR	0.00	128.00
1011	90039	04/27/17	5210	COUNTY OF SAN DIEGO	00160006140	PRKNG CITE ADMIN-MAR	0.00	3,176.00
1011	90040	04/27/17	4684	DIVISION OF THE STATE AR	001	DAE FEE JAN-MAR 2017	0.00	170.40
1011	90041	04/27/17	640	EDCO WASTE/RECYCLING INC	00150005300	DSPL OF MS OLD GYM	0.00	35.00
1011	90042	04/27/17	94	ESGIL CORPORATION	00155005560	BLDG PRMT 04/01-04/07	0.00	5,544.39
1011	90042	04/27/17	94	ESGIL CORPORATION	00155005560	BLDG PRMT 04/01-04/07	0.00	1,000.73
1011	90042	04/27/17	94	ESGIL CORPORATION	00155005560	BLDG PRMT 03/26-03/31	0.00	5,684.36
1011	90042	04/27/17	94	ESGIL CORPORATION	00160006120	FIRE PRMT 03/26-03/31	0.00	749.90
1011	90042	04/27/17	94	ESGIL CORPORATION	00160006120	FIRE PRMT 04/01-04/07	0.00	1,043.36
TOTAL CHECK							0.00	14,022.74
1011	90043	04/27/17	4166	HOGAN LAW APC	00150005250	GEN LEGAL-SEIRRA CLUB	0.00	292.50
1011	90043	04/27/17	4166	HOGAN LAW APC	00150005250	GENERAL LEGAL-MAR	0.00	617.50
TOTAL CHECK							0.00	910.00
1011	90044	04/27/17	2315	INFRASTRUCTURE ENGINEERI	50999356510	9935 RCLM WTR-PE 3/31	0.00	856.58
1011	90045	04/27/17	5234	JOSEPH D KRUPP	001	RLS CG3169/460 S NARD	0.00	5,000.00
1011	90045	04/27/17	5234	JOSEPH D KRUPP	001	RLS SBGR#334/460 S NA	0.00	17,094.00
TOTAL CHECK							0.00	22,094.00
1011	90046	04/27/17	5230	KRISTEN PRUETT	001	RFND: RESO2016-004/98	0.00	100.00
1011	90047	04/27/17	2883	LINSCOTT,LAW & GREENSPAN	45993226510	9322.01 SPEED PE03/31	0.00	1,227.75
1011	90048	04/27/17	1130	MCDOUGAL LOVE ECKIS SMIT	65278007820	AFFRDBL HSNG-MAR	0.00	5.25
1011	90048	04/27/17	1130	MCDOUGAL LOVE ECKIS SMIT	12050005460	CLM.1704 PE 03/31/17	0.00	3,298.00
1011	90048	04/27/17	1130	MCDOUGAL LOVE ECKIS SMIT	00150005250	PROF SERV PE 03/31/17	0.00	5,500.00
1011	90048	04/27/17	1130	MCDOUGAL LOVE ECKIS SMIT	00150005250	PROF SERV PE 03/31/17	0.00	5,712.00
1011	90048	04/27/17	1130	MCDOUGAL LOVE ECKIS SMIT	00150005250	PROF SERV PE 03/31/17	0.00	11,421.55
1011	90048	04/27/17	1130	MCDOUGAL LOVE ECKIS SMIT	00150005250	PROF SERV PE 03/31/17	0.00	68.00
1011	90048	04/27/17	1130	MCDOUGAL LOVE ECKIS SMIT	00150005250	PROF SERV PE 03/31/17	0.00	204.00
1011	90048	04/27/17	1130	MCDOUGAL LOVE ECKIS SMIT	00150005250	PROF SERV PE 03/31/17	0.00	204.00
1011	90048	04/27/17	1130	MCDOUGAL LOVE ECKIS SMIT	00150005250	PROF SERV PE 03/31/17	0.00	1,105.00
1011	90048	04/27/17	1130	MCDOUGAL LOVE ECKIS SMIT	00150005250	PROF SERV PE 03/31/17	0.00	1,156.00
TOTAL CHECK							0.00	28,673.80
1011	90049	04/27/17	111	MISSION LINEN & UNIFORM	21100007600	LAUNDRY-PUB WORKS	0.00	1.56
1011	90049	04/27/17	111	MISSION LINEN & UNIFORM	50900007700	LAUNDRY-PUB WORKS	0.00	6.25
1011	90049	04/27/17	111	MISSION LINEN & UNIFORM	00165006560	LAUNDRY-PUB WORKS	0.00	7.03
1011	90049	04/27/17	111	MISSION LINEN & UNIFORM	00165006520	LAUNDRY-PUB WORKS	0.00	7.04
1011	90049	04/27/17	111	MISSION LINEN & UNIFORM	00165006530	LAUNDRY-PUB WORKS	0.00	12.50

ATTACHMENT 1

SELECTION CRITERIA: transact.ck_date between '20170422 00:00:00.000' and '20170505 00:00:00.000'
ACCOUNTING PERIOD: 11/17

FUND - 001 - GENERAL FUND

CASH ACCT	CHECK NO	ISSUE DT	VENDOR	NAME	BUDGET UNIT	-----DESCRIPTION------	SALES TAX	AMOUNT
TOTAL CHECK							0.00	34.38
1011	90050	04/27/17	50	OFFICE DEPOT INC	00150005350	PAPER	0.00	629.95
1011	90051	04/27/17	54	1 STOP TONER & INKJET, L	00150005300	TONER-FINANCE	0.00	43.09
1011	90052	04/27/17	3307	PURE FLO WATER-LC	00170007110	DRINK WATER-MAR	0.00	37.19
1011	90053	04/27/17	141	SANTA FE IRRIGATION DIST	20475007520	GRP 7-12 02/16-04/14	0.00	640.67
1011	90054	04/27/17	3909	SECTRAN SECURITY INC	12050005460	COURIER SVC-APR	0.00	106.00
1011	90054	04/27/17	3909	SECTRAN SECURITY INC	12050005460	COURIER SVC FUEL-APR	0.00	6.36
TOTAL CHECK							0.00	112.36
1011	90055	04/27/17	683	STATE CONTROLLER'S OFFIC	20265006510	STREET REPORT FY16/17	0.00	2,430.91
1011	90056	04/27/17	5189	SUNSHINE VENTURES	001	RFND GP#202/357 PACIF	0.00	76,000.00
1011	90057	04/27/17	4959	TELECOM LAW FIRM	21355005550	1716.04/990 HIGHLAND	0.00	751.80
1011	90058	04/27/17	2097	UT SAN DIEGO - NRTH COUN	00150005150	PUB NTC-ORD # 475	0.00	145.45
1011	90058	04/27/17	2097	UT SAN DIEGO - NRTH COUN	00150005150	PUB NTC -ORD #474	0.00	151.34
1011	90058	04/27/17	2097	UT SAN DIEGO - NRTH COUN	00155005550	PUB HRNG-1717.11 DRP	0.00	156.45
1011	90058	04/27/17	2097	UT SAN DIEGO - NRTH COUN	00155005550	PUB HRNG-1716.27 DRP	0.00	157.24
1011	90058	04/27/17	2097	UT SAN DIEGO - NRTH COUN	45994076510	9407.00-BID #2017-05	0.00	603.58
TOTAL CHECK							0.00	1,214.06
1011	90059	04/27/17	1512	WELLS FARGO BANK N.A.	652	LESS BOND FUND 06/01	0.00	-0.71
1011	90059	04/27/17	1512	WELLS FARGO BANK N.A.	65278007820	INT TERM BOND 06/01	0.00	34,865.00
1011	90059	04/27/17	1512	WELLS FARGO BANK N.A.	65278007820	INT ESCROW BOND 6/01	0.00	37,183.75
1011	90059	04/27/17	1512	WELLS FARGO BANK N.A.	65278007820	PRIN ESCROW BOND 6/01	0.00	45,000.00
1011	90059	04/27/17	1512	WELLS FARGO BANK N.A.	65278007820	PRIN TERM BOND 6/01	0.00	45,000.00
TOTAL CHECK							0.00	162,048.04
1011	90060	05/04/17	2379	AA FARNSWORTH'S BACKFLOW	00165006520	BACKFLOW ANNUAL TEST	0.00	210.00
1011	90061	05/04/17	4711	ABEL PEREZ	00165006560	04/23-MILAGE	0.00	18.19
1011	90062	05/04/17	1135	AFFORDABLE PIPELINE SERV	12050005460	CLM.1740 SINK HOLE	0.00	510.00
1011	90062	05/04/17	1135	AFFORDABLE PIPELINE SERV	12050005460	CLM.1740 SINK HOLE	0.00	2,150.00
TOTAL CHECK							0.00	2,660.00
1011	90063	05/04/17	2137	AFLAC	001	APRIL 17	0.00	980.68
1011	90064	05/04/17	1122	APPLE ONE, INC	00150005150	TEMP HELP PE 04/15	0.00	969.84
1011	90065	05/04/17	3704	ARCO GASPRO PLUS	00160006140	AUTO FUEL 04/03-05/02	0.00	62.53
1011	90065	05/04/17	3704	ARCO GASPRO PLUS	00165006560	AUTO FUEL 04/03-05/02	0.00	71.58
1011	90065	05/04/17	3704	ARCO GASPRO PLUS	00160006120	AUTO FUEL 04/03-05/02	0.00	97.52
1011	90065	05/04/17	3704	ARCO GASPRO PLUS	00165006570	AUTO FUEL 04/03-05/02	0.00	119.30
1011	90065	05/04/17	3704	ARCO GASPRO PLUS	00165006510	AUTO FUEL 04/03-05/02	0.00	131.23
1011	90065	05/04/17	3704	ARCO GASPRO PLUS	50900007700	AUTO FUEL 04/03-05/02	0.00	143.17

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ACCOUNTING PERIOD: 11/17

FUND - 001 - GENERAL FUND

CASH ACCT	CHECK NO	ISSUE DT	VENDOR	NAME	BUDGET UNIT	-----DESCRIPTION------	SALES TAX	AMOUNT
1011	90065	05/04/17	3704	ARCO GASPRO PLUS	00160006170	AUTO FUEL 04/03-05/02	0.00	294.72
1011	90065	05/04/17	3704	ARCO GASPRO PLUS	00165006530	AUTO FUEL 04/03-05/02	0.00	345.98
1011	90065	05/04/17	3704	ARCO GASPRO PLUS	00165006520	AUTO FUEL 04/03-05/02	0.00	381.76
TOTAL CHECK							0.00	1,647.79
1011	90066	05/04/17	4832	AT&T CALNET 3	00165006540	9391012279 03/24-4/23	0.00	42.22
1011	90067	05/04/17	4832	AT&T CALNET 3	50900007700	9391012277 03/24-4/23	0.00	12.48
1011	90068	05/04/17	2975	BABI-KINI/MICHELSON INC	25560006180	JG PATCHES	0.00	366.12
1011	90069	05/04/17	5173	BARBARA A BOSWELL	45999055550	9905.02 PROF SVC-APR	0.00	450.00
1011	90070	05/04/17	5238	BRANDON COATES	001	RFND-EP#3802/120 SIER	0.00	261.00
1011	90071	05/04/17	3480	BUSINESS PRINTING COMPAN	00150005350	WINDOW ENVELOPS	0.00	136.30
1011	90071	05/04/17	3480	BUSINESS PRINTING COMPAN	00155005560	BUS CARD-BERMUDEZ	0.00	79.84
TOTAL CHECK							0.00	216.14
1011	90072	05/04/17	1724	CALPELRA	00150005400	ANNUAL MMBRSHP 2017	0.00	350.00
1011	90072	05/04/17	1724	CALPELRA	001	CONF-12/04-12/08	0.00	670.00
TOTAL CHECK							0.00	1,020.00
1011	90073	05/04/17	5051	CINTAS CORPORATION NO. 2	00165006570	FIRST AID SUPPLIES-CH	0.00	97.73
1011	90074	05/04/17	3551	CITY NATIONAL BANK	32000007220	CHVRON#12-015: 06/08	0.00	11,033.90
1011	90074	05/04/17	3551	CITY NATIONAL BANK	31700007210	ABAG#11-022: 06/01	0.00	13,892.40
1011	90074	05/04/17	3551	CITY NATIONAL BANK	32000007220	CHVRON#12-015: 06/08	0.00	24,153.11
TOTAL CHECK							0.00	49,079.41
1011	90075	05/04/17	1295	CITY OF DEL MAR	00150005450	IT MAINT SUPPORT-MAR	0.00	1,800.00
1011	90076	05/04/17	211	CONSOLIDATED ELECTRICAL	00165006570	FUSE/ANTI OXIDNT COMP	0.00	51.87
1011	90077	05/04/17	127	COX COMMUNICATIONS INC	00150005450	CTYINTRNT 04/19-05/18	0.00	646.18
1011	90078	05/04/17	2374	DARIN KUITE	00150005400	CRIT THINKING-D KUTIE	0.00	660.00
1011	90079	05/04/17	213	DEPARTMENT OF TRANSPORTA	00165006540	MAINT 01/01-03/31	0.00	549.81
1011	90079	05/04/17	213	DEPARTMENT OF TRANSPORTA	00165006540	ELECT 01/01-03/31	0.00	374.99
TOTAL CHECK							0.00	924.80
1011	90080	05/04/17	4252	DEWEY PEST CONTROL INC	00165006570	PEST CNTRL-APR	0.00	175.00
1011	90081	05/04/17	134	DIXIELINE LUMBER CO INC	00165006570	ACRYLIC PANEL-CLEAR	0.00	11.63
1011	90081	05/04/17	134	DIXIELINE LUMBER CO INC	00165006570	PNT ROLLR/ROLLR COVER	0.00	30.65
1011	90081	05/04/17	134	DIXIELINE LUMBER CO INC	00165006570	BOLT/ WRENCH	0.00	34.33
1011	90081	05/04/17	134	DIXIELINE LUMBER CO INC	00165006570	GLOVES/ANGLE BRUSHES	0.00	35.05
1011	90081	05/04/17	134	DIXIELINE LUMBER CO INC	00165006560	SCREWS/DRILL BIT SET	0.00	39.56
1011	90081	05/04/17	134	DIXIELINE LUMBER CO INC	00165006570	BASE PAINT	0.00	41.74
TOTAL CHECK							0.00	192.96

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FUND - 001 - GENERAL FUND

CASH ACCT	CHECK NO	ISSUE DT	VENDOR	NAME	BUDGET UNIT	-----DESCRIPTION------	SALES TAX	AMOUNT
1011	90082	05/04/17	94	ESGIL CORPORATION	00155005560	BLDG PRMT 04/08-04/14	0.00	21,333.66
1011	90082	05/04/17	94	ESGIL CORPORATION	00160006120	FIRE PRMT 04/08-04/14	0.00	3,315.38
TOTAL CHECK							0.00	24,649.04
1011	90083	05/04/17	2873	GEOPACIFICA, INC	21365006510	0328/249-311 PACIFIC	0.00	1,350.00
1011	90083	05/04/17	2873	GEOPACIFICA, INC	21365006510	0312/523-525 PACIFIC	0.00	1,050.00
TOTAL CHECK							0.00	2,400.00
1011	90084	05/04/17	1792	HARRIS & ASSOC. INC.	21355005550	1715.15 PROF SVC-MAR	0.00	97.50
1011	90085	05/04/17	11	ICMA RETIREMENT TRUST-45	001	ICMA PD 05/04/17	0.00	6,287.67
1011	90085	05/04/17	11	ICMA RETIREMENT TRUST-45	001	ICMA PD 05/05/17	0.00	8,651.42
TOTAL CHECK							0.00	14,939.09
1011	90086	05/04/17	3859	ICMA RETIREMENT TRUST-RH	001	ICMA PD 05/05/17	0.00	1,886.60
1011	90087	05/04/17	172	LEE'S LOCK & SAFE INC	00165006530	FC-SRVC/RPR HRDWR/LCK	0.00	236.91
1011	90088	05/04/17	2102	LEGAL SHIELD CORP	001	PPD LEGAL -APR 17	0.00	90.65
1011	90089	05/04/17	71	L. N. CURTIS & SONS INC	21460006120	CARBON SHIELD/MEAD	0.00	65.73
1011	90090	05/04/17	5239	MALLORY SAFETY AND SUPPL	21460006120	WOODS-SHELTER/MASK	0.00	572.33
1011	90091	05/04/17	4738	MEDICAL EYE SERVICES	00150005400	ROUNDING - APR	0.00	-0.22
1011	90091	05/04/17	4738	MEDICAL EYE SERVICES	001	EE# - APR	0.00	9.03
1011	90091	05/04/17	4738	MEDICAL EYE SERVICES	001	EE# - APR	0.00	11.29
1011	90091	05/04/17	4738	MEDICAL EYE SERVICES	001	EE# - APR	0.00	20.33
1011	90091	05/04/17	4738	MEDICAL EYE SERVICES	001	EE# - APR	0.00	20.33
1011	90091	05/04/17	4738	MEDICAL EYE SERVICES	001	VISION - APR	0.00	441.15
TOTAL CHECK							0.00	501.91
1011	90092	05/04/17	111	MISSION LINEN & UNIFORM	21100007600	LAUNDRY-PUB WORKS	0.00	1.56
1011	90092	05/04/17	111	MISSION LINEN & UNIFORM	50900007700	LAUNDRY-PUB WORKS	0.00	6.25
1011	90092	05/04/17	111	MISSION LINEN & UNIFORM	00165006560	LAUNDRY-PUB WORKS	0.00	7.03
1011	90092	05/04/17	111	MISSION LINEN & UNIFORM	00165006520	LAUNDRY-PUB WORKS	0.00	7.04
1011	90092	05/04/17	111	MISSION LINEN & UNIFORM	00165006530	LAUNDRY-PUB WORKS	0.00	12.50
TOTAL CHECK							0.00	34.38
1011	90093	05/04/17	4522	NISSHO OF CALIFORNIA	00165006560	INSTL BATTRY CONTROL	0.00	370.68
1011	90093	05/04/17	4522	NISSHO OF CALIFORNIA	50999356510	9935 REPAIR MAINLINE	0.00	1,086.57
TOTAL CHECK							0.00	1,457.25
1011	90094	05/04/17	50	OFFICE DEPOT INC	00155005550	STAMPS/INK PADS	0.00	63.31
1011	90094	05/04/17	50	OFFICE DEPOT INC	00150005350	RETURN PENS	0.00	-24.01
1011	90094	05/04/17	50	OFFICE DEPOT INC	00150005350	BREAK ROOM SUPPLIES	0.00	5.46
1011	90094	05/04/17	50	OFFICE DEPOT INC	00150005350	FOLDERS/NOTEPAD/PENS	0.00	54.84
TOTAL CHECK							0.00	99.60
1011	90095	05/04/17	54	1 STOP TONER & INKJET, L	00155005550	TONER-PLANNING	0.00	172.36
1011	90096	05/04/17	4767	PARTNERSHIPS WITH INDUST	00165006570	TRASH ABTMNT PE04/15	0.00	1,086.78

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ACCOUNTING PERIOD: 11/17

FUND - 001 - GENERAL FUND

CASH ACCT	CHECK NO	ISSUE DT	VENDOR	NAME	BUDGET UNIT	-----DESCRIPTION------	SALES TAX	AMOUNT
1011	90097	05/04/17	3203	VAIDA PAVOLAS	00150005400	POLI SCI-PAVOLAS	0.00	1,700.00
1011	90097	05/04/17	3203	VAIDA PAVOLAS	00150005150	TTC SRS 300-3/14-3/17	0.00	565.71
TOTAL CHECK							0.00	2,265.71
1011	90098	05/04/17	1087	PREFERRED BENEFIT INS AD	00150005400	ROUNDING APRIL 17	0.00	-0.07
1011	90098	05/04/17	1087	PREFERRED BENEFIT INS AD	001	EE# COBRA APRIL 17	0.00	46.80
1011	90098	05/04/17	1087	PREFERRED BENEFIT INS AD	001	EE# COBRA APRIL 17	0.00	84.00
1011	90098	05/04/17	1087	PREFERRED BENEFIT INS AD	001	EE# TIMING APRIL 17	0.00	84.00
1011	90098	05/04/17	1087	PREFERRED BENEFIT INS AD	001	EE# COBRA APRIL 17	0.00	93.60
1011	90098	05/04/17	1087	PREFERRED BENEFIT INS AD	001	DENTAL APRIL 17	0.00	2,756.46
TOTAL CHECK							0.00	3,064.79
1011	90099	05/04/17	1112	RANCHO SANTA FE SECURITY	00165006570	LCP ALARM SVC/REPAIR	0.00	78.00
1011	90099	05/04/17	1112	RANCHO SANTA FE SECURITY	00165006560	RESTRM LCK/UNLOCK-APR	0.00	515.00
1011	90099	05/04/17	1112	RANCHO SANTA FE SECURITY	00165006560	ALARM MONITORING-APR	0.00	174.50
TOTAL CHECK							0.00	767.50
1011	90100	05/04/17	257	SAN DIEGO COUNTY SHERIFF	21960006110	LAW ENFORCEMENT-MAR	0.00	8,333.33
1011	90100	05/04/17	257	SAN DIEGO COUNTY SHERIFF	00160006110	LAW ENFORCEMENT-MAR	0.00	301,601.67
1011	90100	05/04/17	257	SAN DIEGO COUNTY SHERIFF	001	CR TOW FEE-MAR	0.00	-328.26
TOTAL CHECK							0.00	309,606.74
1011	90101	05/04/17	169	SDG&E CO INC	00165006540	UTILITIES-03/08-04/07	0.00	391.23
1011	90101	05/04/17	169	SDG&E CO INC	00165006530	UTILITIES-03/08-04/07	0.00	424.55
1011	90101	05/04/17	169	SDG&E CO INC	00165006540	UTILITES-03/07-04/07	0.00	819.79
1011	90101	05/04/17	169	SDG&E CO INC	00165006530	UTILITES-03/07-04/07	0.00	898.26
1011	90101	05/04/17	169	SDG&E CO INC	00165006570	UTILITIES-03/08-04/07	0.00	1,298.74
1011	90101	05/04/17	169	SDG&E CO INC	20375007510	UTILITES-03/07-04/07	0.00	1,717.48
1011	90101	05/04/17	169	SDG&E CO INC	00165006570	UTILITES-03/07-04/07	0.00	3,961.35
1011	90101	05/04/17	169	SDG&E CO INC	21100007600	UTILITIES-03/08-04/07	0.00	6,480.36
TOTAL CHECK							0.00	15,991.76
1011	90102	05/04/17	13	SOLANA BEACH FIREFIGHTER	001	FD DUES PD 05/05/17	0.00	823.50
1011	90103	05/04/17	3199	SOUTH COAST EMERGENCY VE	00160006120	FD APPARATS RPR T2471	0.00	897.35
1011	90104	05/04/17	1231	STAPLES CONTRACT & COMME	00165006520	LETTER TRAY SET	0.00	25.85
1011	90104	05/04/17	1231	STAPLES CONTRACT & COMME	00165006510	DRWR ORGNZR/ PENS	0.00	38.64
1011	90104	05/04/17	1231	STAPLES CONTRACT & COMME	00155005550	3 RING BINDERS	0.00	51.67
1011	90104	05/04/17	1231	STAPLES CONTRACT & COMME	00150005350	RTRN- GEN SUPPLIES-CH	0.00	-9.47
1011	90104	05/04/17	1231	STAPLES CONTRACT & COMME	00150005350	BRK ROOM CAN OPENER	0.00	12.70
1011	90104	05/04/17	1231	STAPLES CONTRACT & COMME	00150005350	GENERAL SUPPLIES-CH	0.00	21.96
1011	90104	05/04/17	1231	STAPLES CONTRACT & COMME	00150005350	KNIFE SET-BREAK ROOM	0.00	26.93
1011	90104	05/04/17	1231	STAPLES CONTRACT & COMME	00150005350	STEP STOOL	0.00	53.86
1011	90104	05/04/17	1231	STAPLES CONTRACT & COMME	00150005300	BDGT FOLDER/FOLDERS	0.00	60.60
1011	90104	05/04/17	1231	STAPLES CONTRACT & COMME	00150005350	TAPE/PENS/POST ITS	0.00	67.19
1011	90104	05/04/17	1231	STAPLES CONTRACT & COMME	00150005350	GENERAL SUPPLIES-CH	0.00	70.72
TOTAL CHECK							0.00	420.65
1011	90105	05/04/17	3676	STEPHEN DALTON ARCHITECT	45994496510	9449 MS STDY PE 04/17	0.00	361.44
1011	90105	05/04/17	3676	STEPHEN DALTON ARCHITECT	45994496510	9449 MS STDY PE 04/17	0.00	1,384.55

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FUND - 001 - GENERAL FUND

CASH ACCT	CHECK NO	ISSUE DT	VENDOR	NAME	BUDGET UNIT	-----DESCRIPTION------	SALES TAX	AMOUNT
TOTAL CHECK							0.00	1,745.99
1011	90106	05/04/17	4534	TRAFFIC SUPPLY, INC	00165006570	CONCRETE CAR STOP-CH	0.00	26.57
1011	90107	05/04/17	1458	THE UNIFORM SPECIALIST	21460006120	TURNOUT-KONZEN	0.00	1,229.62
1011	90108	05/04/17	525	UNITED PARCEL SERVICE	00150005150	06/09-DOC SHPMNT	0.00	104.23
1011	90109	05/04/17	12	UNITED WAY OF SAN DIEGO	001	UNITED WY PD 05/05/17	0.00	70.00
1011	90110	05/04/17	2097	UT SAN DIEGO - NRTH COUN	00155005550	PUB HRNG-1716.10 DRP	0.00	169.42
1011	90110	05/04/17	2097	UT SAN DIEGO - NRTH COUN	00155005550	PUB HRNG-1716.09 DRP	0.00	182.38
1011	90110	05/04/17	2097	UT SAN DIEGO - NRTH COUN	00155005550	PUB HRNG-1716.22 DRP	0.00	185.92
1011	90110	05/04/17	2097	UT SAN DIEGO - NRTH COUN	00150005150	ORD 476-CHPT 17.42	0.00	561.55
TOTAL CHECK							0.00	1,099.27
TOTAL CASH ACCOUNT							0.00	766,637.73
TOTAL FUND							0.00	766,637.73
TOTAL REPORT							0.00	766,637.73

STAFF REPORT
CITY OF SOLANA BEACH

TO: Honorable Mayor and City Councilmembers
FROM: Gregory Wade, City Manager
MEETING DATE: May 24, 2017
ORIGINATING DEPT: Finance
SUBJECT: **Report on Changes Made to the General Fund Adopted Budget for Fiscal Year 2016-2017**

BACKGROUND:

Staff provides a report at each Council meeting that lists changes made to the current Fiscal Year (FY) General Fund Adopted Budget.

The information provided in this Staff Report lists the changes made through May 10, 2017.

DISCUSSION:

The following table reports the revenue, expenditures, and transfers for 1) the Adopted General Fund Budget approved by Council on June 8, 2016 (Resolution 2016-080) and 2) any resolutions passed by Council that amended the Adopted General Fund Budget.

GENERAL FUND - ADOPTED BUDGET PLUS CHANGES
As of May 10, 2017

Action	Description	Revenues	Expenditures	Transfers from GF		Net Surplus
Reso 2016-080	Adopted Budget	16,512,500	(16,148,700)	(350,800)	(1)	$ 13,000
Reso 2016-112	Qtr-Year Budget Adjustments	-	130,700	76,900	(2)	220,600
Reso 2017-029	Mid-Year Budget Adjustments	350,000	(311,200)	(29,000)	(3)	230,400
(1)	Transfers to:					
	Debt Service for Public Facilities		153,300			
	City CIP Fund		152,500			
	Asset Replacement		45,000	350,800		
(2)	Transfer from:					
	City CIP Fund			(76,900)		
(3)	Transfer to:					
	City CIP Fund			29,000		

CEQA COMPLIANCE STATEMENT:

Not a project as defined by CEQA

COUNCIL ACTION:

FISCAL IMPACT:

N/A

WORK PLAN:

N/A

OPTIONS:

- Receive the report.
- Do not accept the report

DEPARTMENT RECOMMENDATION:

Staff recommends that the City Council receive the report listing changes made to the FY 2016-2017 General Fund Adopted Budget.

CITY MANAGER'S RECOMMENDATION:

Approve Department Recommendation

Gregory Wade, City Manager

STAFF REPORT
CITY OF SOLANA BEACH

TO:	Honorable Mayor and City Councilmembers
FROM:	Gregory Wade, City Manager
MEETING DATE:	May 24, 2017
ORIGINATING DEPT:	Engineering
SUBJECT:	**Consideration of the Engineer's Report, the Annual Levy and Collection of Assessments for the Solana Beach Lighting District**

BACKGROUND:

In 1987, the City Council adopted a resolution forming the Solana Beach Lighting District under the provisions of the Landscape and Lighting Act of 1972, Division 15, Part 2, of the California Streets and Highways Code. The District was formed for the purpose of levying and collecting funds for the installation, operation, and maintenance of street lighting facilities within the City.

The 1972 Act requires the City Council to annually adopt a resolution directing the preparation and filing of an Annual Report and a Resolution of Intention to renew the District. The resolutions declare the City Council's intention to levy and collect assessments and set the date of the public hearing at which the assessments will be levied. The law requires the assessment information to be submitted to the County by August 10th each year. In Fiscal Year (FY) 2008/09, fees for the street light district were suspended. During the period of FY 2009/10 through FY 2016/17, fees were collected but the rate was not increased. Staff is proposing no increase in fees for FY 2017/18.

Utilizing some of the reserve funds in the district, all City-owned streetlights were retrofitted to LED fixtures approximately four years ago. The new LED lights are much more energy efficient than the old lights and use approximately 50% less energy than the standard streetlights that were previously used. The streetlights in Solana Beach are not metered. Instead, the City pays a set rate for each light. The conversion of the City's streetlights from primarily pressure sodium fixtures to LED fixtures has resulted in a lower cost per streetlight. Since there are different wattages of lights throughout the City, it is difficult to provide an exact cost savings since the LED fixtures were installed. As an example, the

CITY COUNCIL ACTION:

cost for a 250 watt pressure sodium light was $5.55 per light per month and the cost for a comparable LED light is $2.64 per light per month. Staff has estimated that the savings averages out to be approximately 40% to 55% in savings of energy costs alone. Additionally, LED lights require much lower levels of maintenance compared to pressure sodium lights. In general, the conversion of the streetlights to LED fixtures has resulted in a savings of approximately $25,000 to $30,000 per year which has been reflected in subsequent budgets.

This item is presented to the City Council to consider approving resolutions accepting the Annual Report, to renew the district and set the date of the public hearing to be held on June 28, 2017.

DISCUSSION:

Attachment 1 is the proposed Engineer's Report for FY 2017/18. The recommended assessment methodology is a Spread Methodology as outlined in the Calculation of Assessment Fees, pages 7 and 8 of Attachment 1. The amount to be assessed for street lighting is $76,798. The Derivation of Street Lighting Benefit Units table in Exhibit 2 is found to be consistent with the current SANDAG Traffic Generation Manual and is appropriate for the associated land uses. The improvements include those designated in the district boundaries and shown in the City's Street Light Master Plan.

The Solana Beach Lighting District is the successor agency to portions of San Diego County Lighting Maintenance District Nos. 1 and 3 (LMD1 and LMD3). Ballots issued in 1982 and 1984 to levy assessments for LMD1 and LMD3 were approved to have a maximum charge of $25.00 per benefit unit. This maximum benefit unit charge will not apply to Zone B of the Solana Beach Lighting District as it was formed since Solana Beach was incorporated.

The annual assessment fees for this year are $8.80 per benefit unit for Zone A and $1.62 for Zone B. These fees are the same assessment fees as last year. In order to levy and collect an assessment in the Solana Beach Lighting District, it is necessary to notify the property owners of the City. The City will publish two notices in a newspaper of local circulation indicating the public hearing to be held on June 28, 2017.

CEQA COMPLIANCE STATEMENT:

Not a project as defined by CEQA.

FISCAL IMPACT:

The District has been financed by a benefit charge and by using the District's share of one percent ad valorem property tax revenues since FY 1989/90. The amount to be generated from the benefit assessment is proposed to be $8.80 per benefit unit in Zone A and $1.62 in Zone B which is unchanged from last year.

WORK PLAN:

Renewal of the Solana Beach Lighting District is consistent with the Fiscal Sustainability section of the City's Work Plan.

OPTIONS:

- Accept the Engineer's Report for proceeding for the annual levy of assessments and set time and date for a public hearing on June 28, 2017.
- Suspend assessment for FY 2017/18.
- Do not renew the Lighting District and provide direction to Staff.

DEPARTMENT RECOMMENDATION:

Staff recommends that the City Council:

1. Adopt Resolution 2017-078 approving the Engineer's Report for proceedings for the annual levy of assessments within a special maintenance district.
2. Adopt Resolution 2017-079 declaring intention to provide for an annual levy and collection of assessment in a special maintenance district and setting a time and date for a public hearing; and scheduling the public hearing for June 28, 2017.

CITY MANAGER'S RECOMMENDATION:

Approve Department Recommendation.

Gregory Wade, City Manager

Attachments:

1. Engineer's Report
2. Resolution 2017-078, Approving Engineer's Report
3. Resolution 2017-079, Setting Public Hearing

CITY OF SOLANA BEACH
LIGHTING MAINTENANCE DISTRICT
ENGINEER'S REPORT
FISCAL YEAR 2017/2018

Prepared by:

Dan Goldberg

Principal Civil Engineer

R.C.E. 57292

Prepared May 8, 2017

ATTACHMENT 1

TABLE OF CONTENTS

Introduction

The City of Solana Beach ("City") Lighting Maintenance District ("District") was formed in order to provide funding for operation, maintenance and servicing of all lights within the City, owned both by City of Solana Beach and San Diego Gas and Electric as shown on the City's Street Light Master Plan. The City Council, pursuant to the provisions of the "Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the Street and Highway Code of California" (Act), desires to levy and collect annual assessment against lots and parcels within the District beginning in the fiscal year beginning July 1, 2017 and ending June 30, 2018. The collected assessments would pay for the operation, maintenance and servicing of the public lighting improvements within the City. The proposed assessments are based on the City's estimate for the cost for fiscal year 2017/2018 to maintain the District that provides a special benefit to properties assessed within the District. The assessment rates set for Fiscal Year 2017/2018, as set forth in this Engineer's Report ("Report"), do not exceed the maximum rates established at the time the District was formed, therefore, the City and the District are not required to go through property owner ballot procedure in order to establish the 2017/2018 assessment rates. This report describes the District boundaries and the proposed operation, maintenance and services to be assessed to the property owners located within the District. For this Report, each lot or parcel to be assessed refers to an individual property and is assigned its own Assessment Parcel Number ("APN") by the San Diego County ("County") Assessor's Office as shown on the latest equalization roll of the assessor. Following the conclusion of the Public Hearing, the City Council will confirm the Report as submitted or amended and may order the collection of the assessments for Fiscal Year 2017/2018.

General Description of the District

The boundaries of the District are defined as being contiguous with the boundaries of the City of Solana Beach. The properties within the District include single family residential, multi-family residential, timeshare, multiuse, commercial and industrial parcels.

Section 22573, Landscape and Lighting Act of 1972 ("1972 Act"), requires assessments to be levied according to benefit rather than according to assessed value. This section of the 1972 Act 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 1972 Act also provides for the classification of various areas within an assessment district into different zones where, "*...by reason of variations in the nature, location, and extent of the improvements, the various areas will receive differing degrees of benefit from the improvements. A zone shall consist of all territory, which will receive substantially the same degree of benefit from the improvements. An assessment district may consist of contiguous or non-contiguous areas.*"

Properties owned by public agencies, such as a city, county, state, or the federal government, are not assessable without the approval of the particular agency. For this reason, they are traditionally not assessed.

Designation of Zones

The District consists of two zones in the City of Solana Beach; Zone "A" and Zone "B". Properties within Zone "A", which represent the majority of the population, are benefiting from the streetlights on six significant circulation element streets as well as streetlights on their local streets. Properties within Zone "B", also known as "Dark Sky Zone", do not have streetlights on their local streets. These properties benefit only from streetlights on circulation elements and do not benefit from streetlights on local streets. Maps showing the boundaries of the District and the zones are on file in the office of the City Engineer and are attached herein as Exhibit 1.

District Improvements

The public lighting improvements to be maintained and serviced include but are not limited to the following:

- Maintenance, repair and replacement of public light poles and fixtures, including changing light bulbs, painting, photoelectric cell repair or replacement, repairing damages caused by automobile accidents and vandalism, and repairing normal deterioration caused by time and weather.
- Electrical conduit repair and replacement due to damage by vandalism, and normal deterioration.
- Service-call maintenance repair and replacement including painting, replacing worn out electrical components and repairing damage due to accidents, vandalism, and normal deterioration.
- Payment of the electrical bill for the existing street lighting system.
- Responding to constituent and business inquiries and complaints regarding the public lighting.

Maintenance

The City provides services and furnishes materials for the ordinary and usual maintenance, operation and servicing of public lighting improvements facilities and appurtenant facilities. This includes inspecting lights during daylight as well as evening hours for condition assessment and performing repair, removal or replacement of all or part of any of the street lighting found to be inoperable in order to provide for the, health welfare and safety of the residents in the district.

Servicing

The City workforces along with assistance from private contractors provide all labor, materials, equipment and utilities necessary to maintain and operate the public lighting improvements or appurtenant facilities in order to provide adequate illumination.

City's Streetlight System

The City's streetlight system consists of streetlights which are owned by the San Diego Gas and Electric (SDG&E) and streetlights that are owned by the City of Solana Beach. A listing (printout) showing the type, size, location and ownership of the specific streetlights in the City is on file in the Office of the City Engineer. There are currently 801streetlights in the District of which 149 are located on circulation element streets such as Highway 101, Lomas Santa Fe Drive, Via De La Valle, Cedros Avenue, San Andres Drive, Highland Avenue and Stevens Avenue. The remaining 652 streetlights are located on local streets. Approximately 274 streetlights are owned and maintained by SDG&E and the rest are owned and maintained by the City of Solana Beach. The City pays SDG&E for the use of their streetlights. For the purpose of this report, all lights have been analyzed regardless of ownership. Additionally, there are 247 bollard lights and 16 pedestrian pole lights on the Coastal Rail Trail that are included in the District.

Streetlight Retrofit

In April 2012, the City entered into a contract with Chevron Energy Solution (Chevron ES) for a series of energy efficient projects which included retrofitting all City-owned streetlights to the latest LED technology. This project replaced the approximately two-thirds of the street lights throughout the City that are owned and operated by the City. The remaining one-third of the streetlights were not retrofitted because they are owned and operated by SDG&E. Because of this partial ownership arrangement, a few streetlights in some neighborhoods remained unchanged.

Capital Improvement Projects

In September 2012, the City awarded a contract to Clark Telecom and Electric Inc. (CTE) to replace several aging streetlight poles throughout the City. As part of this contract and in order to enhance the lighting at La Colonia Park, the City converted two existing street light poles along Stevens Avenue from single mast arm/fixture to double mast arms/fixtures. This contractor did not install new fixtures to the new, mast arms since the Chevron ES contract installed LED fixtures at these locations. This CIP lighting project also added 14 new pole lights along the perimeter of the soccer field in La Colonia Park. All new lights were equipped with LED fixtures.

In June 2012, the City awarded another CIP contract to Dick Miller, Inc. (DMI) for a traffic calming and streetscape project along the west side of Highway 101 between Cliff Street and Dahlia Drive. Under this contract, 18 existing streetlights were replaced and 23 new streetlights were added. All lights are equipped with LED fixtures. Additionally, 13 new pedestrian pole lights were added to the new, widened sidewalks in the Highway 101 corridor.

Method of Apportionment

The 1972 Act require that a parcel's assessment may not exceed the reasonable cost for the proportional benefit conferred to that parcel. To establish the benefit to the individual lots or parcels within the district, an Equivalent Benefit Unit ("EBU") system based on land use is used along with special consideration based on City's "Dark Sky Zone". Each parcel of land in the District was determined by the Engineering Department to have a specific land use. Each land use type was assigned a land use factor determined by trip generation rates developed by San Diego Association of Government (SANDAG). If a land use was not included in the SANDAG's study, the Engineering Department made a determination as to its probable trip generation compared to that of a single family residential and assigned a land use factor accordingly. Single family residential units were assigned a land use factor of 1.0 regardless of its size. The theory is that all single family residential units, regardless of parcel size, generate approximately the same number of trips and therefore receive the same benefit from the use of streets and their appurtenances such as streetlights. Under this method, vacant lots are assigned an EBU of "0". Exhibit 2 provides the EBU determination for all land uses within the City.

District Financing

The District will be financed by assessing a benefit assessment and by using the District's share of 1.0 percent ad valorem tax revenues. The amount to be generated

from the benefit assessment is $8.80 per benefit unit in Zone "A" and $1.62 per benefit unit in Zone "B". As mentioned above, the total amount of revenue to be generated by assessment was calculated from a methodology which identifies two benefit zones within the District. This methodology assumes that circulation element streetlights provide City-wide benefit and therefore properties located in Zone "B", the Dark Sky Zone properties, are assessed for this portion of the District's expenses only. Properties located within Zone "A" are assessed for expenses associated with the streetlights located on the circulation element streets as well as those on local streets. Both the circulation element streetlight benefit and local streetlight benefit are allotted in proportion to the Average Daily Traffic (ADT) generated by properties within the District to establish equivalent benefit charge per property. A listing (printout) of the estimated assessment for each parcel in the District is on file in the Office of the City Engineer. These are estimates only because the County Assessor's information will not be available until August 2017. The City does not assess governmental agencies owning properties within the District. See Exhibit 3 for the proposed District budget.

Assessment Roll

Parcel identification, for each lot or parcel within the District shall be the parcel as shown on the County Assessor's map for the year in which this Report is prepared.

A listing of parcels assessed within the District, along with the proposed assessment amounts, has been submitted to the City Clerk, under a separate cover, and by reference is made part of this Report. Said listing of parcels to be assessed shall be submitted to the County Auditor/Controller and included on the property tax roll for each parcel in Fiscal Year 2017/2018. If any parcel submitted for collection is identified by the County Auditor/Controller to be an invalid parcel number for the current fiscal year, a corrected parcel number and/or new parcel numbers will be identified and resubmitted to the County Auditor/Controller. The assessment amount to be levied and collected for the resubmitted parcel or parcels shall be based on the method of apportionment and assessment rate approved in this Report. Therefore, if a single parcel has changed to multiple parcels, the assessment amount applied to each of the new parcels shall be recalculated and applied according to the approved method of apportionment and assessment rate rather than a proportionate share of the original assessment.

Calculation of Assessment Fees

Following is a calculation of assessment fees for the Solana Beach Lighting District. There are two zones in this lighting district; Zone "A" and Zone "B".

Total streetlights on six circulation element streets	149
Total streetlights on local streets	652
Total Streetlights	801

Bollard lights on Coastal Rail Trail	247
Pedestrian pole lights on Coastal Rail Trail	16

Total Benefit Units in Zone "A"	8640
Total Benefit Units in Zone "B"	473

Assessment per Benefit Unit in Zone "A"	$8.80
Assessment per Benefit Unit in Zone "B"	$1.62

Total Assessment for Zone "A"	$76,032
Total Assessment for Zone "B"	$766

Total Assessment for the District	**$76,798**

EXHIBIT 1

STREET LIGHT ZONE MAP

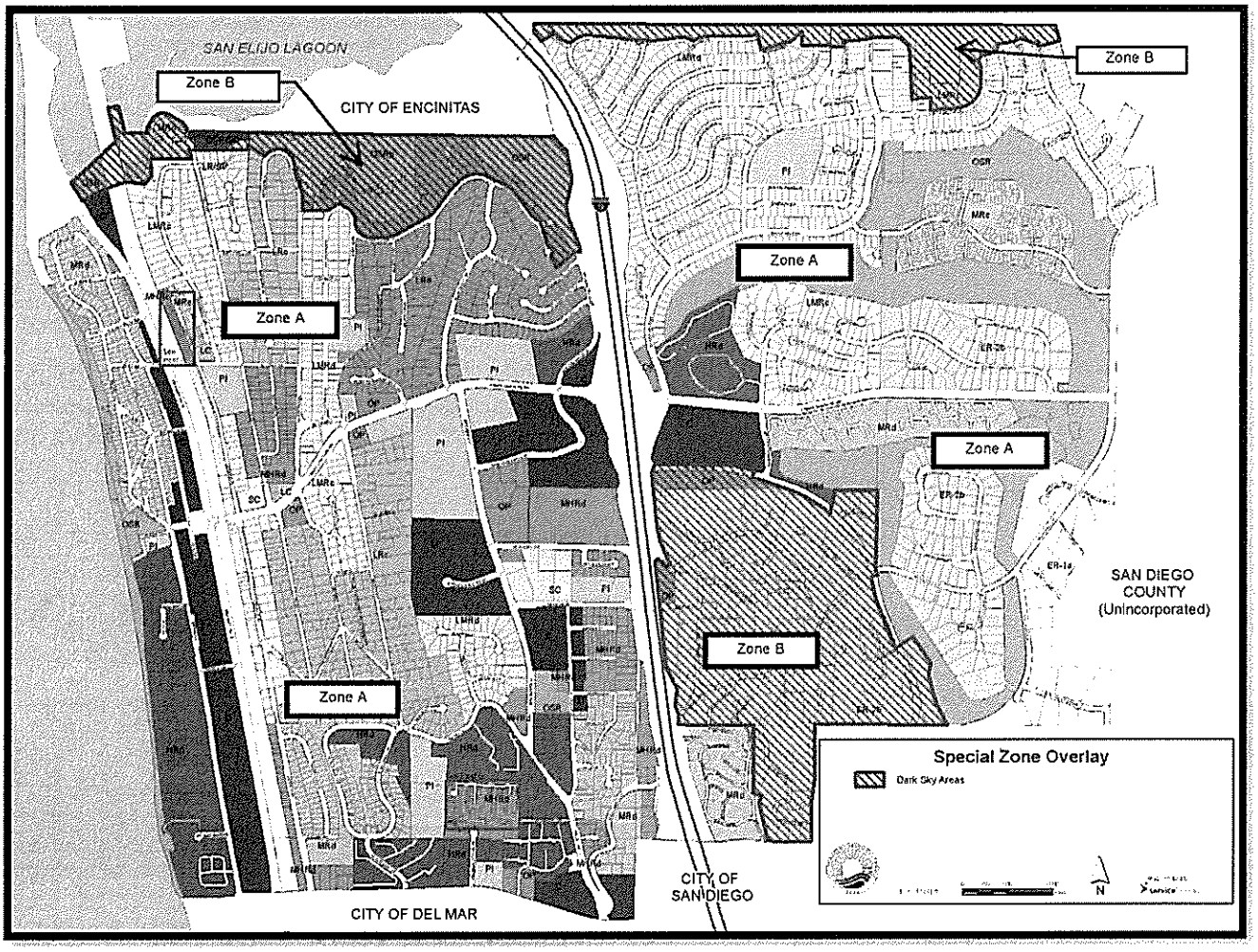


EXHIBIT 2

DERIVATION OF STREET LIGHT BENEFIT UNITS

Traffic generation rates are derived from a report issued by the San Diego Association of Governments (SANDAG) dated April 2002. The information in the report is based on the San Diego Traffic Generators manual. Land uses are defined by the County Assessor. Using traffic generated by single family dwellings as 10 per dwelling unit (d.u.) or 40 per acre, the derivation of Benefit Units from land use is as follows:

LAND USE	BENEFIT UNITS	HOW DERIVED
Vacant Land	0.0	Generates little or no traffic. Assigned a value of 0.0
Residential	1.0/d.u.	10 trips/d.u. 10 trips/d.u.
Time Shares	.02/Time Share	0.2 trips/time share 10 trips/d.u.
Mobilehome/Trailer Parks	0.5/Space	5 trips/d.u. or space 10 trips/d.u.
1-3 Story Misc. Stores	10.0/Acre	400 trips/acre 40 trips/acre
4+ Story Offices/Stores	15.0/Acre	600 trips/acre 40 trips/acre
Regional Shopping Center Medical, Dental, Animal Hospital	12.5/Acre	500 trips/acre 40 trips/acre
Community Shopping Center	17.5/Acre	700 trips/acre 40 trips/acre
Neighborhood Shopping Center	30.0/Acre	1200 trips/acre 40 trips/acre

Hotel, Motel	5.0/Acre	200 trips/acre 40 trips/acre
Convalescent Hospital, Rest Home	1.0/Acre	40 trips/acre 40 trips/acre
Office Condominiums	0.5/Condo	20 trips/condo 10 trips/d.u.
Parking lot, Garage, Used Cars, Auto Sales/Service, Service Station	7.5/Acre	300 trips/acre 40 trips/acre
Bowling Alley	7.5/Acre	300 trips/acre 40 trips/acre

EXHIBIT 3

STREET LIGHTING DISTRICT

PROPOSED BUDGET

FISCAL YEAR 2017-18

	Amended Budget 2016-17	Proposed Budget 2017-18
COSTS		
Energy	75,025	82,000
Maintenance	39,400	39,070
Administration	133,197	134,630
Capital Outlay		
Debt Service	70,400	70,400
Contingency Reserve	1,927,082	1,760,300
TOTAL COSTS	**2,245,104**	**2,086,400**

FUNDING		
Property Taxes	450,500	459,500
Benefit Fees	82,500	76,800
Interest	21,000	15,000
Intergovernmental	3,200	3,200
Fund Balance	1,687,904	1,531,900
TOTAL RESOURCES	**2,245,104**	**2,086,400**

RESOLUTION NO. 2017-078

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, APPROVING THE ENGINEER'S REPORT FOR PROCEEDINGS FOR THE ANNUAL LEVY OF ASSESSMENTS WITHIN A SPECIAL LIGHTING DISTRICT

WHEREAS, the City Council of the City of Solana Beach, California, pursuant to the terms of the "Landscaping and Lighting Act of 1972", being Division 15, Part 2 of the Streets and Highways Code of the State of California, did, by previous Resolution, initiate proceedings and order the preparation of an Engineer's Report (hereinafter referred to as Report) for the annual levy of assessments within a special Lighting District, said special Lighting District known and designated as Solana Beach Lighting District (hereinafter referred to as Lighting District); and,

WHEREAS, the Report, as required by said Division 15 of the Streets and Highways Code and as previously directed by Resolution, was presented to the City Council; and,

WHEREAS, the City Council examined and reviewed the Report as presented, and is satisfied with each and all of the items and documents as set forth therein, and is satisfied that the assessments, on a preliminary basis, are spread in accordance with the special benefits received from the improvements to be maintained, as set forth in said Report.

NOW, THEREFORE, the City Council of the City of Solana Beach, California does resolve as follows:

1. That the above recitals are all true and correct

2. That the Engineer's Report, as presented, consists of the following:

    a. Plans and specifications describing the general nature, location and extent of the improvements to be maintained as described in the City's Street Light Master Plan. No other substantial changes in existing improvements or zones are proposed for the next fiscal year; all improvements to be maintained are in existing public streets, or sidewalks, or public leaseholds, of the City;

    b. Estimate of cost, including the amount of the annual installment for the forthcoming fiscal year;

    c. Diagram of the Lighting District;

d. Assessment of the estimated cost, including the amount of individual annual installments for the next fiscal year. No assessments on any parcels within the Lighting District are to be increased from those as levied in Fiscal Year 2016/2017.

3. That the Report, as presented, is hereby approved on a preliminary basis, and is ordered to be filed in the Office of the City Clerk as a permanent record and to remain open to public inspection.

4. That the City Clerk shall certify to the passage and adoption of this Resolution, and the minutes of this meeting shall so reflect the presentation of the Engineer's Report.

PASSED AND ADOPTED this 24th day of May, 2017, at a regularly scheduled meeting of the City Council of the City of Solana Beach, by the following vote:

AYES: Councilmembers –
NOES: Councilmembers –
ABSENT: Councilmembers –
ABSTAIN: Councilmembers –

_____
MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

_____
JOHANNA N. CANLAS, City Attorney

ATTEST:

_____
ANGELA IVEY, City Clerk

RESOLUTION NO. 2017-079

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, DECLARING ITS INTENTION TO PROVIDE FOR AN ANNUAL LEVY AND COLLECTION OF ASSESSMENTS IN A SPECIAL LIGHTING DISTRICT, AND SETTING A TIME AND PLACE FOR PUBLIC HEARING THEREON

WHEREAS, the City Council of the City of Solana Beach, California, has previously formed a special Lighting District pursuant to the terms of the "Landscaping and Lighting Act of 1972", being Division 15, Part 2 of the Streets and Highways Code of the State of California, said special Lighting District known and designated as SOLANA BEACH LIGHTING DISTRICT (hereinafter referred to as the "Lighting District"); and

WHEREAS, at this time, the City Council desires to take proceedings to provide for the annual levy of assessments for the next ensuing fiscal year to provide for costs and expenses necessary to pay for the maintenance of the improvements in said Lighting District; and

WHEREAS, the Engineer's Report (herein referred to as Report), has been presented to and approved by the City Council, as required by law, and the City Council desires to continue with the proceedings for said annual levy.

NOW, THEREFORE, the City Council of the City of Solana Beach, California, does resolve as follows:

1. That the above recitals are all true and correct.

2. That the public interest and convenience requires, and it is the intention of this legislative body, to levy and collect assessments to pay the annual costs and expenses for the installation, maintenance and/or servicing of such improvements from those parcels which specially benefit from improvements described below for the above-referenced Lighting District. The improvements are generally described as follows:

    a. The operation, maintenance and servicing of the following improvements, all within existing public streets, public sidewalks, or public leaseholds of the City.

    b. Public lighting, street lighting improvements, together with appurtenances.

    c. All improvements are detailed in the City's Street Light Master Plan. No substantial changes in existing improvements or zones are proposed as a part of these proceedings.

3. That said works of improvement are of special benefit to the properties within the boundaries of said Lighting District, which Lighting District the legislative body previously declared to be the area specially benefited by said works of improvement, and for particulars, reference is made to the boundary map as previously approved by this legislative body, a copy of which is on file in the Office of the City Clerk and open for public inspection, and is designated by the name of this Lighting District.

4. That the Report of the Engineer, as preliminarily approved by this legislative body, is on file with the City Clerk and open for public inspection. Reference is made to the Report for a full and detailed description of the improvements to be maintained, the boundaries of the Lighting District and any zones therein, and the proposed assessments upon assessable lots and parcels of land within the Lighting District.

5. All costs and expenses of the works of maintenance and incidental expenses have been apportioned and distributed to the benefiting parcels in accordance with the special benefits received from the proposed work. No assessments on any parcels within the Lighting District are to be increased from those as levied in Fiscal Year 2015/2016, which was the last year that assessments were levied.

6. Notice is hereby given that a Public Hearing is hereby scheduled in the regular meeting place of this legislative body, being the Council Chambers, City Hall, 635 South Highway 101, Solana Beach, CA on the 28th day of June, 2017 at 6:00 p.m.

   At that time, the legislative body will consider and finally determine whether to levy the proposed annual assessment, and to hear all protests relating to said proposed proceedings, or the estimate of the cost and expenses of the proposed maintenance, or the proposed annual assessment; and any and all persons interested may file a written protest prior to the conclusion of the hearing referred to herein or, having filed such a protest, may file a written withdrawal of that protest prior to the conclusion of such hearing. Any such written protest must state all grounds for objection. A written protest by a property owner must contain a description sufficient to identify the property owned by such person, e.g., assessor's parcel number. Any interested person may mail a protest to the following address:

CITY CLERK
CITY OF SOLANA BEACH
635 S. HIGHWAY 101
SOLANA BEACH, CA 92075

To be considered by the legislative body, all protests must be received prior to the conclusion of the Public Hearing. A postmark prior to such date and time will not be sufficient.

7. That the City Clerk is hereby authorized and directed to give notice as required by law by causing a copy of the Resolution to be published in the newspaper of general circulation within said City; said publication to be completed not less than ten (10) days prior to the date set for the public hearing.

8. For any and all information relating to these proceedings, including information relating to protest procedure, your attention is directed to the person designated below:

MOHAMMAD SAMMAK
DIRECTOR OF ENGINEERING/PUBLIC WORKS
CITY OF SOLANA BEACH
635 S. HIGHWAY 101
SOLANA BEACH, CA 92075
TELEPHONE: (858) 720-2470

PASSED AND ADOPTED this 24th day of May, 2017, at a regularly scheduled meeting of the City Council of the City of Solana Beach, California by the following vote:

AYES: Councilmembers –
NOES: Councilmembers –
ABSENT: Councilmembers –
ABSTAIN: Councilmembers –

MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

JOHANNA N. CANLAS, City Attorney

ATTEST:

ANGELA IVEY, City Clerk

STAFF REPORT
CITY OF SOLANA BEACH

TO: Honorable Mayor and City Councilmembers
FROM: Gregory Wade, City Manager
MEETING DATE: May 24, 2017
ORIGINATING DEPT: Engineering Department
SUBJECT: **Consideration of the Engineer's Report, the Annual Levy and Collection of Assessments for the Solana Beach Coastal Rail Trail Maintenance District**

BACKGROUND:

In 2006, the City Council adopted a resolution forming the Solana Beach Coastal Rail Trail Maintenance District (District) under the provisions of the Landscape and Lighting Act of 1972, Division 15, Part 2, of the California Streets and Highways Code. The District was formed for the purpose of levying and collecting funds for the operations, maintenance, and servicing of landscaping, lighting and all appurtenant facilities related to the Coastal Rail Trail (CRT). In order to levy and collect an assessment in the Solana Beach Coastal Rail Trail Maintenance District, it is necessary to notify the property owners of the City and conduct a Public Hearing. Staff is recommending the public hearing be held on June 28, 2017.

This item is presented to the City Council to consider accepting resolutions initiating proceedings for the District, approving the Engineer's Report, and setting a time and place for a Public Hearing.

DISCUSSION:

The District's major costs are for the ongoing maintenance of the CRT. The maintenance items include landscaping, irrigation, trail maintenance and graffiti removal. The costs also include the utility charges for water and electricity for the pedestrian bollard lights and pole lights. The District includes funds for capital replacement as well. The capital replacement costs include funds for future replacement of landscaping, irrigation, pedestrian/bike path and hardscape items. The capital replacement costs also include an operating reserve of approximately 10% of the direct maintenance costs.

CITY COUNCIL ACTION:

The District's assessment methodology uses an Equivalent Benefit Unit (EBU) System. The EBU method of apportioning benefit is typically viewed as the most appropriate and equitable assessment methodology for districts formed under the 1972 Act. The EBU for the proposed District establishes the single family detached residential unit as the basic unit, representing 1.0 EBU. The following summarizes the EBU application by land use:

Land Use	EBU
Single Family Residential	1.0 per parcel
Residential Condominium	1.0 per dwelling unit
Multi-Family Residential	0.75 per dwelling unit
Planned Residential Development	1.0 per proposed unit
Commercial/Industrial	1.0 per parcel
Vacant Single Family Residential	1.0 per parcel
Vacant Multi-Family Residential	0.75 per parcel
Vacant Commercial/Industrial	1.0 per parcel

The methodology also identifies parcels that are exempt from the proposed District. They include, but are not limited to, parcels identified as public streets, roadways, dedicated public easements, open space and right-of-way. These properties, as well as other publicly owned properties such as schools, the fire station, post office and community centers, are considered to receive little or no benefit from the improvements of the proposed District.

In addition to assigning properties an EBU by land type, the assessment methodology utilizes three zones based on the proximity of parcels in location to the CRT. Properties located closest to the CRT will receive a greater special benefit than those properties that are located the farthest away from the trail. A factor is applied to each of the zones according to their locations. The three zones are as follows:

Zone 1:

This zone includes all properties generally located within a few blocks and is closest to the CRT. The properties are located between the east side of Acacia Avenue, the east side of South Sierra Avenue and the west side of Rios Avenue (please see the assessment boundary map in the Engineer's Report). Parcels in this zone are assessed the EBU amounts based on land use and then multiplied by a factor of three.

Zone 2:

This zone includes all properties that are generally located on the west side of Acacia Avenue, the west side of South Sierra Avenue and those properties located between the east side of Rios Avenue and the west side of Interstate 5. Parcels in this zone are assessed the EBU amounts based on land use and then multiplied by a factor of two.

Zone 3:

This zone includes properties located east of Interstate 5. Parcels in this zone are assessed the EBU amounts based on land use and then multiplied by a factor of 0.5.

At the formation of the District, the adopted Maximum Assessment formula includes an annual CPI-U adjustment that is not to exceed 2%. This Maximum Assessment annual adjustment adopted by the initial vote is not considered an increased assessment. The following shows the maximum assessment rates proposed to be levied in the Fiscal Year (FY) 2017/2018 by land use which includes the 2016 CPI-U increase of 1.97%:

Land Use Description	Per	Base Rate Zone 1	Base Rate Zone 2	Base Rate Zone 3
Single Family Residential	Lot or Parcel	$21.90	$14.60	$3.65
Residential Condominium	Dwelling Unit	$21.90	$14.60	$3.65
Multi-Family Residential	Dwelling Unit	$16.42	$10.95	$2.74
Planned Residential Development	Lot or Dwelling Unit	$21.90	$14.60	$3.65
Commercial/Industrial	Parcel	$21.90	$14.60	$3.65
Vacant Single Family Residential	Parcel	$21.90	$14.60	$3.65
Vacant Multi-Family Residential	Parcel	$16.42	$10.95	$2.74
Vacant Commercial/Industrial	Parcel	$21.90	$14.60	$3.65
Timeshare Units	1 week of ownership	$ 0.00	$ 0.00	$0.00
Exempt Parcels	Parcel	$ 0.00	$ 0.00	$0.00
Public Owned Parcels	Parcel	$ 0.00	$ 0.00	$0.00

The 1972 Act requires the City Council to annually adopt a resolution directing the preparation and filing of an Annual Report and a Resolution of Intention to renew the annual assessments for the District. The resolutions declare the City Council's intention to levy and collect assessments and set the date of the public hearing at which the assessments will be levied. The law requires the assessment information to be submitted to the County by August 10th of each year.

Attachment 1 is the proposed Engineer's Report for FY 2017/2018. The report contains an overview of the District; a description of the services and improvements to be maintained; the proposed FY 2017/2018 Budget; and the method of apportionment.

The City will notify the property owners about levying and collecting assessments in the Solana Beach Coastal Rail Trail Maintenance District by publishing a notice about the date of the Public Hearing (June 28, 2017) in the local paper.

CEQA COMPLIANCE STATEMENT:

Not a project as defined by CEQA.

FISCAL IMPACT:

The District began assessing a benefit charge in FY 2006/2007. The CPI-U for 2016 was 1.97% and assessments for FY 2017/2018 are proposed to increase by 1.97% per Table 3 of the Report (and indicated on the previous page). The amount of the Equivalent Benefit Unit for FY 2017/2018 is $7.30. This is $0.14 more per EBU than last year's assessment and is also consistent with the approval of the District by the vote of the property owners in January 2006. Annual assessments total approximately $75,000.

WORK PLAN:

Renewal of the CRT Maintenance District is consistent with the Fiscal Sustainability section of the City's Work Plan.

OPTIONS:

- Accept Engineer's Report for proceeding for the annual levy of assessments and set time and date for a public hearing to be held on June 28, 2017.

- Do not renew the CRT Maintenance District and fund cost for maintenance of the CRT through the General Fund.

DEPARTMENT RECOMMENDATION:

Staff recommends that the City Council:

1. Adopt Resolution 2017-075, initiating the proceedings for the annual levy of assessments within the Coastal Rail Trail Maintenance District.

2. Adopt Resolution 2017-076, approving the Engineer's Report for proceedings of the annual levy of assessments within Coastal Rail Trail Maintenance District.

3. Adopt Resolution 2017-077, declaring intention to provide for the annual levy and collection of assessments in the Coastal Rail Trail Maintenance District and setting a time and date for a public hearing for June 28, 2017.

CITY MANAGER'S RECOMMENDATION:

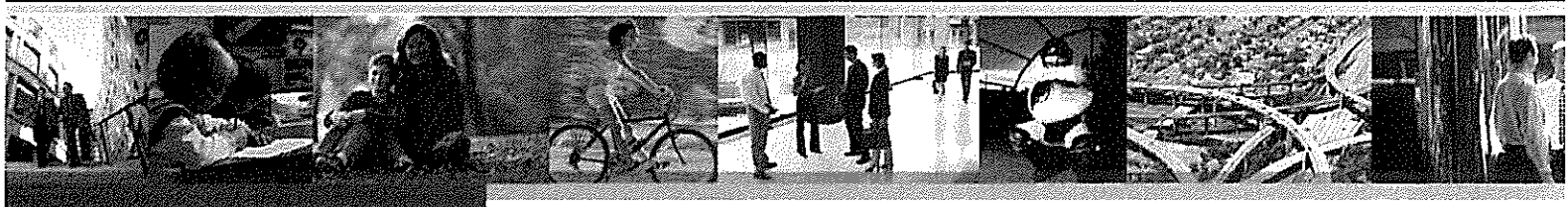
Approve Department Recommendation.

Gregory Wade, City Manager

Attachments:

1. FY 2017/2018 Engineer's Report
2. Resolution 2017-075, Initiating Proceedings
3. Resolution 2017-076, Approving Engineer's Report
4. Resolution 2017-077, Setting the Public Hearing

MUNICIPALITIES | SCHOOL DISTRICTS | CITIES | COUNTIES | PARK & RECREATION | WATER DISTRICTS | MUNICIPALITIES | SCHOOL DISTRICTS | COMMUNITIES



CITY OF SOLANA BEACH
COASTAL RAIL TRAIL MAINTENANCE DISTRICT
ENGINEER'S REPORT
FISCAL YEAR 2017/2018

MAY 5, 2017

KOPPEL & GRUBER
PUBLIC FINANCE

334 VIA VERA CRUZ, SUITE 256
SAN MARCOS
CALIFORNIA 92078

T. 760.510.0290
F. 760.510.0288

ATTACHMENT 1

TABLE OF CONTENTS

SECTION I. OVERVIEW

A. INTRODUCTION AND BACKGROUND

The Coastal Rail Trail (the "CRT") is a project sponsored by the cities of Oceanside, Carlsbad, Encinitas, Solana Beach and San Diego for a multi-use pathway (bicycle facilities and pedestrian) that will ultimately extend from the San Luis Rey River in Oceanside to the Santa Fe Depot in San Diego. Each of the sponsoring cities has agreed to construct and maintain the portion of the trail that is located within their jurisdiction. The City of Solana Beach (the "City") began construction on their portion of the CRT ("City CRT") in August 2003 by obtaining outside grants and the City CRT was substantially completed in November of 2004.

The City CRT encompasses approximately 1.7 miles extending from the north boundary of the City at the San Elijo Lagoon and the City of Encinitas to the south boundary of the City at Via de la Valle. The Class I bicycle trail proceeds south through the City, crossing Lomas Santa Fe Road and continuing to Via de la Valle in the City of Del Mar.

The City of Solana Beach Coastal Rail Trail Maintenance District ("District") was formed in January 2006 in order to provide funding for the maintenance of certain public improvements including but not limited to the operation, maintenance and servicing of landscaping and public lighting improvements along the City CRT. This report constitutes the Fiscal Year 2017/2018 Engineer's Report for the District.

The City Council pursuant to the provisions of the *Landscaping and Lighting Act of 1972, Part 2 of Division 15 of the Streets and Highways Code of California, beginning with Section 22500* ("Act") and in compliance with the substantive and procedural requirements of the *California State Constitution Article XIIIC and XIIID* ("Proposition 218") and the *Proposition 218 Omnibus Implementation Act (Government Code Section 53750 and following)* (the "Implementation Act") desires to levy and collect annual assessments against lots and parcels within the District beginning in the fiscal year commencing July 1, 2017 and ending June 30, 2018 to pay for the operation, maintenance and servicing of landscaping and public lighting improvements along the City CRT. The proposed assessments are based on the City's estimate of the costs for Fiscal Year 2017/2018 to maintain the City CRT improvements that provide a special benefit to properties assessed within the District. The assessment rates set for Fiscal Year 2017/2018 as set forth in this Engineer's Report, do not exceed the maximum rates established at the time the District was formed, therefore, the City and the District are not required to go through a property owner ballot procedure in order to establish the 2017/2018 assessment rates.

B. CONTENTS OF ENGINEER'S REPORT

This Report describes the District boundaries and the proposed improvements to be assessed to the property owners located within the District. The Report is made up of the following sections.

SECTION I. OVERVIEW – Provides a general introduction into the Report and provides background on the District and the assessment.

SECTION II. PLANS AND SPECIFICATIONS – Contains a general description of the improvements that are maintained and serviced by the District.

SECTION III. PROPOSED FISCAL YEAR 2017/2018 BUDGET – Identifies the cost of the maintenance and services to be provided by the District including incidental costs and expenses.

SECTION IV. METHOD OF APPORTIONMENT – Describes the basis in which costs have been apportioned to lots or parcels within the District, in proportion to the special benefit received by each lot or parcel.

SECTION V. ASSESSMENT ROLL – The assessment roll identifies the maximum assessment to be levied to each lot or parcel within the District.

SECTION VI. ASSESSMENT DIAGRAM – Displays a diagram of the District showing the boundaries of the District.

For this Report, each lot or parcel to be assessed, refers to an individual property assigned its own Assessment Parcel Number ("APN") by the San Diego County ("County") Assessor's Office as shown on the last equalized roll of the assessor.

Following the conclusion of the Public Hearing, the City Council will confirm the Report as submitted or amended and may order the collection of assessments for Fiscal Year 2017/2018.

SECTION II. PLANS AND SPECIFICATION

A. GENERAL DESCRIPTION OF THE DISTRICT

The boundaries of the District are defined as being contiguous with the boundaries of the City of Solana Beach. Solana Beach is located approximately thirty miles north of the City of San Diego in the north coastal area of the County. The City is bordered by the Pacific Ocean to the west, the City of Encinitas to the north, the City of Del Mar to the south and the unincorporated village of Rancho Santa Fe to the east.

The properties within the District include single-family residential, multi-family residential, timeshare, commercial, and industrial parcels. Each parcel has been categorized into three zones based upon their general proximity to the City CRT. Please refer to Section IV D of the Report for a further explanation on the zones included within the District.

B. DESCRIPTION OF SERVICES AND IMPROVEMENTS TO BE MAINTAINED

The District provides a funding mechanism for the ongoing maintenance, operation and servicing of landscaping and public lighting improvements that were installed as part of the construction of the City CRT. These improvements may include, but are not limited to, all materials, equipment, utilities, labor, and appurtenant facilities related to those improvements.

The improvements constructed as part of the project that are to be maintained and serviced by the District relate to landscaping and public lighting improvements, and are generally described as follows:

- Concrete and decomposed granite trails including landscaping, irrigation, drainage, grading, lighting, and hardscape features.
- Concrete paths, trees, plantings, lighting, irrigation, conduit, infrastructure, earthwork, trash receptacles, fencing, node structures (bus shelters, art amenities, garden nodes), drinking fountains, signage, and observation deck.
- Open space and irrigated and planted slopes located along the Trail.
- Public lighting facilities within and adjacent to the City CRT.

Maintenance services will be provided by City personnel and/or private contractors. The proposed improvements to be maintained and services are generally described as follows:

LANDSCAPING AND APPURTENANT IMPROVEMENTS

The landscaping improvements and services to be maintained by the District include but are not limited to landscaping, planting, ground cover, shrubbery, turf, trees, irrigation and drainage systems, hardscape, fixtures, sidewalks, fencing and other appurtenant items located along and adjacent to the City CRT.

PUBLIC LIGHTING AND APPURTENANT IMPROVEMENTS

The public lighting improvements to be maintained and serviced include but are not limited to the following, which provide public lighting directly or indirectly to the City CRT or to other public areas associated with or necessary for use of the trail:

- Maintenance, repair and replacement of public light poles and fixtures, including changing light bulbs, painting, photoelectric cell repair or replacement, and repairing damage caused by automobile accidents, vandalism, time, and weather.

- Electrical conduit repair and replacement due to damage by vandalism, time and weather.

- Service-call maintenance, repair and replacement including painting, replacing worn out electrical components and repairing damage due to accidents, vandalism, and weather.

- Payment of the electrical bill for the existing street lighting system.

- Responding to constituent and business inquiries and complaints regarding the public lighting.

Maintenance means the furnishing of services and materials for the ordinary and usual maintenance, operation and servicing of landscaping and public lighting improvements facilities and appurtenant facilities. This includes repair, removal or replacement of all or part of any of the landscaping and street lighting improvements, or appurtenant facilities; providing for the life, growth, health and beauty of landscaping improvements and for the operation of the lighting improvements.

Servicing means the furnishing of all labor, materials, equipment and utilities necessary to maintain the landscaping improvements and to maintain and operate the public lighting improvements or appurtenant facilities in order to provide adequate illumination.

SECTION III. PROPOSED FISCAL YEAR BUDGET

A. ESTIMATED FISCAL YEAR 2017/2018 BUDGET

A summary of the proposed District fiscal year 2017/2018 budget is summarized, by category, in Table 1 shown on the following page:

Table 1

CITY OF SOLANA BEACH
COASTAL RAIL TRAIL MAINTENANCE DISTRICT
2017/18 BUDGET

	TOTAL BUDGET	GENERAL BENEFIT PORTION[1]	PROPOSED FY 2017/18 ASSESSMENT
OPERATING AND MAINTENANCE COSTS			
Operating and Maintenance			
Landscape, Irrigation & Hardscape Maintenance Thru an Outside Contract (Includes Tree Trimming)	$43,460.00	$2,727.60	$40,732.40
Utilities (Water)	$20,400.00	$0.00	$20,400.00
Utilities (Electricity)	$29,000.00	$29,000.00	$0.00
Trail Maintenance (DG & Concrete Paths)	$1,400.00	$0.00	$1,400.00
Graffiti Abatement	$200.00	$0.00	$200.00
Total Operating and Maintenance Costs	**$94,460.00**	**$31,727.60**	**$62,732.40**
CAPITAL REPLACEMENT AND RESERVES			
Capital Replacement			
Landscape & Irrigation Replacement	$3,547.00	$213.00	$3,334.00
Pedestrian/Bicycle Path Replacement	$2,500.00	$150.00	$2,350.00
Hardscape Features Replacement (water fountain, art work, bus shelter)	$2,500.00	$150.00	$2,350.00
Reserves			
Fiscal Year 2016/2017 Reserve Collection	$0.00	$0.00	$0.00
Total Capital Replacement and Reserves	**$8,547.00**	**$513.00**	**$8,034.00**
ADMINISTRATION COSTS			
District Administration Costs			
County SB 2557 Costs			$300.00
County Electronic Data Processing Costs			$615.10
City Administration/Consultant Costs			$4,803.90
Total Administration Costs			**$5,719.00**
AMOUNT TO LEVY			
TOTAL ASSESSMENT AMOUNT			**$76,485.40**
Total Parcels in the District			13,102
Total Parcels Levied			5,641
Total Equivalent Benefit Units			10,477.63
Proposed Levy Per Equivalent Benefit Unit			**$7.30**
Inflation Percentage Applied to Proposed Levy Per EBU			1.97%

OPERATING RESERVES	
Beginning Balance as of 7/1/16	$56,822.00
FY 2016/2017 Collection	$75,019.00
Expenditures	($57,780.00)
Projected Ending Balance as of 6/30/17	$74,061.00
Maximum Cash Flow Reserve Amount	**$38,242.70**

1. While the cost of the electricity is not 100% general benefit, the City is paying for the entire cost through other available funds and none of the cost is being allocated to the parcels located within the District.

B. DESCRIPTION OF BUDGET ITEMS

The following is a brief description of the major budget categories that includes the detailed costs of maintenance and services for the District included in the table above.

OPERATING AND MAINTENANCE COSTS – This includes the costs of maintaining and servicing the landscaping and lighting improvements. This may include, but is not limited to, the costs for labor, utilities, equipment, supplies, repairs, replacements and upgrades that are required to properly maintain the items that provide a direct benefit to properties located within the District.

CAPITAL REPLACEMENT AND RESERVES – These items provide a funding source to pay for items that wear out over time, other unanticipated items not directly budgeted for and for the replacement of the landscaping, pathways and hardscape features located along and adjacent to the City CRT.

ADMINISTRATION COSTS – This includes the indirect costs not included above that are necessary to pay for administrative costs related to the District, including the levy and submittal of the assessments to the County to be placed on the Fiscal Year 2017/2018 County equalized tax roll, responding to property owner inquiries relating to the assessments and services, and any other related administrative costs.

SECTION IV. METHOD OF APPORTIONMENT

A. GENERAL

The 1972 Act permits the establishment of assessment districts by agencies for the purpose of providing certain public improvements, which include the construction, maintenance, and servicing of landscaping and public lights and appurtenant facilities.

Streets and Highways Code Section 22573 requires that maintenance assessments be levied according to benefit rather than the assessed value.

> *"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."*

In addition, Article XIIID and the Implementation Act require that a parcel's assessment may not exceed the reasonable cost for the proportional special benefit conferred to that parcel. A special benefit is a particular and distinct benefit over and above general benefits conferred on property located within the assessment district. Article XIIID and the Implementation Act further provides that only special benefits are assessable and the City must separate the general benefits from the special benefits. They also require that publicly owned properties which specifically benefit from the improvements be assessed.

B. GENERAL BENEFIT ANALYSIS

The improvements described in Section II B of this Report are for the special benefit, enhancement and use of properties within the District. However, the City CRT is being constructed as a portion of a much larger regional trail that will extend from the City of Oceanside to the north to the City of San Diego to the south. Residents and property owners located in each of the cities along the trail will receive a special benefit from the construction and maintenance of the trail within their city. Residents from each of these cities will have an opportunity to use the entire trail upon completion including the portion in Solana Beach which creates a general benefit.

Additionally, included among the different property types in the City are timeshare units. Though individuals may purchase and "own" their timeshare unit, their ownership rights are limited and temporary (typically one week per year.) Owners of timeshare units have an opportunity to use the CRT while vacationing in the City. Due to the limited ownership time-frame of timeshare owners, their special benefit is limited and thus considered as part of the general benefit similar to the general benefit to the public at large.

The general benefit portion of the assessment has been determined by looking at each participating city's trail length as a factor or the entire trail. The City of Solana Beach's portion of the CRT is 1.7 miles compared to the entire proposed trail length of 44.0 miles. Comparing the length of the City CRT to the total length of the CRT results in a general

benefit of 3.86%. For rounding purposes and adding an additional factor for timeshare unit owners the general benefit will be considered 6.0% overall to the public at large. The budget has been allocated to parcels based on their special benefit share. In addition, the City is paying 100% of the electricity costs, totaling $29,000, for the District through funds available from other sources resulting in over 30% of the costs paid directly by the City.

C. SPECIAL BENEFIT ANALYSIS

Each of the proposed improvements and the associated costs and assessments within the District has been reviewed, identified and allocated based on special benefit pursuant to the provisions of Article XIIID, the Implementation Act, and the Streets and Highways Code Section 22573.

Proper maintenance and operation of the City CRT landscaping, hardscape, open space and pubic lighting provides special benefit to adjacent properties by providing community character, security, safety and vitality. Additionally, one of the purposes of the trail is to facilitate alternative transportation opportunities in order to reduce air pollution and vehicular traffic congestion which provide special benefit to the properties within the District.

TRAIL AND LANDSCAPING SPECIAL BENEFIT

Landscaping and appurtenant facilities, if well maintained, provide beautification, shade and enhancement of the desirability of the surroundings, and therefore increase property values. Specifically, they provide a sense of ownership and a common theme in the community providing aesthetic appeal, recreational and health opportunities and increased desirability of properties.

PUBLIC LIGHTING SPECIAL BENEFIT

The operation, maintenance and servicing of public lighting along and adjacent to the City CRT provide safety and security to properties along City CRT specifically as follows:

- Improved security, deterrence of crime and aid to police and fire protection.
- Reduced vandalism and damage to the improvements and property.
- Increased business activity to the coastal community during nighttime hours.

D. ASSESSMENT METHODOLOGY

To establish the special benefit to the individual lots or parcels within the District, an Equivalent Benefit Unit system based on land use is used along with a Zone Factor based on geographic proximity to the City CRT.

EQUIVALENT BENEFIT UNITS

Each parcel of land is assigned an Equivalent Benefit Unit in proportion to the estimated special benefit the parcel receives relative to other parcels within the District. The single family detached ("SFD") residential property has been selected as the basic unit for calculating assessments; therefore, a SFD residential parcel equals one Equivalent Benefit Unit ("EBU").

The EBU method of apportioning benefit is typically seen as the most appropriate and equitable assessment methodology for districts formed under the 1972 Act, as the benefit to each parcel from the improvements are apportioned as a function of land use type, size and development. A methodology has been developed to relate all other land uses to the SFD residential as described below.

EBU APPLICATION BY LAND USE:

SINGLE-FAMILY RESIDENTIAL — This land use is defined as a fully subdivided residential parcel in which a tract map has been approved and recorded. This land use is assessed 1.0 EBU per lot or parcel. This is the base value that all other land use types are compared and weighted against (i.e. Equivalent Benefit Unit or EBU).

RESIDENTIAL CONDOMINIUM — This land use is defined as a fully subdivided residential parcel that has more than one residential unit developed on the property with individual unit ownership. This land use is assessed 1.0 EBU per dwelling unit.

MULTI-FAMILY RESIDENTIAL — This land use is defined as a fully subdivided residential parcel that has more than one residential unit developed on the property not available for individual unit ownership. This land use is assessed 0.75 EBU per dwelling unit.

PLANNED-RESIDENTIAL DEVELOPMENT — This land use is defined as any property not fully subdivided with a specific number of proposed residential lots or dwelling units to be developed on the parcel. This land use type is assessed at 1.0 EBU per planned (proposed) residential lot or dwelling unit.

COMMERCIAL/INDUSTRIAL — This land use is defined as property developed for either commercial or industrial use. This land use type is assessed at 1.0 EBU per parcel.

VACANT SINGLE-FAMILY RESIDENTIAL — This land use is defined as property currently zoned for single-family detached residential development, but a tentative or final tract map has not been submitted and/or approved. This land use is assessed at 1.0 EBU per parcel.

VACANT MULTI-FAMILY RESIDENTIAL — This land use is defined as property currently zoned for multi-family residential development, but a tentative or final tract map has not been submitted and/or approved. This land use is assessed at 0.75 EBU per parcel.

VACANT COMMERCIAL/INDUSTRIAL — This land use is defined as property currently zoned for either commercial or industrial use. This land use is assessed at 1.0 EBU per parcel.

EXEMPT PARCELS — This land use identifies properties that are not assessed and are assigned 0.0 EBU. This land use classification may include, but is not limited, to lots or parcels identified as public streets and other roadways (typically not assigned an APN by the County); dedicated public easements, open space areas and right-of-ways including greenbelts and parkways; utility right-of-ways; common areas, sliver parcels and bifurcated lots or any other property that can not be developed; park properties and other publicly owned properties that are part of the District improvements or that have little or no improvement value. These types of parcels are considered to receive little or no benefit from the improvements and are therefore exempted from assessment.

PUBLIC OWNED PARCELS — This land use identifies properties that are not assessed and are assigned 0.0 EBU. This land use classification includes other typically non-assessed parcels that are not considered exempt parcels and may include, but is not limited, to lots or parcels identified as schools, government owned buildings, fire and police stations, and administration offices. These types of properties are considered to receive little special benefit from the improvements and any benefit that they may receive is considered to be part of the City's general benefit contribution to the District.

ZONE FACTOR

The District was divided into three zones based on the proximity of parcels in location to the City CRT. Properties located the closest to the trail will receive a greater special benefit as compared to those parcels the farthest away. In order to calculate this into the assessment a factor is applied to each parcel according to the following Zone location.

ZONE 1 PROPERTIES – This Zone is defined as properties located adjacent to or within a few blocks of the City CRT improvements. This includes all properties that are generally located east of Acacia and Sierra Avenue and west of Rios Avenue. Parcels located in this zone use the EBU amounts derived above based on land use and then multiplied by a proximity factor of three (3).

ZONE 2 PROPERTIES – This Zone is defined as properties located close to the improvements but not adjacent to the City CRT or properties defined as Zone 1 Properties. This includes all properties that are generally located west of Acacia Avenue and also those properties located east of Rios Avenue and west of Interstate-5. Parcels located in this zone use the EBU amounts derived above based on land use and then multiplied by a proximity factor of two (2).

ZONE 3 PROPERTIES – This Zone is defined as properties located the furthest away from the City CRT improvements. This includes all properties that are located east of Interestate-5. Parcels located in this zone use the EBU amounts derived above based on land use and then multiplied by a proximity factor of 0.5.

The following table summarizes the EBU and Zone Factors based on land use.

Table 2

CITY OF SOLANA BEACH
COASTAL RAIL TRAIL MAINTENANCE DISTRICT
EQUIVALENT BENEFIT UNITS AND ZONE FACTOR BY LAND USE

Land Use Description	Equivalent Benefit Units (EBUs)	Per	Zone 1 Multiplier	Zone 2 Multiplier	Zone 3 Multiplier	No. of EBUs for Property in Zone 1	No. of EBUs for Property in Zone 2	No. of EBUs for Property in Zone 3
Single Family Residential	1.00	Lot or Parcel	3.00	2.00	0.50	3.00	2.00	0.50
Residential Condominium	1.00	Dwelling Unit	3.00	2.00	0.50	3.00	2.00	0.50
Multi-Family Residential	0.75	Dwelling Unit	3.00	2.00	0.50	2.25	1.50	0.38
Planned Residential Development	1.00	Lot or Dwelling Unit	3.00	2.00	0.50	3.00	2.00	0.50
Commercial/Industrial	1.00	Parcel	3.00	2.00	0.50	3.00	2.00	0.50
Vacant Single Family Residential	1.00	Parcel	3.00	2.00	0.50	3.00	2.00	0.50
Vacant Multi-Family Residential	0.75	Parcel	3.00	2.00	0.50	2.25	1.50	0.38
Vacant Commercial/Industrial	1.00	Parcel	3.00	2.00	0.50	3.00	2.00	0.50
Timeshare Units	0.00	1 week of ownership	3.00	2.00	0.50	0.00	0.00	0.00
Exempt Parcels	0.00	Parcel	3.00	2.00	0.50	0.00	0.00	0.00
Public Owned Parcels	0.00	Parcel	3.00	2.00	0.50	0.00	0.00	0.00

In order to determine the maximum annual assessment rate for each type of land use described above, the following formula is applied:

Applicable EBU * Applicable Zone Factor*Maximum Assessment Rate per 1.0 EBU=Assessment Rate per Unit/Parcel.

E. RATES

Table 3 below shows the maximum assessments rates proposed to be levied in fiscal year 2017/2018 by land use. Because the San Diego Consumer Price Index for All Urban Consumers ("CPI-U") was 1.97% for 2016, the maximum assessments were increased by 1.97% as allowed for in the assessment range formula discussed below.

Table 3

CITY OF SOLANA BEACH
COASTAL RAIL TRAIL MAINTENANCE DISTRICT
EQUIVELANT BENEFIT UNITS AND ZONE FACTOR BY LAND USE

Land Use Description	Per	Base Rate for Zone 1	Base Rate for Zone 2	Base Rate for Zone 3
Single Family Residential	Lot or Parcel	$21.90	$14.60	$3.65
Residential Condominium	Dwelling Unit	$21.90	$14.60	$3.65
Multi-Family Residential	Dwelling Unit	$16.42	$10.95	$2.74
Planned Residential Development	Lot or Dwelling Unit	$21.90	$14.60	$3.65
Commercial/Industrial	Parcel	$21.90	$14.60	$3.65
Vacant Single Family Residential	Parcel	$21.90	$14.60	$3.65
Vacant Multi-Family Residential	Parcel	$16.42	$10.95	$2.74
Vacant Commercial/Industrial	Parcel	$21.90	$14.60	$3.65
Timeshare Units	1 week of ownership	$0.00	$0.00	$0.00
Exempt Parcels	Parcel	$0.00	$0.00	$0.00
Public Owned Parcels	Parcel	$0.00	$0.00	$0.00

F. ASSESSMENT RANGE FORMULA

The purpose of establishing an Assessment Range Formula is to provide for reasonable inflationary increases to the annual assessments without requiring the District to go through an expensive balloting process required by law in order to get a small increase. On July 1, 2007 and each year thereafter, the Maximum Assessment Rate shall be increased by the lesser of Local CPI-U in the San Diego County area or 2.0%. The CPI-U used shall be as determined annually by the Bureau of Labor Statistics beginning with the CPI-U rate increase for 2006.

Beginning in the Fiscal Year 2007/2008 the Maximum Assessment may be increased using the lesser of the increase in the CPI-U from first year levy (the Assessment Range Formula) or 2.0%. This Assessment Rate Formula would be applied every fiscal year thereafter and a new Maximum Assessment will be established to include the allowable increase.

The Maximum Assessment adjusted annually by this formula is not considered an increased assessment. Although the Maximum Assessment will increase each year, the actual assessment will only reflect the necessary budgeted amounts and may remain unchanged. Increases in the budget or an increase in the rate in one year from the prior year will not require a new 218 balloting unless the rate is greater than the Maximum Assessment adjusted to reflect an increase in the CPI-U.

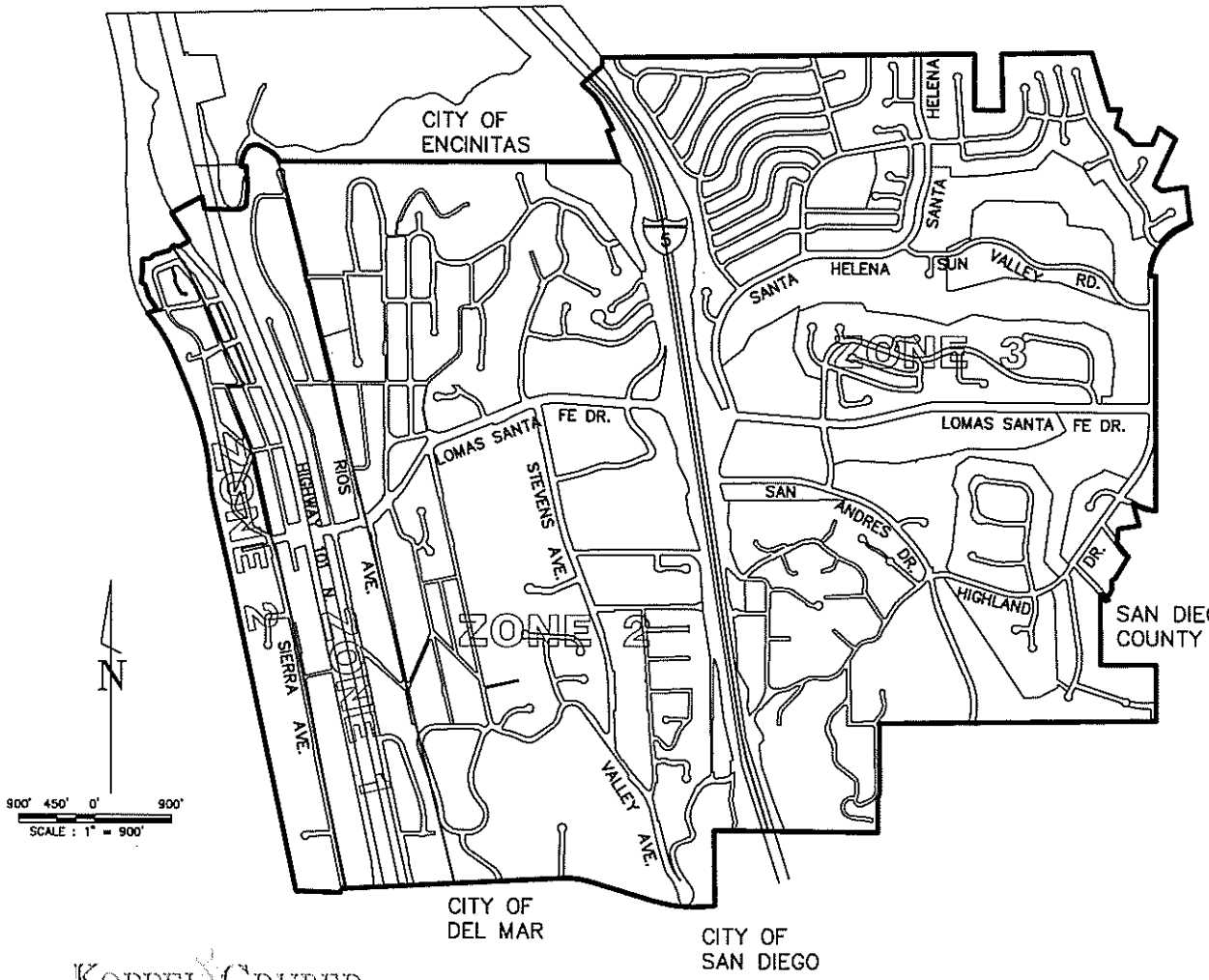
SECTION V. ASSESSMENT ROLL

Parcel identification, for each lot or parcel within the District shall be the parcel as shown on the County Assessor's map for the year in which this Report is prepared.

A listing of parcels assessed within the District, along with the proposed assessment amounts, has been submitted to the City Clerk, under a separate cover, and by reference is made part of this Report. Said listing of parcels to be assessed shall be submitted to the County Auditor/Controller and included on the property tax roll for each parcel in Fiscal Year 2017/2018. If any parcel submitted for collection is identified by the County Auditor/Controller to be an invalid parcel number for the current fiscal year, a corrected parcel number and/or new parcel numbers will be identified and resubmitted to the County Auditor/Controller. The assessment amount to be levied and collected for the resubmitted parcel or parcels shall be based on the method of apportionment and assessment rate approved in this Report. Therefore, if a single parcel has changed to multiple parcels, the assessment amount applied to each of the new parcels shall be recalculated and applied according to the approved method of apportionment and assessment rate rather than a proportionate share of the original assessment.

SECTION VI. ASSESSMENT DIAGRAM

The parcels within the District consist of all lots, parcels and subdivisions of land located in the City. A boundary map of the area is attached.



FILED IN THE OFFICE OF THE CITY CLERK OF THE CITY OF SOLANA BEACH THIS _____ DAY OF _____, 2005.

I HEREBY CERTIFY THAT THE WITHIN MAP SHOWING PROPOSED BOUNDARIES OF THE COASTAL RAIL TRAIL MAINTENANCE DISTRICT, CITY OF SOLANA BEACH, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, WAS APPROVED BY THE CITY COUNCIL OF THE CITY OF SOLANA BEACH AT A REGULAR MEETING THEREOF, HELD ON THE _____ DAY OF _____, 2005, BY ITS RESOLUTION NO. _____

_____
CITY CLERK
CITY OF SOLANA BEACH

FILED THIS _____ DAY OF _____, 2005, AT THE HOUR OF _____ O'CLOCK ____M. IN BOOK _____ OF MAPS OF ASSESSMENT AND COMMUNITY FACILITIES DISTRICTS, AT PAGE(S) _____ AND AS INSTRUMENT NO. _____ IN THE OFFICE OF THE COUNTY RECORDER IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA.

_____
COUNTY RECORDER
COUNTY OF SAN DIEGO
STATE OF CALIFORNIA

NOTE: FOR PARTICULARS OF THE LINES AND DIMENSIONS OF ASSESSOR'S PARCELS, REFERENCE IS MADE TO THE MAPS OF THE SAN DIEGO COUNTY ASSESSOR OF SAN DIEGO COUNTY RECORDS, WHICH MAPS SHALL GOVERN FOR ALL DETAILS RELATING THERETO.

KOPPEL GRUBER PUBLIC FINANCE

334 Via Vera Cruz
Suite 256
San Marcos, California 92078
Phone (760) 510-0290 Fax (760) 510-0288

(05-057) APRIL 2005

PROPOSED BOUNDARY MAP OF COASTAL RAIL TRAIL MAINTENANCE DISTRICT

CITY OF SOLANA BEACH
COUNTY OF SAN DIEGO
STATE OF CALIFORNIA

CITY OF SOLANA BEACH

CITY OF SOLANA BEACH
COASTAL RAIL TRAIL MAINTENANCE DISTRICT

Engineer's Report
Fiscal Year 2017/2018

The undersigned respectfully submits the enclosed Report as directed by City Council.

Report Submitted By:

By: _____
Scott Koppel
Koppel & Gruber Public Finance

By: _____
Mohammad Sammak

RESOLUTION 2017-075

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, INITIATING PROCEEDINGS FOR THE CITY OF SOLANA BEACH COASTAL RAIL TRAIL MAINTENANCE DISTRICT AND FOR THE ANNUAL LEVY OF ASSESSMENTS WITHIN THE COASTAL RAIL TRAIL MAINTENANCE DISTRICT

WHEREAS, the City Council of the City of Solana Beach, California, by previous Resolutions formed and approved the maximum annual assessment rates for the City of Solana Beach Coastal Rail Trail Maintenance District ("District"), pursuant to the provisions of the *Landscaping and Lighting Act of 1972, Part 2, Division 15 of the California Streets and Highways Coda (commencing with sections 22500)* (1972 Act); and

WHEREAS, the 1972 Act provides the City Council the authority to annually levy and collect assessments for the District on the San Diego County tax roll on behalf of the District to pay the maintenance, services, and operation of facilities and improvements related thereto; and

WHEREAS, the City has retained Koppel & Gruber Public Finance for the purpose of preparing and filing an engineer's report (hereinafter referred to as the Engineer's Report) with the City Clerk.

NOW, THEREFORE, the City Council of the City of Solana Beach, California, does resolve as follows:

1. That the above recitations are true and correct.

2. The City Council hereby appoints Koppel & Gruber Public Finance as the District Assessment Engineer and orders Koppel & Gruber Public Finance to prepare the Engineer's Report concerning the District and the levy of assessments for Fiscal Year 2017-18, in accordance with *Chapter 1, Article 4, beginning with Section 22565* of the Act.

   That Engineer's Report, as presented, consists of the following:

   - A description of the District boundary and improvements; and

   - The Annual Budget (costs and expenses of services, operation and maintenance); and

   - The method of apportionment for calculating the assessment for each of the assessed parcels, lots and subdivisions of land for the property located within the CRT Maintenance District in proportion

to the special benefits received and a roll containing the proposed levy amount for each assessed parcel within the CRT Maintenance District for Fiscal Year (FY) 2017/2018; and

- An exhibit showing the boundaries of the District.

Upon completion of the Engineer's Report, said Report shall be filed with the City Clerk, who shall submit the same to the City Council for its consideration pursuant to *Section 22586* of the Act.

3. The proposed improvements for the District include, but are not limited to: the ongoing maintenance, operation and servicing of landscaping and public lighting improvements that were installed as part of the construction of the City's Coastal Rail Trail. These improvements may also include all materials, equipment, utilities, labor, and appurtenant facilities related to those improvements. The Engineer's Report describes in more detail the items to be maintained and serviced.

4. The City Council hereby determines that to provide the improvements described in Section 3 of this resolution, it is necessary to levy and collect assessments against lots and parcels within the District.

5. The City Manager of the City of Solana Beach is hereby authorized and directed to take any and all action necessary and appropriate in connection with the annual levy and collection of assessments for the District.

PASSED AND ADOPTED this 24th day of May, 2017, at a regular meeting of the City Council of the City of Solana Beach, California by the following vote:

AYES: Councilmembers –
NOES: Councilmembers –
ABSTAIN: Councilmembers –
ABSENT: Councilmembers –

_____
MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

_____
JOHANNA N. CANLAS, City Attorney

ATTEST:

_____
ANGELA IVEY, City Clerk

RESOLUTION 2017-076

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, APPROVING THE ENGINEER'S REPORT FOR PROCEEDINGS FOR THE ANNUAL LEVY OF ASSESSMENTS WITHIN THE COASTAL RAIL TRAIL MAINTENANCE DISTRICT

WHEREAS, the City Council of the City of Solana Beach, California, pursuant to the terms of the "Landscaping and Lighting Act of 1972", being Division 15, Part 2 of the Streets and Highways Code of the State of California, did, by previous Resolution, initiate proceedings and ordered the preparation of an Engineer's Report for the annual levy of assessments within a special assessment district, such special assessment district known and designated as City of Solana Beach Coastal Rail Trail Maintenance District (Maintenance District); and

WHEREAS, pursuant to Section 22586 of the Streets and Highways Code, there has now been presented to this City Council the Engineer's Report as required by said Division 15 of the Streets and Highways Code and as previously directed by Resolution; and

WHEREAS, the City Council has carefully examined and reviewed the Engineer's Report as presented, and is preliminarily satisfied with the Maintenance District, each and all of the budget items and documents as set forth therein, and is satisfied that the proposed assessments have been spread in accordance with the benefits received from the improvements to be maintained and services, as set forth in said Engineer's Report.

NOW, THEREFORE, the City Council of the City of Solana Beach, California, does resolve as follows:

1. That the above recitations are true and correct.

2. That the Engineer's Report, as presented, consists of the following:

   - A description of the Maintenance District boundary and improvements; and

   - The Annual Budget (costs and expenses of services, operation and maintenance); and

   - The method of apportionment for calculating the assessment for each of the assessed parcels, lots, and subdivisions of land for the property located within the Maintenance District in proportion to the

special benefits received and a roll containing the proposed levy amount for each assessed parcel within the Maintenance District for Fiscal Year 2017-18; and

- An exhibit showing the boundaries of the District.

3. That the Engineer's Report is hereby preliminarily approved, and ordered to be filed in the Office of the City Clerk as a permanent record and to remain open to public inspection.

4. That the City Clerk shall certify to the passage and adoption of this Resolution and the minutes of this meeting shall so reflect the presentation of the Engineer's Report.

PASSED AND ADOPTED this 24th day of May, 2017, at a regular meeting of the City Council of the City of Solana Beach, California by the following vote:

AYES: Councilmembers –
NOES: Councilmembers –
ABSTAIN: Councilmembers –
ABSENT: Councilmembers –

_____
MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

_____
JOHANNA N. CANLAS, City Attorney

ATTEST:

_____
ANGELA IVEY, City Clerk

RESOLUTION 2017-077

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, DECLARING ITS INTENTION TO PROVIDE FOR THE ANNUAL LEVY AND COLLECTION OF ASSESSMENTS IN THE COASTAL RAIL TRAIL MAINTENANCE DISTRICT AND SETTING A TIME AND PLACE FOR A PUBLIC HEARING THEREON

WHEREAS, the City Council of the City of Solana Beach, California, has previously formed a special assessment district pursuant to the terms of the "Landscaping and Lighting Act of 1972", being Division 15, Part 2 of the Streets and Highways Code of the State of California, such special assessment district known and designated as City of Solana Beach Coastal Rail Trail Maintenance District (the Maintenance District); and

WHEREAS, at this time, the City Council is desirous to take proceedings to provide for the annual levy of assessments for the next ensuing fiscal year to provide for costs and expenses necessary to pay for the maintenance of the improvements in said Maintenance District; and

WHEREAS, at the formation of the District, the adopted Maximum Assessment formula includes an annual CPI-U adjustment not to exceed 2% and this annual adjustment adopted by the initial vote is not considered an increased assessment; and

WHEREAS, there has been presented and approved by this City Council the Engineer's Report, as required by law, and this City Council is desirous of continuing with the proceedings for said annual levy by adopting this Resolution of Intent pursuant to Streets and Highways Code Section 22587.

NOW, THEREFORE, the City Council of the City of Solana Beach, California, does resolve as follows:

1. That the above recitations are true and correct.

2. The public interest and convenience requires, and the City Council does propose at this time, to levy assessments for the Maintenance District to provide for the financing of the operation, maintenance and servicing of certain improvements located within the Coastal Rail Trail including both landscaping improvements and appurtenances and public lighting improvements and appurtenances.

   The landscaping improvements and services to be maintained by the Maintenance District include, but are not limited to, landscaping, planting,

ground cover, shrubbery, turf, trees, irrigation and drainage systems, hardscape, fixtures, sidewalks, fencing and other appurtenant items located along and adjacent to the City portion of the Coastal Rail Trail.

The public lighting improvements to be maintained and serviced include, but are not limited to, poles, fixtures, bulbs, conduits, conductors, equipment including guys, anchors, posts and pedestals, metering devices and appurtenant facilities as required to provide lighting along and within the Coastal Rail Trail.

3. That said works of improvement are of special benefit to the properties within the boundaries of said Maintenance District, which Maintenance District the legislative body previously declared to be the area specially benefited by said works of improvement, and for particulars, reference is made to the boundary map as previously approved by this legislative body, a copy of which is on file in the Office of the City Clerk and open for public inspection, and is designated by the name of this Maintenance District.

4. That the Engineers Report, as preliminarily approved by the legislative body, is on file with the City Clerk and open for public inspection. Reference is made to such Engineer's Report for a full and detailed description of the improvements to be installed and/or maintained, the boundaries of the Maintenance District, any zones therein and the proposed assessments upon assessable lots and parcels of land within the Maintenance District.

5. All costs and expenses of the works of maintenance and incidental expenses have been apportioned and distributed to the benefiting parcels in accordance with the special benefits received from the proposed work.

6. Notice is hereby given that a public hearing is to be held in the City Council Chambers located at the 635 South Highway 101, Solana Beach, California on the 28th day of June, 2017 at 6:00 P.M.

   At that time, the legislative body will consider and finally determine whether to levy the proposed annual assessment, and to hear all protests relating to said proposed proceedings, or the estimate of the cost and expenses of the proposed maintenance, or the proposed annual assessment; and any and all persons interested may file a written protest prior to the conclusion of the hearing referred to herein or, having files such a protest, may file a written withdrawal of that protest prior to the conclusion of such hearing. Any such written protest must state all

grounds for objection. A written protest by a property owner must contain a description sufficient to identify the property owned by such person, e.g. assessor's parcel number.

Any interested person may mail a protest to the following address:

CITY CLERK
CITY OF SOLANA BEACH
635 S. HIGHWAY 101
SOLANA BEACH, CA 92075

To be considered by the legislative body, all protests must be received prior to the conclusion of the public hearing. A postmark prior to such date and time will not be sufficient.

7. That the City Clerk is hereby authorized and directed to give notice as required by law by causing a copy of the Resolution to be published in the newspaper of general circulation within said City; and publication to be completed not less than ten (10) days prior to the date set for the public hearing.

PASSED AND ADOPTED this 24th day of May, 2017, at a regular meeting of the City Council of the City of Solana Beach, California by the following vote:

AYES: Councilmembers –
NOES: Councilmembers –
ABSTAIN: Councilmembers –
ABSENT: Councilmembers –

_____
MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

_____
JOHANNA N. CANLAS, City Attorney

ATTEST:

_____
ANGELA IVEY, City Clerk

STAFF REPORT
CITY OF SOLANA BEACH

TO:	Honorable Mayor and City Councilmembers
FROM:	Gregory Wade, City Manager
MEETING DATE:	May 24, 2017
ORIGINATING DEPT:	Finance
SUBJECT:	**Adoption of the Fiscal Year 2017-18 Fire Benefit Fee**

BACKGROUND

On April 8, 1980, voters in the Solana Beach Fire Protection District (District), by more than a two-thirds vote, approved a Fire Benefit Fee (Fee), not to exceed $10.00 per unit of benefit per year, on real property within the boundaries of the District. The District was subsequently merged with the City of Solana Beach (City), and the City now has the responsibility of administering this Fee. Because the Fee was adopted by the voters before the passage of Proposition 218, it is not subject to its requirements.

There is no legal requirement for a public hearing, however, the City has published a "Notice of Setting the Fire Benefit Fee" (Notice) to notify residents that they have the right to request that this item be removed from the consent agenda for discussion. The Notice was published in the local newspaper on May 14, 2017.

This item is before Council to consider approval of the attached Resolution which sets the Fire Benefit Fee and authorizes the fee to be placed on the County Assessment rolls.

DISCUSSION

Each year, the City Council is required to formally set the Fire Benefit Fee for levying on the tax roll. Staff is recommending that the Fee remain at the same level for Fiscal Year (FY) 2017-18 at $10.00 per benefit unit. This Fee has not been increased since it was approved by voters in 1980. In order to increase the Fire Benefit Fee, the City must comply with Proposition 218 and would need a two-thirds majority public vote to approve any increase.

Properties in the City would be charged an annual amount for the Fire Benefit Fee at $10.00 per unit according to the schedule outlined on the next page.

CITY COUNCIL ACTION:

ACTUAL LAND USE	MAXIMUM NUMBER OF UNITS OF BENEFIT
Unimproved	2 units per 1 acre and/or portion of 1 acre, up to 20 units per parcel
Residential	5 units per dwelling unit
Commercial	15 units per 1 acre and/or portion of 1 acre
Industrial	20 units per 1 acre and/or portion of 1 acre
Timeshares	1 unit per timeshare week (1/5 of residential)

CEQA COMPLIANCE STATEMENT:

Not a project as defined by CEQA.

FISCAL IMPACT

The $10.00 per unit fee raises approximately $440,000 that is used to assist in funding Fire Department operating expenses of $4,394,200 for FY 2017-18.

WORK PLAN:

N/A

OPTIONS:

- Approve Staff recommendation.
- Do not approve Staff recommendation and provide direction.

DEPARTMENT RECOMMENDATION

Staff recommends that the City Council adopt Resolution 2016-070:

1. Setting the FY 2017-18 Fire Benefit Fee at $10.00 per unit, and

2. Approving the Fee for levying on the tax roll.

CITY MANAGER RECOMMENDATION

Approve Department Recommendation.

Gregory Wade, City Manager

Attachments:

1. Resolution No. 2017-072

RESOLUTION NO. 2017-072

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, ESTABLISHING THE FISCAL YEAR 2017-18 FIRE BENEFIT FEE AS AUTHORIZED BY THE VOTERS AT $10.00 PER BENEFIT UNIT

WHEREAS, the City of Solana Beach has merged with the Solana Fire Protection District; and

WHEREAS, the voters of the Solana Fire Protection District on April 8, 1980, approved the following proposition:

> Shall the Solana Fire Protection District establish and impose standby or availability charges, not to exceed $10.00 per unit of benefit per year, on all real property (except that of federal, state, or local governmental agencies) within the boundaries of said Fire Protection District, the collection of which charges shall not decrease the appropriations limit of said Fire Protection District in any year for a period of four years from the effective date hereof, and which charges shall be established by the Board of Directors of said Fire Protection District from time to time, subject, however, to the following maximum units of benefit:

Actual Land Use	Maximum Number of Units of Benefit
Unimproved	2 units per 1 acre and/or portion of 1 acre, up to 20 units per parcel
Residential	5 units per dwelling unit
Commercial	15 units per 1 acre and/or portion of 1 acre
Industrial	20 units per 1 acre and/or portion of 1 acre; and
Timeshares	1 unit per timeshare week (1/5 of residential)

WHEREAS, the City of Solana Beach, as successor to the Solana Fire Protection District, is authorized to continue to levy the fire benefit fee; and

WHEREAS, the amount of the fire benefit fee remains unchanged.

NOW, THEREFORE, the City Council of the City of Solana Beach,

California, resolves as follows:

1. The foregoing recitations are true and correct.

2. The fire benefit charge is hereby set at $10.00 per benefit unit for all land use categories set forth above, as confirmed by this Board and will be filed with the Auditor and Controller of the County of San Diego.

3. The San Diego County Auditor shall place on the County Assessment Roll, opposite each parcel of land, the amount of levy so apportioned by the method of apportionment formula, as set forth above, and such levies shall be collected at the same time and in the same manner as ordinary ad valorem property taxes of the City for the fiscal year commencing July 1, 2017.

4. The City Clerk's Designee, Koppel & Gruber Public Finance, is hereby authorized and directed to file the levy with the San Diego County Auditor subsequent to the adoption of this Resolution.

PASSED AND ADOPTED this 24th day of May 2017, at a regularly scheduled meeting of the City Council of the City of Solana Beach, California by the following vote:

AYES: Councilmembers –
NOES: Councilmembers –
ABSENT: Councilmembers –
ABSTAIN: Councilmembers –

_____
MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

_____
JOHANNA N. CANLAS, City Attorney

ATTEST:

_____
ANGELA IVEY, City Clerk

STAFF REPORT
CITY OF SOLANA BEACH

TO: Honorable Mayor and City Councilmembers
FROM: Gregory Wade, City Manager
MEETING DATE: May 24, 2017
ORIGINATING DEPT: Finance
SUBJECT: **Adoption of the Fiscal Year (FY) Municipal Improvement Districts Benefit (MID) Fees**

BACKGROUND:

The four Municipal Improvement Districts (MIDs) in Solana Beach were originally formed pursuant to Government Code Section 25210.1 as County Service Areas (CSAs) prior to the incorporation of the City. The CSAs were formed by the County Board of Supervisors on the following dates:

		Date Established
MID No. 9C-	Santa Fe Hills	03-24-69
MID No. 33-	Highway 101/Railroad Right-of-Way	08-03-71
MID No. 9E-	Isla Verde	12-18-74
MID No. 9H-	San Elijo #2	10-10-77

The County formed these CSAs in order to provide a means to fund landscaping and maintenance of streets, medians, slopes, certain drainage facilities, and appurtenant improvements in various areas of the County. These CSAs were further established so that local property owners within the prescribed boundaries of the special districts would be provided extended services. The property owners share the cost of the maintenance through service charges based on the benefit received.

This item is before the Council to consider approval of the attached resolutions which set the benefit fees for the four MIDs and authorizes the fees to be placed on the County Assessor Rolls.

DISCUSSION:

When the CSAs were formed, property owners within the boundary of the service area desired these extended miscellaneous services. These services were benefits received by the property owners and not supported by general revenues of the County originally. They are also not supported by the City's General Fund.

CITY COUNCIL ACTION:

These service areas were established as an alternate means of providing landscape maintenance services. The City contracts with the homeowners' associations who sub-contract with a private landscape contractor to provide the actual landscaping services.

As a result of the July 1, 1986 incorporation, the CSAs were dissolved and new "Municipal Improvement Districts" were formed. The City Council, as part of the incorporation process, assumed the role of the Board of Supervisors for the new Municipal Improvement Districts. The City has managed the MIDs since incorporation.

With the exception of MID No. 33, the City provides three of the four districts with budgetary information on which the annual fees are based. The City provides a service to these homeowners' associations by translating each budget into a unit cost per parcel, and then levying the required amount on the tax roll each year. The City also performs monthly inspections of the landscaping work and responds to complaints and inquiries.

The City receives a fee for providing the services to set and collect the landscape maintenance fee, conducts a monthly landscape inspection, tracks the income and interest earnings, processes monthly payments, and compiles the annual accounting information and provides it to the homeowners' associations. The City also reviews each budget to ensure that all charges are related to the provision of extended services or administration of the Municipal Improvement Districts.

MID No. 33 is the only MID for which services are not provided by a homeowners' association. The oversight responsibility for the landscape maintenance is provided by the City's Public Works Department. A budget is produced each year by the City to provide funds for landscape maintenance within the service area. The assessment area for MID No. 33 includes all parcels west of Interstate 5 to the Pacific Ocean and from the San Elijo Lagoon south to Via de la Valle.

The MID No. 33 service area was authorized in order to provide landscape improvement and maintenance for Highway 101 medians and the railroad right-of-way that is appurtenant to Highway 101. These landscaped medians were installed using funding provided by the County for select system roads which also require continued maintenance. MID No. 33 provides an alternate funding source for this public service in Solana Beach; however, this revenue is significantly less than the actual costs to maintain these areas. The maintenance is provided under contract with a landscape maintenance contractor as well as City Staff.

Because the MIDs were created prior to Proposition 218, the MID charges for MID No. 9C, No. 9E, No. 9H, and No. 33 may be levied as proposed without additional requirements so long as the amount of the charge does not exceed pre-November 1996 levels. The charges proposed are at the same rates they were since their inception and are not being raised.

Since there is no legal requirement for a public hearing, the City has instead published a "Notice of Setting Various Fees for the Municipal Improvement Districts" notifying residents that they have the right to request that this item be removed from the consent agenda for discussion if required. That notice was published in the local newspaper on May 14, 2017. In addition, emails were sent to the President of each Homeowner's Association notifying them that the hearing to set the MID fees and place on the tax roll was scheduled for May 24, 2017.

Staff therefore recommends that the City Council approve the fees as outlined in the attached resolutions as follows: for MID No. 9C (Santa Fe Hills) at $232.10 per unit; MID No. 9E (Isla Verde) at $68.74 per unit; for MID No. 9H (San Elijo Hills #2) at $289.58 per unit; and for MID No. 33 at $3.12 per unit ($.06 per timeshare week).

CEQA COMPLIANCE STATEMENT:

Not a project as defined by CEQA.

FISCAL IMPACT

The fee for each MID will generate the total benefit charge revenue, as shown below, to service the MID:

	FEE	REVENUE
MID No. 9C - Santa Fe Hills	$232.10 per unit	$304,300
MID No. 9E - Isla Verde	$ 68.74 per unit	$ 6,000
MID No. 9H - San Elijo Hills #2	$289.58 per unit	$101,000
MID No. 33 - Highway 101/Railroad Right-of-Way	$ 3.12 per unit	$127,000

WORK PLAN:

N/A

OPTIONS:

- Approve Staff recommendation.
- Do not approve Staff recommendation and provide direction.

DEPARTMENT RECOMMENDATION:

Staff recommends that the City Council:

1. Approve Resolution No. 2017-080, setting the Benefit Charges for MID No. 9C, Santa Fe Hills at $232.10 per unit for FY 2017-18.

2. Approve Resolution No. 2017-081, setting the Benefit Charges for MID No. 9E, Isla Verde at $68.74 per unit for FY 2017-18.

3. Approve Resolution No. 2017-082, setting the Benefit Charges for MID No. 9H, San Elijo Hills # 2 at $289.58 per unit for FY 2017-18.

4. Approve Resolution No. 2017-083, setting the Benefit Charges for MID No. 33, Highway 101/Railroad Right-of-Way at $3.12 per unit for FY 2017-18.

CITY MANAGER'S RECOMMENDATION

Approve department recommendation.

Gregory Wade, City Manager

Attachments:

1. Resolution No. 2017-080
2. Resolution No. 2017-081
3. Resolution No. 2017-082
4. Resolution No. 2017-083

RESOLUTION NO. 2017-080

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, SETTING THE BENEFIT CHARGES FOR MUNICIPAL IMPROVEMENT DISTRICT NUMBER 9C FOR FISCAL YEAR 2017-18

WHEREAS, the City Council considered a report concerning the benefit charge to be levied within the Municipal Improvement District Number 9C, Santa Fe Hills (the "District") pursuant to an Ordinance previously approved by the voters on March 24, 1969; and

WHEREAS, the City Council has determined that charges for providing landscape maintenance service be shown as a separate item on property tax bills and collected at the same time and in the same manner as ordinary county ad valorem taxes and caused to be prepared and filed, written reports describing real property receiving landscape maintenance services within the District; and

WHEREAS, the charges for the parcels within the District for Fiscal Year 2017-18 have been computed in conformity with the procedure set forth in, and charges described by, applicable ordinances and resolutions of the Solana Beach City Council; and

WHEREAS, the charges are at the same rates they were since their inception and are not being raised; and

WHEREAS, the amount paid to an association from charges or taxes levied in a district shall include the reasonably estimated cost of the work or improvement to be done in the District for the ensuing fiscal year, plus incidental expenses directly related to the provision of extended services or administration of the District; and

WHEREAS, services shall be provided by the homeowners' association in accordance with the contract last approved by the County of San Diego; and

WHEREAS, payments for service shall be made in twelve equal monthly installments and payment for incidental expenses shall be made upon submission of a statement.

NOW, THEREFORE, the City Council of the City of Solana Beach, California, resolves as follows:

1. The foregoing recitations are true and correct.

2. The benefit unit charge for Municipal Improvement District No. 9C, Santa Fe Hills, for Fiscal Year 2017-18 will be $232.10 per unit, as listed on Attachment No. 1 of this Resolution and confirmed by the City Council, and

will be filed with the Auditor and Controller of the County of San Diego.

3. The San Diego County Auditor shall place on the County Assessor Roll, opposite each parcel of land within the District, the levy amount of $232.10 per unit, as set forth in Attachment No. 1 of this Resolution, and such levies shall be collected at the same time and in the same manner as ordinary ad valorem property taxes of the City for the fiscal year commencing July 1, 2017.

4. The City Clerk's Designee, Koppel & Gruber Public Finance, is hereby authorized and directed to file the levy with the San Diego County Auditor subsequent to the adoption of this Resolution.

PASSED AND ADOPTED this 24th day of May 2017, at a regularly scheduled meeting of the City Council of the City of Solana Beach, California by the following vote:

AYES: Councilmembers –
NOES: Councilmembers –
ABSENT: Councilmembers –
ABSTAIN: Councilmembers –

_____
MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

_____
JOHANNA N. CANLAS, City Attorney

ATTEST:

_____
ANGELA IVEY, City Clerk

ATTACHMENT 1

Resolution No. 2017-080

M.I.D. FEES

2013-2014 through 2017-2018

	2013-2014 BUDGET	2013-2014 FEES	2014-2015 BUDGET	2014-2015 FEES	2015-2016 BUDGET	2015-2016 FEES	2016-2017 BUDGET	2016-2017 FEES	2017-2018 BUDGET	2017-2018 FEES
Highway 101 - MID No. 33	95,800	3.12	95,600	3.12	95,600	3.12	107,600	3.12	124,800	3.12
Santa Fe Hills - MID No. 9C	258,600	232.10	258,600	232.10	261,500	232.10	276,500	232.10	300,300	232.10
Isla Verde - MID No. 9E	6,000	68.74	6,000	68.74	6,000	68.74	6,000	68.74	6,000	68.74
San Elijo Hills #2 - MID No. 9H	90,900	289.58	92,700	289.58	92,700	289.58	99,700	289.58	103,600	289.58

RESOLUTION NO. 2017-081

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, SETTING THE BENEFIT CHARGES FOR MUNICIPAL IMPROVEMENT DISTRICT NUMBER 9E FOR FISCAL YEAR 2017-18

WHEREAS, the City Council considered a report concerning the benefit charge to be levied within the Municipal Improvement District Number 9E, Isla Verde (the "District") pursuant to an Ordinance previously approved by the voters on December 18, 1974; and

WHEREAS, the City Council has determined that charges for providing landscape maintenance service be shown as a separate item on property tax bills and collected at the same time and in the same manner as ordinary county ad valorem taxes and caused to be prepared and filed, written reports describing real property receiving landscape maintenance services within the District; and

WHEREAS, the charges for the parcels within the District for Fiscal Year 2017-18 have been computed in conformity with the procedure set forth in, and charges described by, applicable ordinances and resolutions of the Solana Beach City Council; and

WHEREAS, the charges are at the same rates they were since their inception and are not being raised; and

WHEREAS, the amount paid to an association from charges or taxes levied in a district shall include the reasonably estimated cost of the work or improvement to be done in the District for the ensuing fiscal year, plus incidental expenses directly related to the provision of extended services or administration of the District; and

WHEREAS, services shall be provided by the homeowners' association in accordance with the contract last approved by the County of San Diego; and

WHEREAS, payments for service shall be made in twelve equal monthly installments and payment for incidental expenses shall be made upon submission of a statement.

NOW, THEREFORE, the City Council of the City of Solana Beach, California, resolves as follows:

1. The foregoing recitations are true and correct.

2. The benefit unit charge for Municipal Improvement District No. 9E, Isla Verde, for Fiscal Year 2017-18 will be $68.74 per unit, as listed on Attachment No. 1 of this Resolution and confirmed by the City Council, and will be filed with the Auditor and Controller of the County of San Diego.

3. The San Diego County Auditor shall place on the County Assessor Roll, opposite each parcel of land within the District, the levy amount of $68.74 per unit, as set forth in Attachment No. 1 of this Resolution, and such levies shall be collected at the same time and in the same manner as ordinary ad valorem property taxes of the City for the fiscal year commencing July 1, 2017.

4. The City Clerk's Designee, Koppel & Gruber Public Finance, is hereby authorized and directed to file the levy with the San Diego County Auditor subsequent to the adoption of this Resolution.

PASSED AND ADOPTED this 24th day of May 2017, at a regularly scheduled meeting of the City Council of the City of Solana Beach, California by the following vote:

AYES: Councilmembers –
NOES: Councilmembers –
ABSENT: Councilmembers –
ABSTAIN: Councilmembers –

_____
MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

_____
JOHANNA N. CANLAS, City Attorney

ATTEST:

_____
ANGELA IVEY, City Clerk

ATTACHMENT 1

Resolution No. 2017-081

M.I.D. FEES

2013-2014 through 2017-2018

	2013-2014 BUDGET	2013-2014 FEES	2014-2015 BUDGET	2014-2015 FEES	2015-2016 BUDGET	2015-2016 FEES	2016-2017 BUDGET	2016-2017 FEES	2017-2018 BUDGET	2017-2018 FEES
Highway 101 - MID No. 33	95,800	3.12	95,600	3.12	95,600	3.12	107,600	3.12	124,800	3.12
Santa Fe Hills - MID No. 9C	258,600	232.10	258,600	232.10	261,500	232.10	276,500	232.10	300,300	232.10
Isla Verde - MID No. 9E	6,000	68.74	6,000	68.74	6,000	68.74	6,000	68.74	6,000	68.74
San Elijo Hills #2 - MID No. 9H	90,900	289.58	92,700	289.58	92,700	289.58	99,700	289.58	103,600	289.58

RESOLUTION NO. 2017-082

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, SETTING THE BENEFIT CHARGES FOR MUNICIPAL IMPROVEMENT DISTRICT NUMBER 9H FOR FISCAL YEAR 2017-18

WHEREAS, the City Council considered a report concerning the benefit charge to be levied within the Municipal Improvement District Number 9H, San Elijo Hills #2 (the "District") pursuant to an Ordinance previously approved by the voters on October 10, 1977; and

WHEREAS, the City Council has determined that charges for providing landscape maintenance service be shown as a separate item on property tax bills and collected at the same time and in the same manner as ordinary county ad valorem taxes and caused to be prepared and filed, written reports describing real property receiving landscape maintenance services within the District; and

WHEREAS, the charges for the parcels within the District for Fiscal Year 2017-18 have been computed in conformity with the procedure set forth in, and charges described by, applicable ordinances and resolutions of the Solana Beach City Council; and

WHEREAS, the charges are at the same rates they were since their inception and are not being raised; and

WHEREAS, the amount paid to an association from charges or taxes levied in a district shall include the reasonably estimated cost of the work or improvement to be done in the District for the ensuing fiscal year, plus incidental expenses directly related to the provision of extended services or administration of the District; and

WHEREAS, services shall be provided by the homeowners' association in accordance with the contract last approved by the County of San Diego; and

WHEREAS, payments for service shall be made in twelve equal monthly installments and payment for incidental expenses shall be made upon submission of a statement.

NOW, THEREFORE, the City Council of the City of Solana Beach, California, resolves as follows:

1. The foregoing recitations are true and correct.

2. The benefit unit charge for Municipal Improvement District No. 9H, San Elijo Hills #2, for Fiscal Year 2017-18 will be $289.58 per unit, as listed on Attachment No. 1 of this Resolution and confirmed by the City Council, and will be filed with the Auditor and Controller of the

County of San Diego.

3. The San Diego County Auditor shall place on the County Assessor Roll, opposite each parcel of land within the District, the levy amount of $289.58 per unit, as set forth in Attachment No. 1 of this Resolution, and such levies shall be collected at the same time and in the same manner as ordinary ad valorem property taxes of the City for the fiscal year commencing July 1, 2017.

4. The City Clerk's Designee, Koppel & Gruber Public Finance, is hereby authorized and directed to file the levy with the San Diego County Auditor subsequent to the adoption of this Resolution.

PASSED AND ADOPTED this 24th day of May 2017, at a regularly scheduled meeting of the City Council of the City of Solana Beach, California by the following vote:

AYES: Councilmembers –
NOES: Councilmembers –
ABSENT: Councilmembers –
ABSTAIN: Councilmembers –

_____
MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

_____
JOHANNA N. CANLAS, City Attorney

ATTEST:

_____
ANGELA IVEY, City Clerk

ATTACHMENT 1

Resolution No. 2017-082

M.I.D. FEES

2013-2014 through 2017-2018

	2013-2014 BUDGET	2013-2014 FEES	2014-2015 BUDGET	2014-2015 FEES	2015-2016 BUDGET	2015-2016 FEES	2016-2017 BUDGET	2016-2017 FEES	2017-2018 BUDGET	2017-2018 FEES
Highway 101 - MID No. 33	95,800	3.12	95,600	3.12	95,600	3.12	107,600	3.12	124,800	3.12
Santa Fe Hills - MID No. 9C	258,600	232.10	258,600	232.10	261,500	232.10	276,500	232.10	300,300	232.10
Isla Verde - MID No. 9E	6,000	68.74	6,000	68.74	6,000	68.74	6,000	68.74	6,000	68.74
San Elijo Hills #2 - MID No. 9H	90,900	289.58	92,700	289.58	92,700	289.58	99,700	289.58	103,600	289.58

RESOLUTION NO. 2017-083

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, SETTING THE BENEFIT CHARGES FOR MUNICIPAL IMPROVEMENT DISTRICT # 33 FOR FISCAL YEAR 2017-18

WHEREAS, the City Council considered a report concerning the benefit charge to be levied within the Municipal Improvement District Number 33, Highway 101/Railroad Right-of-Way, pursuant to an Ordinance previously approved by the voters on August 3, 1971; and

WHEREAS, the City Council has determined that charges for providing landscape maintenance service be shown as a separate item on property tax bills and collected at the same time and in the same manner as ordinary county ad valorem taxes and caused to be prepared and filed, written reports describing real property receiving landscape maintenance services within the District; and

WHEREAS, the charges for the parcels within the District for Fiscal Year 2017-18 have been computed in conformity with the procedure set forth in, and charges described by, applicable ordinances and resolutions of the Solana Beach City Council; and

WHEREAS, the charges are at the same rates they were since their inception and are not being raised.

NOW, THEREFORE, the City Council of the City of Solana Beach, California, resolves as follows:

1. The foregoing recitations are true and correct.

2. The benefit unit charge for Municipal Improvement District No. 33, Highway 101/Railroad Right-of-Way, for Fiscal Year 2017-18 will be $3.12 per unit, as listed on Attachment No. 1 of this Resolution and confirmed by the City Council, and will be filed with the Auditor and Controller of the County of San Diego.

3. The San Diego County Auditor shall place on the County Assessor Roll, opposite each parcel of land within the District, the levy amount of $3.12 per unit, as set forth in Attachment No. 1 of this Resolution, and such levies shall be collected at the same time and in the same manner as ordinary ad valorem property taxes of the City for the fiscal year commencing July 1, 2017.

4. The City Clerk's Designee, Koppel & Gruber Public Finance, is hereby authorized and directed to file the levy with the San Diego County Auditor subsequent to the adoption of this Resolution

PASSED AND ADOPTED this 24th day of May 2017, at a regularly scheduled meeting of the City Council of the City of Solana Beach, California by the following vote:

AYES: Councilmembers –
NOES: Councilmembers –
ABSENT: Councilmembers –
ABSTAIN: Councilmembers –

MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

JOHANNA N. CANLAS, City Attorney

ATTEST:

ANGELA IVEY, City Clerk

ATTACHMENT 1

Resolution No. 2017-083

M.I.D. FEES

2013-2014 through 2017-2018

	2013-2014 BUDGET	2013-2014 FEES	2014-2015 BUDGET	2014-2015 FEES	2015-2016 BUDGET	2015-2016 FEES	2016-2017 BUDGET	2016-2017 FEES	2017-2018 BUDGET	2017-2018 FEES
Highway 101 - MID No. 33	95,800	3.12	95,600	3.12	95,600	3.12	107,600	3.12	124,800	3.12
Santa Fe Hills - MID No. 9C	258,600	232.10	258,600	232.10	261,500	232.10	276,500	232.10	300,300	232.10
Isla Verde - MID No. 9E	6,000	68.74	6,000	68.74	6,000	68.74	6,000	68.74	6,000	68.74
San Elijo Hills #2 - MID No. 9H	90,900	289.58	92,700	289.58	92,700	289.58	99,700	289.58	103,600	289.58

STAFF REPORT
CITY OF SOLANA BEACH

TO: Honorable Mayor and City Councilmembers
FROM: Gregory Wade, City Manager
MEETING DATE: May 24, 2017
ORIGINATING DEPT: Finance
SUBJECT: **Fiscal Year 2017/18 Appropriations Limit**

BACKGROUND:

The Gann Initiative (Proposition 4) was passed in November 1979, by the voters of California, becoming a constitutional amendment. This amendment limited the annual growth of state and local government budgets. The amendment establishes FY 1978/79 as the base year, and allows the base to increase in future years by the percentage of growth in population and by the increase in the Consumer Price Index or California Per Capita Personal Income (whichever is lower).

Proposition 4 does not limit all appropriations, but does limit appropriations financed from "Proceeds of Taxes." "Proceeds of Taxes" include such revenues as property taxes, sales and use taxes, transient occupancy taxes, and most state subventions. Revenues from other sources such as fees, charges for services and federal grants are considered "Non-Proceeds of Taxes" and not subject to the Appropriations Limit.

In order to deal with an increasing number of complaints about the restrictions of Proposition 4, and to increase the accountability of local government in adopting their limits, the voters approved Proposition 111 in June 1990. Proposition 111 provided new adjustment formulas, which make the Appropriations Limit more responsive to local growth issues. Proposition 111 also requires an annual review of Appropriations Limit calculations.

The statutes regarding the adoption of the Appropriations Limit are contained in California Government Code Section 7910. The law calls for the adoption of the Appropriations Limit by resolution prior to the fiscal year (FY) in question. Following the passage of Proposition 111 in June 1990, the requirements for adopting the Appropriations Limit were changed requiring a recorded vote of the City Council as to which of the annual adjustment factors had been selected for the ensuing year.

CITY COUNCIL ACTION: _____

_____

The adoption of the Appropriations Limit is done at a regular meeting or a noticed special meeting. There is no required public hearing or special public notice. Once the Appropriations Limit is adopted, the public has forty-five (45) days from the effective date of the resolution to initiate judicial action regarding the Appropriations Limit. The adoption of the Appropriations Limit, and any adjustments to it, are deemed to be legislative acts. This is an important point in that the courts have determined that a future Legislature/Council may modify the acts of a prior legislative decision without violating Article XIIIB.

This item is before the City Council to adopt a resolution establishing the FY 2017/18 Appropriations Limit (Attachment 1).

DISCUSSION:

The FY 2017/18 Appropriations Limit is established by adjusting the current Appropriations Limit for growth in changes in California's per capita income and population for the City. Section 7901(b) of the Government Code allows a city to choose between the change in population of the City and the change in population of the County in adjusting the previous year's Appropriations Limit. These figures are provided by the State Department of Finance. Staff recommends using the change in the County of San Diego's population, rather than the change in the City's population, since the City's population increased by 0.30% and the County's population increased by 0.92%.

Section 7901(b) also dictates that the City must select its change in population pursuant to this section annually by a recorded vote of the governing body. Approval of Resolution No. 2017-073 by the City Council establishes that the City Council chooses to use the County of San Diego's change in population for the calculation of the Appropriations Limit.

Staff has calculated the City's Appropriations Limit for FY 2017/18 to be $35,457,916 (Attachment 2). Staff has included the following detail involved in calculating the Appropriations Limit: Estimated Revenue and Resource Schedule (Attachment 3), the detail to this schedule (Attachment 4), and the Schedule of Appropriations subject to the Appropriations Limit (Attachment 5).

Staff has also included the Annual Adjustment Factors for FY 2017/18 (Attachment 6). This schedule lists the California change in per capita personal income, and the changes in both the City's and County of San Diego's population that were selected in calculating the Appropriations Limit.

The FY 2017/18 Appropriations Limit may be recalculated in the future because of increases in the non-residential assessed valuation for new construction that exceeds the changes in California per capita personal income growth.

The non-residential assessed valuation amounts are not yet available from the County Assessor and, as stated previously in this report, the courts have determined that a future Legislature/Council may modify the acts of a prior legislative decision without violating Article XIIIB.

CEQA COMPLIANCE STATEMENT:

Not a project under CEQA.

FISCAL IMPACT:

The FY 2017/18 Appropriations Limit is calculated to be $35,457,916. The amount of the appropriations (proceeds of taxes) that are subject to the limit is $15,117,603. This amount is $20,340,313 under the spending limitations. If the actual receipts of the proceeds of taxes received in FY 2017/18 exceed the Appropriation Limits, then the excess receipts would have to be refunded within the next two fiscal years, absent a voter approval to increase the limit.

WORK PLAN:

N/A

OPTIONS:

- Approve Staff recommendation increasing the City's Appropriations Limit for FY 2017/18.
- Do not approve an increase to the City's Appropriations Limit for FY 2017/18 and provide direction to Staff.

DEPARTMENT RECOMMENDATION:

Staff recommends the City Council adopt Resolution 2017-073, establishing the FY 2017/18 Appropriations Limit in accordance with Article XIIIB of the California Constitution and Government Code Section 7910 and choosing the County of San Diego's change in population growth to calculate the Appropriations Limit.

CITY MANAGER'S RECOMMENDATION:

Approve Department Recommendation.

Gregory Wade, City Manager

Attachments:

1. Resolution No 2017-073
2. Schedule A – Gann Limit Calculation
3. Schedule B – Estimated Revenue and Resources Schedule
4. Detail to Schedule B
5. Schedule C - Schedule of Appropriations Subject to Limit
6. Annual Adjustment Factors FY 2017/18

RESOLUTION NO. 2017-073

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, ESTABLISHING THE FY 2017/18 APPROPRIATIONS LIMIT IN ACCORDANCE WITH ARTICLE XIIIB OF THE CALIFORNIA CONSTITUTION AND GOVERNMENT CODE SECTION 7910 AND CHOOSING THE COUNTY OF SAN DIEGO'S CHANGE IN POPULATION GROWTH TO CALCULATE THE APPROPRIATIONS LIMIT

WHEREAS, Article XIIIB of the California Constitution was amended June 5, 1990, by Proposition 111 to change the price and population factors that may be used by local jurisdictions in setting their appropriations limit; and

WHEREAS, the appropriations limit may increase annually by a factor comprised of the change in population within the local jurisdiction or within the county in which it is located, combined with either the change in California Per Capita Personal Income or the change in the local assessment roll due to local non-residential construction; and

WHEREAS, the FY 2017/18 Appropriations Limit for the City of Solana Beach shall be the FY 1987/88 Appropriations Limit adjusted from that year forward by the new growth factors stated in Proposition 111; and

WHEREAS, the City has been provided price and population data from the State Department of Finance; and

WHEREAS, the price factor changes resulting from the change in California Per Capita Income and the increase in County population growth are the most favorable factors for the City of Solana Beach in adjusting its Appropriations Limit; and

WHEREAS, the final figures were not available from the County Assessor for non-residential assessed valuation due to new construction, the City reserves the right to recalculate the Appropriations Limit when they are available if it is in the City's best interest to do so.

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NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Solana Beach, California, does hereby resolve as follows:

1. That the foregoing recitations are true and correct.

2. That pursuant to the Government Code Section 7901(b), the City Council chooses to use the County of San Diego's change in population, as provided by the Department of Finance of the State of California, in calculating the Appropriations Limit for the City of Solana Beach.

3. The Appropriations Limit for the City of Solana Beach for Fiscal Year 2017/18 shall be $35,457,916.

PASSED AND ADOPTED this 24th day of May 2017, at a regularly scheduled meeting of the City Council of the City of Solana Beach, California by the following vote:

AYES: Councilmembers –
NOES: Councilmembers –
ABSENT: Councilmembers –
ABSTAIN: Councilmembers –

_____
MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

_____
JOHANNA N. CANLAS, City Attorney

ATTEST:

_____
ANGELA IVEY, City Clerk

Schedule A

Gann Limit Calculation

Fiscal Year 2017/18

Appropriations Limit 2016/17		$ 33,884,345
Increase due to California Per Capita Income	3.69%	1,250,332
Subtotal		35,134,677
Increase due to County population growth	0.92%	323,239
Appropriations Limit 2017/18		$ 35,457,916

Note: The source of the California per capita income, as well as the change in population, is the State of California Department of Finance's "Price and Population Information" letter dated May 2017

ATTACHMENT 2

Schedule B

Estimated Revenue and Resources

Fiscal Year 2017/18

Revenue/Resource		Tax Proceeds	Non-Tax Proceeds	Total
Property Taxes	(1)	$ 7,332,000	$ 844,400	$ 8,176,400
Sales Tax		3,233,100	0	3,233,100
Other Taxes/Franchise Fees	(2)	2,994,000	745,700	3,739,700
Licenses & Permits		0	476,400	476,400
Fines		0	487,000	487,000
Use of Money/Property-Interest	(3)	48,503	190,197	238,700
Use of Money/Property-Rental		0	110,000	110,000
Intergovernmental	(4)	1,510,000	908,600	2,418,600
Service Charges		0	6,235,860	6,235,860
Other Revenue		0	666,900	666,900
Proceeds from Long Term Debt		0	0	0
Departmental Charges		0	1,901,000	1,901,000
Transfers In		0	574,800	574,800
Estimated Fund Balance at 07/01/16		0	46,140,832	46,140,832
		$ 15,117,603	$ 59,281,689	$ 74,399,292

File: Gann 17-18 Sch B

ATTACHMENT 3

Detail - Schedule B
Tax/Non-Tax Proceeds

[1] ***Property Taxes***			
Tax Proceeds:			
General Fund Property Taxes			$ 7,332,000
Non-Tax Proceeds:			
Street Lighting District		$ 459,500	
RDA Low/Moderate Housing		-	
RDA Debt Service (Net of L/M)		-	
Prop 42		-	
Improvement Districts		384,900	844,400
	Total		$ 8,176,400
[2] ***Other Taxes/Franchise Fees***			
Tax Proceeds:			
Property Transfer Taxes		$ 160,000	
Transient Occupancy Taxes (001,250,450)		1,794,000	
Franchise Fees		726,000	
Solid Waste TIP Fees		0	
Street Sweeping		45,000	
Solid Waste NPDES		240,000	
Hazardous Household Waste		29,000	2,994,000
Non-Tax Proceeds:			
Fire Benefit Fees		440,000	
Local Coastal Plan		0	
Street Lighting District		82,500	
Improvement Districts		223,200	745,700
	Total		$ 3,739,700

[3] **Calculation of interest based on ratio of tax versus non-tax proceeeds:**

Total Interest = $108,700

	Tax %:	Non-Tax %:
Proceeds Less Interest	15,117,603	59,281,689
/ Total Resources Less Interest	74,399,292	74,399,292
= Percentage of Interest	20.319552%	79.680448%
Total Interest Revenue	238,700	238,700
X Percentage of Interest	20.319552%	79.680448%
= Allocation to Proceeds	48,502.77	190,197.23

[4] ***Intergovernmental***			
Tax Proceeds:			
Motor Vehicle Fees		$ 1,510,000	
Off-Highway License Fees		0	1,510,000
Non-Tax Proceeds:			
State HOE			
GF	53,000		
Improvement Districts	2,500		
St Lighting	3,200	58,700	
Off-Track Betting		25,000	
Highway Users' Tax (Gas Tax)		304,400	
Miscellaneous Grants		0	
Public Safety Special Rev Fund		49,500	
COPS		100,000	
TDA		0	
CDBG		0	
TransNet Extension		150,000	
Dept of Boating/Waterways		0	
Fire Revenue		200,000	
Miscellaneous		21,000	
			908,600
	Total		$ 2,418,600

ATTACHMENT 4

Schedule C

Schedule of Appropriations Subject to Limit

Fiscal Year 2017/18

Total Appropriations per Final Budget	$	74,399,292	**Sch B**
Less: Non-Tax Proceeds		(59,281,689)	**Sch B**
Affected Appropriations Fiscal Year 2017/18		15,117,603	
Appropriations Limit Fiscal Year 2017/18		35,457,916	**Sch A**
Amount Beneath Proposition 4 Limit	$	20,340,313	

File: Gann 17-18 Sch C

ATTACHMENT 5

Annual Adjustment Factors

Fiscal Year 2017/18

Annual Adjustment Factors:

City options:

A.	Increase in California per capita income	3.69%
	AND	
B.	City population growth	0.30%
	OR	
	County population growth	0.92%

ATTACHMENT 6

STAFF REPORT
CITY OF SOLANA BEACH

TO: Honorable Mayor and City Councilmembers
FROM: Gregory Wade, City Manager
MEETING DATE: May 24, 2017
ORIGINATING DEPT: Community Development Department
SUBJECT: **Resolution 2017-067 – Professional Services Agreement with Summit Environmental Group, Inc. for the Genevieve Street Assisted Living Facility Project**

BACKGROUND:

In May 2015, Pacific Sound Investors, LLC (Applicant) submitted an application for a Development Review Permit (DRP), a Structure Development Permit (SDP), and a Specific Plan for a Senior Residential Care Facility (Project). The project site is located at 959 Genevieve Street in the City of Solana Beach. The proposed Project would consist of a residential care assisted living facility with capacity for up to 99 beds, dining and recreation services, and support facilities. The facility would be a combination of one- and two-story buildings with underground parking.

On June 10, 2015, the City Council adopted Resolution 2015-079 authorizing the City Manager to execute a professional services agreement (PSA) with Harvey Meyerhoff Consulting Group, Inc. (now Summit Environmental Group, Inc.) for project management services associated with the Project. That PSA expires on June 10, 2017, therefore, a new PSA is needed to continue project management services with Summit Environmental Group, Inc. These services are paid by the City through a developer deposit, plus a 15% City administrative fee.

This item is before the Council to consider approval of Resolution 2017-067 approving a new PSA between the City and Summit Environmental Group, Inc. to continue project management responsibilities for this project, including management of the Environmental Impact Report (EIR) process.

COUNCIL ACTION:

_____

_____

DISCUSSION:

Project management services have been utilized for this project since June 2015. An initial two-year contract for planning/project management services was approved under Resolution 2015-079 in the amount of $42,000 (developer deposit) for Harvey Meyerhoff Consulting Group (HMCG). In 2016, HMCG transitioned to the Summit Environmental Group, Inc. (Summit). The current contract will expire on June 10, 2017.

Summit submitted a scope of work and fee estimate to the City to support the tasks described above and described more fully in Attachment 1 in the amount of $45,000. The City requires a 15% administrative fee be added ($6,750) for a total payment of $51,750 from the Applicant.

CEQA COMPLIANCE STATEMENT:

An EIR is being prepared for the proposed Genevieve Street Assisted Living Facility Project. Approval of a PSA is not a project as defined by the California Environmental Quality Act (CEQA).

FISCAL IMPACT:

There is no direct fiscal impact to the City's General Fund. The Applicant is responsible for paying all direct and indirect costs associated with this contract plus a 15% administrative fee to the City for contract processing. The total fees due from the Applicant at this time are $51,750 for project management services.

WORK PLAN:

N/A

OPTIONS:

- Approve City Staff recommendation
- Approve City Staff recommendation with alternative amendments / modifications
- Deny City Staff recommendation

DEPARTMENT RECOMMENDATION:

Staff recommends that the City Council adopt Resolution 2017-067 authorizing the City Manager to execute a professional services agreement between the City and Summit in the amount of $45,000 plus a 15% administrative fee ($6,750) for a total of $51,750 to support the continued application processing and management of the CEQA process for the Genevieve Street Assisted Living Facility Project and authorizing ongoing authority for the City Manager to modify the contract as needed.

CITY MANAGER'S RECOMMENDATION:

Approve Department Recommendation.

Gregory Wade, City Manager

Attachments:

1. Resolution 2017-067
2. PSA with Summit
3. Summit Scope of Work

RESOLUTION NO. 2017-067

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, AUTHORIZING THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH SUMMIT ENVIRONMENTAL GROUP, INC. FOR PROJECT MANAGEMENT SERVICES RELATED TO THE GENEVIEVE STREET ASSISTED LIVING FACILITY PROJECT

WHEREAS, in May 2015, Pacific Sound Investors, LLC (Applicant) submitted an application for a Development Review Permit (DRP), a Structure Development Permit (SDP), and a Specific Plan for a Residential Care Facility catering primarily to the elderly located at 959 Genevieve Street; and

WHEREAS, the Applicant is proposing to construct a residential care assisted living facility with capacity for up to 99 beds, dining and recreation services, and support facilities; and

WHEREAS, given the size, scope and nature of the proposed project, City Staff determined that the proposed project will require the preparation of an Environmental Impact Report (EIR) in compliance with the California Environmental Quality Act (CEQA) to evaluate potential environmental effects associated with the redevelopment of the project site as proposed; and

WHEREAS, a proposal for the preparation of an EIR was solicited and the contract was awarded to the firm of Placeworks and the City executed a Professional Services Agreement with Placeworks in June 2015 to prepare the EIR for the Project which has since been amended twice (2016 and 2017); and

WHEREAS, Project Management services have been utilized for this project since June 2015 under an initial two-year contract approved under Resolution 2015-079; and

WHEREAS, in 2016, HMCG transitioned to the Summit Environmental Group, Inc. (Summit) and the current contract will expire on June 10, 2017; and

WHEREAS, a new contract is required to be executed and any remaining developer deposit funds in the HMCG contract will be moved into the new contract with Summit; and

WHEREAS, Summit has submitted a scope of work and fee estimate to the City to support the tasks described above in the amount of $45,000. The City requires a 15% administrative fee be added ($6,750) for a total payment of $51,750 from the Applicant.

NOW THEREFORE, the City Council of the City of Solana Beach, California, does resolve as follows:

1. That the foregoing recitations are true and correct.

2. That the City Manager is authorized to execute a Professional Service Agreement with Summit to support the continued application processing and CEQA process management for the Genevieve Street Assisted Living Facility Project and authorize the expenditure of $51,750 (Summit fee [$45,000] + City 15% administrative fee) to be paid to the City by the Applicant and the City Manager is authorized with ongoing authority to amend the contract in the future as needed.

3. The City Manager is authorized with ongoing authority to amend the contract in the future as needed.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Solana Beach, California, held on the 24th day of May 2017, by the following vote:

AYES: Councilmembers –
NOES: Councilmembers –
ABSENT: Councilmembers –
ABSTAIN: Councilmembers –

_____
MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

_____
JOHANNA N. CANLAS, City Attorney

ATTEST:

_____
ANGELA IVEY, City Clerk

City of Solana Beach

PROFESSIONAL SERVICES AGREEMENT

FOR PROJECT MANAGEMENT SERVICES

THIS Professional Services Agreement ("AGREEMENT") is made and entered into this 24th day of May, 2017 by and between the CITY OF SOLANA BEACH, a municipal corporation ("CITY"), and, Summit Environmental Group, Inc. ,a California corporation ("CONSULTANT") (collectively "PARTIES").

WHEREAS, the CITY desires to employ a CONSULTANT to furnish Project Management Services ("PROFESSIONAL SERVICES") for the Genevieve St. Senior Assisted Living Facility Project ("PROJECT"); and

WHEREAS, the CITY has determined that CONSULTANT is qualified by experience and ability to perform the services desired by CITY, and CONSULTANT is willing to perform such services; and

WHEREAS, CONSULTANT will conduct all the work as described and detailed in this AGREEMENT to be provided to the CITY.

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

I. PROFESSIONAL SERVICES

A. **Scope of Services.** The CONSULTANT shall perform the PROFESSIONAL SERVICES as set forth in the written Scope of Services, attached as Exhibit "A" Scope of Services and Fee, at the direction of the CITY. CITY shall provide CONSULTANT access to appropriate staff and resources for the coordination and completion of the projects under this AGREEMENT.

B. **Project Coordinator.** The Community Development Director is hereby designated as the Project Coordinator for CITY and will monitor the progress and execution of this AGREEMENT. CONSULTANT shall assign a single Project Director to provide supervision and have overall responsibility for the progress and execution of this AGREEMENT for CONSULTANT. Leslea Meyerhoff is hereby designated as the Project Director for CONSULTANT.

C. **City Modification of Scope of Services.** CITY may order changes to the Scope of Services within the general scope of this AGREEMENT consisting of additions, deletions, or other revisions. If such changes cause a change in the CONSULTANT's cost of, or time required for, completion of the Scope of Services, an equitable adjustment to CONSULTANT's compensation and/or contract time shall be made, subject to the CITY'S approval. All such changes shall be authorized in writing, executed by CONSULTANT and CITY.

II. DURATION OF AGREEMENT

A. **Term.** The term of this AGREEMENT shall be for a period of two (2) years begninning from the date of execution of the AGREEMENT. Time is of the essence in the performance of work under this AGREEMENT, unless otherwise specified.

B. **Extensions.** ☒ If marked, the CITY shall have the option to extend the AGREEMENT for two (2) additional one (1) year periods or parts thereof for an amount not to exceed ($10,000.00) ten thousand dollars per AGREEMENT year. Extensions shall be in the sole discretion of the City Manager and shall be based upon CONSULTANT's satisfactory past performance, CITY

ATTACHMENT 2

needs, and appropriation of funds by the City Council. The CITY shall give written notice to CONSULTANT prior to exercising the option.

C. **Delay.** Any delay occasioned by causes beyond the control of CONSULTANT may merit an extension of time for the completion of the Scope of Services. When such delay occurs, CONSULTANT shall immediately notify the Project Coordinator in writing of the cause and the extent of the delay, whereupon the Project Coordinator shall ascertain the facts and the extent of the delay and grant an extension of time for the completion of the PROFESSIONAL SERVICES when justified by the circumstances.

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

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

III. COMPENSATION

A. **Total Amount.** The total cost for all work described in the Scope of Services and Fee (Exhibit "A") shall not exceed forty five thousand dollars ($45,000) without prior written authorization from CITY. CONSULTANT shall bill the CITY for work provided and shall present a written request for such payment monthly.

B. **Additional Services.** CITY may, as the need arises or in the event of an emergency, request additional services of CONSULTANT. Should such additional services be required, CITY and CONSULTANT shall agree to the cost prior to commencement of these services.

C. **Costs.** Any costs billed to the CITY shall be in accordance with any terms negotiated and incorporated herein as part of Exhibit "A" Scope of Services and Fee.

D. The City does not pledge any general funds for the payment of the services rendered. The City shall establish a separate fund to pay the fees and costs incurred that are reflected in the monthly general account invoice. The separate fund shall be funded by monies collected from the City's permit applicants or other persons requiring the City's services pursuant to the adopted User Fee schedule which CONSULTANT will provide according to the terms of this AGREEMENT.

IV. INDEPENDENT CONTRACTOR

A. CONSULTANT is, for all purposes arising out of this AGREEMENT, an independent contractor. The CONSULTANT has and shall retain the right to exercise full control and supervision of all persons assisting the CONSULTANT in the performance of said services hereunder, the CITY only being concerned with the finished results of the work being performed. Neither CONSULTANT nor CONSULTANT's employees shall in any event be entitled to any benefits to which CITY employees are entitled, including, but not limited to, overtime, retirement benefits, workers' compensation benefits, injury leave or other leave benefits. CONSULTANT

is solely responsible for all such matters, as well as compliance with social security and income tax withholding and all other regulations and laws governing such matters.

V. STANDARD OF PERFORMANCE

A. While performing the PROFESSIONAL SERVICES, CONSULTANT shall exercise the reasonable professional care and skill customarily exercised by reputable members of CONSULTANT's profession practicing in the metropolitan Southern California Area, and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

VI. WARRANTY OF CONSULTANT'S LICENSE

A. CONSULTANT warrants that CONSULTANT is properly licensed with the applicable government agency(ies) for any PROFESSIONAL SERVICES that require a license. If the CONSULTANT lacks such license, this AGREEMENT is void and of no effect.

VII. AUDIT OF RECORDS

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

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

VIII. CONFIDENTIALITY

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

IX. CONFLICTS OF INTEREST

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

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

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

D. CITY represents that pursuant to California Government Code Section 1090 *et seq.*, none of its elected officials, officers, or employees has an interest in this AGREEMENT.

X. DISPOSITION AND OWNERSHIP OF DOCUMENTS

A. All documents, data, studies, drawings, maps, models, photographs and reports prepared by CONSULTANT under this AGREEMENT, whether paper or electronic, shall become the property of CITY for use with respect to this PROJECT, and shall be turned over to the CITY upon completion of the PROJECT or any phase thereof, as contemplated by this AGREEMENT.

B. Contemporaneously with the transfer of documents, the CONSULTANT hereby assigns to the CITY and CONSULTANT thereby expressly waives and disclaims, any copyright in, and the right to reproduce, all written material, drawings, plans, specifications or other work prepared under this AGREEMENT, except upon the CITY's prior authorization regarding reproduction, which authorization shall not be unreasonably withheld. The CONSULTANT shall, upon request of the CITY, execute any further document(s) necessary to further effectuate this waiver and disclaimer.

XI. INSURANCE

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

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

C. **Types and Amounts Required.** CONSULTANT shall maintain, at minimum, the following insurance coverage for the duration of this AGREEMENT:

1. ☒**Commercial General Liability (CGL).** If checked the CONSULTANT shall maintain CGL Insurance written on an ISO Occurrence form or equivalent providing coverage at least as broad which shall cover liability arising from any and all personal injury or property damage in the amount of $2,000,000.00 per occurrence and subject to an annual aggregate of $4,000,000.00. There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability. All defense costs shall be outside the limits of the policy.

2. ☒**Commercial Automobile Liability.** If checked the CONSULTANT shall maintain Commercial Automobile Liability Insurance for all of the CONSULTANT's automobiles including owned, hired and non-owned automobiles, automobile insurance written on an ISO form CA 00 01 12 90 or a later version of this form or an equivalent form providing coverage at least as broad for bodily injury and property damage for a combined single limit of $1,000,000.00 per occurrence. Insurance certificate shall reflect coverage for any automobile (any auto).

3. ☒**Workers' Compensation.** If checked the CONSULTANT shall maintain Worker's Compensation insurance for all of the CONSULTANT's employees who are subject to this AGREEMENT and to the extent required by applicable state or federal law, a Workers' Compensation policy providing at minimum $1,000,000.00 employers' liability coverage. The CONSULTANT shall provide an endorsement that the insurer waives the right of subrogation against the CITY and its respective elected officials, officers, employees, agents and representatives.

4. ☐**Professional Liability.** If checked the CONSULTANT shall also maintain Professional Liability (errors and omissions) coverage with a limit of $1,000,000.00 per claim and $2,000,000.00 annual aggregate. The CONSULTANT shall ensure both that (1) the policy retroactive date is on or before the date of commencement of the Scope of Services; and (2) the policy will be maintained in force for a period of three years after substantial completion of the Scope of Services or termination of this AGREEMENT whichever occurs last. The CONSULTANT agrees that for the time period defined above, there will be no changes or endorsements to the policy that increase the CITY's exposure to loss. All defense costs shall be outside the limits of the policy.

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

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

1. The CITY, its officers, officials, employees, and representatives shall be named as additional insureds. The CITY's additional insured status must be reflected on additional insured endorsement form (20 10 1185 or 20 10 1001 and 20 37 1001) which shall be submitted to the CITY.

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

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

XII. INDEMNIFICATION

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

XIII. SUBCONTRACTORS

A. The CONSULTANT's hiring or retaining of third parties (i.e. subcontractors) to perform services related to the PROJECT is subject to prior approval by the CITY.

B. All contracts entered into between the CONSULTANT and its subcontractor shall also provide that each subcontractor shall obtain insurance policies which shall be kept in full force and effect during any and all work on this PROJECT and for the duration of this AGREEMENT. The CONSULTANT shall require the subcontractor to obtain, all policies described in Section 11 in the amounts required by the CITY, which shall not be greater than the amounts required of the CONSULTANT.

C. In any dispute between the CONSULTANT and its subcontractor, the CITY shall not be made a party to any judicial or administrative proceeding to resolve the dispute. The CONSULTANT agrees to defend and indemnify the CITY as described in Section 12 of this AGREEMENT should the CITY be made a party to any judicial or administrative proceeding to resolve any such dispute.

XIV. NON-DISCRIMINATION

A. CONSULTANT shall not discriminate against any employee or applicant for employment because of sex, race, color, age, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, or sexual orientation. CONSULTANT shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their sex, race, color, age, religion, ancestry, national origin,

disability, medical condition, genetic information, marital status, or sexual orientation and shall make reasonable accommodation to qualified individuals with disabilities or medical conditions. Such action shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. CONSULTANT agrees to post in conspicuous places available to employees and applicants for employment any notices provided by CITY setting forth the provisions of this non-discrimination clause.

XV. NOTICES

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

Bill Chopk, Community Development Director
City of Solana Beach
635 S. Highway 101
Solana Beach, CA 92075

Leslea Meyerhoff, Principal
Summit Environmental Group,Inc.
2810 Cazadero Drive
Carlsbad, CA 92009

XVI. ASSIGNABILITY

A. This AGREEMENT and any portion thereof shall not be assigned or transferred, nor shall any of the CONSULTANT's duties be delegated or sub-contracted, without the express written consent of the CITY.

XVII. RESPONSIBILITY FOR EQUIPMENT

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

XVIII. CALIFORNIA LAW; VENUE

A. This AGREEMENT shall be construed and interpreted according to the laws of the State of California. Any action brought to enforce or interpret any portion of this AGREEMENT shall be brought in the county of San Diego, California. CONSULTANT hereby waives any and all rights it might have pursuant to California Code of Civil Procedure Section 394.

XIX. COMPLIANCE WITH LAWS

A. The CONSULTANT shall comply with all laws, ordinances, regulations, and policies of the federal, state, and local governments applicable to this AGREEMENT whether now in force or subsequently enacted. This includes maintaining a City of Solana Beach Business Certificate.

XX. ENTIRE AGREEMENT

A. This AGREEMENT sets forth the entire understanding of the PARTIES with respect to the subject matters herein. There are no other understandings, terms or other agreements expressed or implied, oral or written, except as set forth herein. No change, alteration, or modification of the terms or conditions of this AGREEMENT, and no verbal understanding of the PARTIES, their officers, agents, or employees shall be valid unless agreed to in writing by both PARTIES.

XXI. NO WAIVER

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

XXII. SEVERABILITY

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

XXIII. DRAFTING AMBIGUITIES

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

XXIV. CONFLICTS BETWEEN TERMS

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

XXV. EXHIBITS INCORPORATED

A. All Exhibits referenced in this AGREEMENT are incorporated into the AGREEMENT by this reference.

XXVI. SIGNING AUTHORITY

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

B. ☐ If checked, a proper notary acknowledgement of execution by CONSULTANT must be attached.

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

CONSULTANT, a California Corporation

By:

Consultant Signature

Name and Title

CITY OF SOLANA BEACH, a municipal corporation of the State of California,

By:

Gregory Wade,
City Manager

ATTEST:

Angela Ivey,
City Clerk

APPROVED AS TO FORM:

Johanna N. Canlas,
City Attorney

APPROVED AS TO CONTENT:

Bill Chopyk,
Director of Community Development

EXHIBIT "A"

SCOPE OF SERVICES AND FEE

GENEVIEVE STREET ASSISTED LIVING FACILITY PROJECT
SCOPE OF SERVICES AND FEE

Scope of Work

The proposed scope of work for this project is described in the table below. The various tasks to be performed are categorized under either development application processing or the CEQA process. However, from a project management standpoint they are fully integrated and both processes will run concurrently.

Specific Plan, General Plan Amendment, DRP, and SDP Processing
• Ongoing coordination with City Staff; project status meetings • Review of Specific Plan, DRP and SDP application and all supporting materials including preparation of comment letters as required to identify any issues at the onset of the project • Mailing of all required notices for project permits • Coordination related to story poles and SDP process at attendance at view assessment committee meetings • Coordination with the Applicant and their representatives regarding project plans, technical reports and processing status • Coordination with City Staff on project status and review of any issues and scheduling item for City Council review and consideration • Preparation of the Staff Report, Resolution, and PowerPoint presentation for City Council • Attendance at the City Council public hearing for project consideration.
CEQA Compliance – Management of the EIR Process
• Regular monthly meetings or conference calls with the consultant team • Review of CEQA required technical studies to identify any data gaps in existing data as early as possible after project initiation • Management of the preparation of all required CEQA notices including the NOP, NOC/NOA and NOD and delivery to the County Clerk, State Clearinghouse, E-blast, publication in the Union Tribune. • Coordination to develop a distribution list for the CEQA notices • One public scoping meeting during the 30-day NOP comment period • Review of the scoping memo summarizing all comments received by the City in response to the NOP and the Draft Initial Study • Refinement to project description prior to starting the draft EIR as needed • Preparation of the Draft EIR including one Administrative Draft EIR, one Screencheck Draft EIR and the Public Review Draft EIR • Coordination on the development of alternatives for CEQA analysis purposes • Development of a Mitigation Monitoring and Reporting Program (MMRP)

ATTACHMENT 3

- One public meeting on the Draft EIR during the 45-day public review and comment period
- Management of the Responses to Comments process
- Preparation of Administrative Draft Final EIR, one Screencheck Draft Final EIR and the Public Final EIR
- Supporting role for preparing Findings of Fact prior to City Council consideration of the Final EIR and MMRP

Budget and Schedule Assumptions

Based on past experience with processing development projects in the City, and a working knowledge of the City's practices, an average 8 hours of time per week would be required to managing this project for a period of one year. An 8-hour weekly average equates to 32 hours per month and acknowledges that some weeks the Project may require more time and other weeks project management tasks may require less time.

The total project management fee for this project is $48,000. This is a not to exceed cost. If needed, additional months would be provided at a monthly fee of $4,000 based on an hourly rate of $125/hour.

STAFF REPORT
CITY OF SOLANA BEACH

TO: Honorable Mayor and City Councilmembers
FROM: Gregory Wade, City Manager
MEETING DATE: May 24, 2017
ORIGINATING DEPT: Community Development Department
SUBJECT: **Community Development Block Grant and Home Investment Partnerships Programs Three-Year Cooperative Agreement Extension**

BACKGROUND:

The Federal Government requires local jurisdictions with populations less than 50,000 to enter into cooperative agreements on a three-year cycle if they desire to participate in receiving Community Development Block Grant (CDBG) and Home Investment Partnerships Program (HOME) funds. On March 24, 2017, the County of San Diego Housing and Community Development Services (HCDS) sent its notification letter (Attachment 1) to the City requesting verification that the City of Solana Beach will continue its participation for the next three years as has been done in the past.

This item is before the City Council to authorize the automatic renewal of the Cooperation Agreement (Attachment 2) for three additional years covering Fiscal Years (FY) 2018-2020.

DISCUSSION:

In 2011, the City Council authorized execution of a Cooperative Agreement with the County of San Diego for the Community Development Program (Attachment 2). This agreement is set up to be automatically extended to a new consecutive three-year term by resolution of the City Council if the City intends to continue participation. The resolution is required to be submitted to HCDS by June 2, 2017. If the City elects not to participate with the County, the City would need to retain its own representatives to participate on a competitive basis to apply for the same amount of grant funding. Given the City's relatively small eligible project area and additional resources required to effectively compete for these funds, participating in the CDBG program with the County would be the most efficient and cost effective approach. Adoption of Resolution 2017-074 (Attachment 3) informs the County of the City's desire to continue to participate in the cooperative agreement and be eligible for grant funds which have been approximately $40,000-$50,000 annually.

CITY COUNCIL ACTION:

The previous CDBG applications, approved by the City Council, were to construct pedestrian ramps at public street intersections that comply with the Americans with Disabilities Act (ADA). The need for ADA ramps is declining as most of these ramps have already been installed throughout the City using CDBG funds. For this reason, the current years CDBG project for FY 2017/18, awarded by the City Council on October 12, 2016, was to utilize $42,500 of CDBG funding for ADA improvements and $7,500 to the Boys and Girls Club of San Dieguito. CDBG funds may be used for public services and housing activities that meet a national objective, i.e. benefitting low-moderate income people. However, the U.S. Department of Housing and Urban Development (HUD) limits public service activities to 15% of the total grant award received for an Urban County, which for Solana Beach is HCDS. Public improvements are not capped.

The FY 2017/18 CDBG funding awarded by City Council was submitted to HCDS on October 28, 2016. On April 11, 2017, the County Board of Supervisors approved the CDBG FY 2017/18 Annual Plan, which allocated $23,121 to the City of Solana Beach for ADA improvements and $8,101 to the Boys and Girls Club. The Annual Plan has been submitted to HUD for review and approval. The funds are expected to be released in August 2017. The project funding may be adjusted by HCDS as necessary to reflect the actual funds released by HUD.

CEQA COMPLIANCE STATEMENT:

This action is not a project as defined by the California Environmental Quality Act (CEQA).

FISCAL IMPACT: N/A

WORK PLAN: N/A

OPTIONS:

- Approve Staff recommendation.
- Deny Staff recommendation and do not participate in this program.
- Provide other direction to Staff.

DEPARTMENT RECOMMENDATION:

Staff recommends that the City Council adopt Resolution 2017-074 (Attachment 3) authorizing the automatic renewal of the Community Development Block Grant Cooperation Agreement (Attachment 2) for the qualification periods of July 1, 2018 to June 30, 2019; July 1, 2019 to June 30, 2020; and July 1, 2020 to June 30, 2021.

CITY MANAGER RECOMMENDATION:

Approve Department recommendation.

Gregory Wade, City Manager

Attachments:

1. County of San Diego Notification letter (dated March 24, 2017)
2. Cooperation Agreement between the County of San Diego and the City for a Community Development Program
3. Resolution 2017-074

NICK MACCHIONE, FACHE
AGENCY DIRECTOR

County of San Diego
HEALTH AND HUMAN SERVICES AGENCY
HOUSING AND COMMUNITY DEVELOPMENT SERVICES
780 BAY BLVD., SUITE 200, MAIL STOP O-231
CHULA VISTA, CA 91910
(858) 694-4801 • FAX (858) 467-9713

TODD HENDERSON
DIRECTOR, HOUSING AND COMMUNITY DEVELOPMENT SERVICES

March 24, 2017

Bill Chopyk, AICP
City of Solana Beach
635 South Highway 101
Solana Beach, CA 92075

2018-2020 CDBG PARTICIPATING CITIES COOPERATION AGREEMENT

Dear Mr. Chopyk:

The current San Diego Urban County Community Development Block Grant (CDBG) Program Cooperation Agreement (Agreement), effective July 1, 2015 through June 30, 2018, includes an automatic renewal provision. The renewal option allows for the City's continued participation for an additional three consecutive periods covering July 1, 2018 through June 30, 2021.

San Diego Urban County is a federally designated area that includes the unincorporated area of San Diego County and all non-entitlement cities within the County that choose to participate in the CDBG Program. In accordance with the U.S. Department of Housing and Urban Development (HUD) Community Planning and Development (CPD) Notice, CPD-16-05 (attached), issued on April 14, 2016, the County of San Diego Housing and Community Development Services (HCDS) is required to provide notification of your City's opportunity to continue participating with the San Diego Urban County in fiscal years 2018-2020 Community Development Block Grant (CDBG) Programs and Annual Funding Plans.

The CPD Notice describes the administrative steps required by HUD for the CDBG San Diego Urban County qualification process. In further accordance with the requirements of Notice CPD-16-05, please be advised that if a City elects to remain with the Urban County and execute a Cooperation Agreement, the Cooperation Agreement must remain in effect until all CDBG funds and any CDBG and/or HOME Investment Partnerships (HOME) Program revenue received from funded CDBG and/or HOME activities have been expended and funded facilities are completed. Also, participating cities cannot withdraw from the Cooperation Agreement while it remains in effect.

If the City elects to remain in the Urban County, the City would be ineligible to apply under the separate small cities or State CDBG Programs. The City would also automatically participate in the HOME Program if the Urban County receives HOME funding, but could only participate in the HOME Program as part of the Urban County.

Participating cities may also elect not to participate in the Urban County CDBG Program and funding. If a City elects not to participate in the Urban County, the City must advise the County

and HUD in writing of its decision to be excluded by June 22, 2017. Such election to be excluded will be effective for the entire three-year period for which the Urban County qualifies, unless the City specifically elects to be included in a subsequent year for the remainder of the Urban County's three-year qualification (Cooperation Agreement) period. In that case, the City must provide such notice of election in writing.

If your City decides not to participate in the 2018-2020 Urban County Cooperation Agreement, your Chief Executive Officer must notify both HUD and the County of the decision in writing before June 22, 2017. Such notification to HUD should be addressed to:

Chin Woo Choi, Program Manager
U.S. Department of Housing and Urban Development
Los Angeles Area Office Region IX
611 W. Sixth Street, Suite 800
Los Angeles, CA 90017

Notification to the County should be addressed to:

Todd Henderson, Director
Housing and Community Development Services
3989 Ruffin Road
San Diego, CA 92123

Please submit a letter with the city's intent to participate for the next CDBG Program qualification period to our office by June 2, 2017. If the City intends to continue participation in the Urban County, a resolution from City Council authorizing the automatic renewal of the Cooperation Agreement for the qualification periods of July 1, 2018 – June 30, 2019; July 1, 2019 – June 30, 2020; and, July 1, 2020 – June 30, 2021, must be submitted to County of San Diego Housing and Community Development Services by June 2, 2017.

Please contact me at (858) 694-8764, or via email at Miriam.Parson@sdcounty.ca.gov, with any questions.

Sincerely,

MIRIAM R. PARSON, MPA, Administrative Analyst II
Housing and Community Development Services

Enclosure

A COOPERATION AGREEMENT BETWEEN THE COUNTY

OF SAN DIEGO AND CITY OF SOLANA BEACH

FOR A COMMUNITY DEVELOPMENT PROGRAM

This Agreement is made and entered into this 16 day of May, 2011, by and between the County of San Diego, a political subdivision of the State of California, hereinafter called "County," and City of Solana Beach, a municipal corporation of the State of California, located in the County of San Diego, hereinafter called "City," collectively referred to as "Parties."

RECITALS:

WHEREAS, in 1974, the U. S. Congress enacted and the President signed a law entitled, The Housing and Community Development Act of 1974, as amended, herein called the "Act". The Act is omnibus legislation relating to Federal involvement in a wide range of housing and community development activities and contains eight separate titles.

WHEREAS, Title I of the Act is entitled, Community Development, and consolidates several existing categorical programs for housing and community development into new programs for such housing and development under block financial grants. The primary objectives of Title I are the improvement and development of metropolitan cities and urban counties or communities by providing financial assistance annually for area-wide plans and programs of housing assistance, public services and public works.

ATTACHMENT 2

WHEREAS, in 1990, the U. S. Congress enacted and the President signed a law entitled, The National Affordable Housing Act, herein called the "Housing Act". The Housing Act is legislation relating to Federal involvement in affordable housing activities.

WHEREAS, the Housing Act requires an Urban County (as defined in the Housing Act) to certify that it is following a Consolidated Plan (as defined in the Housing Act) in order to receive Community Development Block Grant and HOME Investment Partnerships funds.

WHEREAS, the County of San Diego has requested of the Department of Housing and Urban Development that it be qualified as an Urban County and thereby become eligible for financial entitlement to receive Community Development Block Grant and HOME Investment Partnerships funds. Pursuant thereto, the County has been informed preliminarily, subject to final determination, that it will qualify as an Urban County and be eligible for funds.

WHEREAS, the Housing and Community Development Block Grant Regulations issued pursuant to the Act (the "Regulations") provide that qualified urban counties must submit an Annual Funding Plan (as defined in the Housing Act) to the Department of Housing and Urban Development for funds and that cities and smaller communities within the metropolitan area not qualifying as metropolitan cities may join the County in said Annual Funding Plan and thereby become a part of a more comprehensive County effort

WHEREAS, as the applicant, the County must take the full responsibility and assume all obligations of an applicant under the statute. This includes the analysis of needs, the setting of objectives, the development of community development and housing

affordability strategies and plans, the community development program, and the assurances or certifications.

NOW THEREFORE, in consideration of the mutual promises, recitals and other provisions hereof, the Parties agree as follows:

1. All capitalized terms not defined herein shall have the meanings given to them under the Act.

2. The Parties agree that this Agreement covers the Community Development Block Grant Entitlement Program and the HOME Investment Partnerships Program.

3. The Parties agree to cooperate to undertake or assist in undertaking, community renewal and lower income housing assistance activities.

4. The City agrees that it shall be included in the Annual Funding Plan the County shall develop and submit to the Department of Housing and Urban Development for Title I Housing and Community Development Block Grant and HOME Investment Partnerships Program funds under the Act and the Housing Act.

5. The City agrees that it may not apply for grants under the Small Cities or State Community Development Grant programs from appropriations for fiscal years during the period in which it is participating in the Urban County Community Development Block Grant Program under this Agreement, and may not participate in a HOME consortium except through the Urban County, regardless of whether the Urban County receives a HOME formula allocation.

6. The City shall prepare or work with the County in the preparation of a detailed project or projects or other activities to be conducted or performed within the City the plan of which shall be included in the aforesaid Annual Funding Plan.

7. The County agrees to include the City in its Annual Funding Plan under the Act and to work with the City in the preparation of the detailed project or projects or other activities to be conducted or performed within the City pursuant to the Annual Funding Plan.

8. The County is hereby authorized to carry out activities which will be funded from annual Community Development Block Grant funds from Fiscal Year 2012-2014 appropriations and from any program income generated from the expenditure of such funds. The City and the County recognize that the County shall be the governmental entity required to execute any grant agreement received pursuant to its Annual Funding Plan and that it shall there by become legally liable and responsible there under for the proper performance of the plan and program. The City agrees that it shall fully cooperate with the County in all things required and appropriate to comply with the provisions of any Grant Agreement received by the County pursuant to the Act and its Regulations.

9. Pursuant to 24 CFR 570.501(b), the City agrees and does hereby commit itself to undertake, conduct or perform or assist the County in undertaking, conducting or performing the essential community development and lower-income housing assistance activities identified in the plan and program contemplated hereunder pursuant to the Act. The City is subject to the same requirements applicable to subrecipients, including the requirement of entering into a written agreement with the County as described in 24 CFR 570.503.

10. All funds received by the County in accordance with its Annual Funding Plan shall be identified and allocated to the specific projects or activities set out in the Annual Funding Plan and such allocated amounts shall be expended exclusively for such projects or activities; provided, however, that a different distribution may be made when necessary to comply with Title I of the Housing and Community Development Act of 1974, as amended.

11. The City shall notify the County of any income generated by the expenditure of Community Development Block Grant funds received by the City. Such program income may be paid to the County, or the City may retain the program income subject to the provisions of this Agreement, the Act and its Regulations. Any program income retained must only be used for eligible activities in accordance with all Community Development Block Grant requirements as then apply.

12. The County shall monitor the use of any program income, requiring appropriate record-keeping and reporting by the City as may be needed for this purpose, and shall report the use of such program income to HUD. In the event of close-out or change of status of the City, all program income on hand or received by the City subsequent to the close-out or change of status shall be paid to the County.

13. The City shall notify the County of any modification or change in the use of real property acquired or improved in whole or in part using Community Development Block Grant funds that is within the control of the City, from that use planned at the time of acquisition or improvement including disposition. Such notification shall be made within thirty (30) days of such change of use.

14. The City shall reimburse the County in an amount equal to the current fair market value, less any portion thereof attributable to expenditures of non-Community Development Block Grant funds, of property acquired or improved with Community Development Block Grant funds that is sold or transferred for a use which does not qualify under the Regulations. The City shall fully inform the County of such program income within thirty (30) days of the sale or change of use of property acquired or improved with Community Development Block Grant funds.

15. In the event of close-out or change of status of the City or termination of this Agreement between the County and the City, such program income resulting from the disposition or transfer of property acquired or improved with Community Development Block Grant funds shall be paid to the County by the City.

16. City has adopted and is enforcing a policy prohibiting the use of excessive force by law enforcement agencies within their jurisdictions against any individuals engaged in non-violent civil rights demonstrations; and a policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within jurisdictions.

17. The term of this Agreement, known as the COUNTY CDBG Urban County Qualification period, shall cover fiscal years 2012-2014, commencing on July 1, 2012, and ending on June 30, 2014, unless an earlier date of termination is fixed by HUD, pursuant to the Act. Notwithstanding the above, if there are activities undertaken pursuant to this Agreement that are not yet completed or funded, then for the purpose of those activities only, this Agreement shall remain in effect until all Community Development Block Grant funds received pursuant to this Agreement, and any program income received with respect

to activities carried out pursuant to this Agreement are expended, and the funded activities are completed. The Parties cannot terminate or withdraw from this Agreement while it is in effect. The Agreement automatically renews to a new consecutive three-year terms, unless either Party provides written notice at least 60 days prior to the end of the term that it elects not to participate in a new qualification period. A copy of that notice must be sent to the HUD Field Office. Before the end of each three-year term, the County will notify the City in writing, by the date specified in HUD's urban county qualification notice for the next qualification period, of its right not to participate in the urban county for a successive three-year term with a copy of the notification sent to the HUD Field Office.

18. It is anticipated that the 2012/2013 Annual Funding Plan will be approved prior to July 1, 2012. All subsequent periods of performance hereunder shall be agreed to by written notification of this Agreement, fully executed by the Parties.

19. The Parties shall adopt amendments to this Agreement incorporating any changes necessary to meet the requirements for cooperation agreements set forth in the Urban County qualification Notice by HUD prior to a subsequent three-year extension of the term. Any amendment to this Agreement shall be submitted to HUD as required by the regulations. Such failure to comply will void the automatic renewal for such qualification period.

20. The Mayor and City Attorney of the City shall execute and submit to the County of San Diego the HUD Certification Forms with respect to the community development activities carried out within the boundaries of this City. It is further understood that the County will rely upon the Certifications executed by the Mayor and City Attorney for purposes of executing Certification Forms for submission to HUD.

21. All records of the City respecting these Annual Funding Plans and any project undertaken pursuant thereto shall be open and available for inspection by auditors assigned by HUD and/or the County on reasonable notice during the normal business hours of the City.

22. The Parties agree to take all actions necessary to comply with the Urban County's certification required by section 104(b) of Title I of the Housing and Community Development Act of 1974, as amended, including Title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 109 of Title I of the Housing and Community Development Act of 1974, as amended and other applicable laws.

23. The Parties agree that no Urban County funding will be expended for activities in or in support of any cooperating unit of general local government that does not affirmatively further fair housing within its own jurisdiction or that impedes the County's actions to comply with its fair housing certification.

24. If Community Development Block Grant funds are not awarded to the County by the U.S. Department of Housing and Community Development, the County's obligation to distribute those funds to the Urban County members will be terminated.

25. The Parties agree that if City fails to obligate funds within 12 months of the notice to proceed or to expend funds within 36 months of obligation for an eligible project or activity identified in the Annual Funding Plan pursuant to Paragraphs 6 and 7, the County may recapture and reallocate such unexpended funds at its sole discretion. The recaptured funds shall be made available for reprogramming to other eligible activities as deemed appropriate by the County, as Grantee for the Urban County.

IN WITNESS WHEREOF, the governing bodies of the respective Parties have authorized this Cooperation Agreement and direct its execution by their respective chief executive officers this 11th day of May, 2011. The terms and provisions of this Agreement are fully authorized under State and local law and the Agreement provides full legal authority for the County to undertake or assist in undertaking essential community development and housing assistance activities, specifically urban renewal and publicly assisted housing.

COUNTY OF SAN DIEGO

BY _____

Director,
Housing and Community Development

APPROVED AS TO FORM AND LEGALITY
COUNTY COUNSEL

BY _____
SENIOR DEPUTY 4/28/11

CITY OF SOLANA BEACH

BY _____

Mayor

ATTEST:

BY _____

City Clerk

Approved as to form and legality:

_____

City Attorney

COUNTY COUNSEL acknowledges that the terms and provisions of the agreement are fully authorized under State and local law and the agreement provides full legal authority for the County of San Diego to undertake, or assist in undertaking, essential community renewal and lower income housing assistance activities.

BY _____

Senior Deputy

RESOLUTION 2017-074

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, CONFIRMING THE CITY'S DESIRE TO PARTICIPATE IN FISCAL YEARS 2018-2019, 2019-2020 AND 2020-2021 COMMUNITY DEVELOPMENT BLOCK GRANT APPLICATIONS PROGRAM AND HOME INVESTMENT PARTNERSHIPS PROGRAMS

WHEREAS, the Housing and Community Development Department (HCD) of the County of San Diego administers the San Diego Urban County Community Development Block Grant Program and HOME Investment Partnerships Program ("Programs"); and

WHEREAS, the City desires to continue to participate in these Programs; and

WHEREAS, in 2014 the City entered into a three year Cooperative Agreement with the County Housing and Community Development Department for the Community Development Program; and the agreement has a renewal option that allows an automatic three year extension with City Council authorization.

NOW, THEREFORE, the City Council of the City of Solana Beach, California, does resolve as follows:

1. That the above recitations are true and correct.

2. That the City Council authorizes the automatic renewal of the Community Development Block Grant Cooperation Agreement for the qualification periods of July 1, 2018 to June 30, 2019; July 1, 2019 to June 30, 2020; and July 1, 2020 to June 30, 2021.

PASSED AND ADOPTED this 24th day of May, 2017, at a regular meeting of the City Council of the City of Solana Beach, California by the following vote:

AYES: Councilmembers –
NOES: Councilmembers –
ABSTAIN: Councilmembers –
ABSENT: Councilmembers –

_____
MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

_____
JOHANNA N. CANLAS, City Attorney

ATTEST:

_____
ANGELA IVEY, City Clerk

ATTACHMENT 3

STAFF REPORT
CITY OF SOLANA BEACH

TO:	Honorable Mayor and City Councilmembers
FROM:	Gregory Wade, City Manager
MEETING DATE:	May 24, 2017
ORIGINATING DEPT:	Engineering Department
SUBJECT:	**Consideration of Resolution No. 2017-084: ADA Pedestrian Ramps Project Notice of Completion**

BACKGROUND:

At the January 11, 2017 City Council meeting, the City Council awarded a construction contract for the ADA Pedestrian Ramps Project, Bid No. 2016-10, to Miramar General Engineering. This project is funded by the Fiscal Year (FY) 2016/2017 Community Development Block Grant (CDBG) for ADA (Americans with Disabilities Act) pedestrian ramp improvements at various public street intersections.

This item is before the City Council to report the final project costs, accept the project as complete and direct the City Clerk to file a Notice of Completion.

DISCUSSION:

Miramar General Engineering (Contractor) completed all work on this project in accordance with the approved plans and specifications of Bid No. 2016-10 to the satisfaction of the City Engineer. One change order in an amount of $1,064 was issued to address minor unanticipated conflicts and extra work such as extending private yard drains and modifying ramps to fit unusual conditions. The City will release the retention, in the amount of $2,026, thirty-five (35) days after the Notice of Completion is recorded.

CEQA COMPLIANCE STATEMENT:

The project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301(c) of the State CEQA Guidelines.

CITY COUNCIL ACTION:

FISCAL IMPACT:

The City received County approval for CDBG funds in the amount of $53,399 for FY 2016/2017. The contract was awarded in the amount of $39,450. One change order was issued in the amount of $1,064, for a final contact amount of $40,514. The City will request that unused CDBG grant funds be reallocated to a future CDBG project.

WORK PLAN:

This project is not identified in the FY 2016/2017 Work Plan.

OPTIONS:

- Adopt Staff recommendation.
- Deny Staff recommendation and provide direction.

DEPARTMENT RECOMMENDATION:

Staff recommends that the City Council adopt Resolution 2017-084:

1. Authorizing the City Council to accept as complete the ADA Pedestrian Ramps Project, Bid No. 2016-10, constructed by Miramar General Engineering.
2. Authorizing the City Clerk to file a Notice of Completion.

CITY MANAGER'S RECOMMENDATION:

Approve Department Recommendation.

Gregory Wade, City Manager

Attachments:

1. Resolution No. 2017-084

RESOLUTION 2017 - 084

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, ACCEPTING AS COMPLETE THE ADA PEDESTRIAN RAMPS PROJECT, BID NO. 2016-10, AND AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION

WHEREAS, the ADA Pedestrian Ramps Project, funded by a Community Development Block Grant (CDBG), has been completed in accordance with the plans and specifications included as part of the construction contract with Miramar General Engineering to the satisfaction of the City Engineer.

NOW, THEREFORE, the City Council of the City of Solana Beach, California, does resolve as follows:

1. That the above recitations are true and correct.
2. That the City Council accepts as complete the ADA Pedestrian Ramps Project, Bid No. 2016-10, constructed by Miramar General Engineering.
3. That the City Council authorizes the City Clerk to file a Notice of Completion for the project.

PASSED AND ADOPTED this 24th day of May, 2017, at a regularly scheduled meeting of the City Council of the City of Solana Beach, California by the following vote:

AYES: Councilmembers –
NOES: Councilmembers –
ABSTAIN: Councilmembers –
ABSENT: Councilmembers –

_____
MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

_____
JOHANNA N. CANLAS, City Attorney

ATTEST:

_____
ANGELA IVEY, City Clerk

ATTACHMENT 1

STAFF REPORT
CITY OF SOLANA BEACH

TO:	Honorable Mayor and City Councilmembers
FROM:	Gregory Wade, City Manager
MEETING DATE:	May 24, 2017
ORIGINATING DEPT:	Engineering Department
SUBJECT:	**Consideration of Resolution No. 2017-085: Palmitas Street Storm Drain Notice of Completion**

BACKGROUND:

At the January 11, 2017 City Council meeting, the City Council awarded a construction contract for the Palmitas Street Storm Drain Project, Bid 2016-11, to Miramar General Engineering. This project replaced a portion of the concrete ditch on Palmitas, west of Granados, with an underground storm drain system and an edge of roadway concrete swale.

This item is before the City Council to report the final project costs, accept the project as complete and direct the City Clerk to file a Notice of Completion.

DISCUSSION:

Miramar General Engineering (Contractor) completed all work on this project in accordance with the approved plans and specifications of Bid No. 2016-11 to the satisfaction of the City Engineer. One change order in an amount of $10,129 was issued for extra work requested by the City Engineer that includes upgrading the pipe design loading, installing railroad ties to prevent roadway shoulder erosion and repairing pavement sink holes and deteriorated asphalt berms. The City will release the retention, in the amount of $4,381, thirty-five (35) days after the Notice of Completion is recorded.

CEQA COMPLIANCE STATEMENT:

The project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15301(c) of the State CEQA Guidelines.

CITY COUNCIL ACTION:

FISCAL IMPACT:

The current Fiscal Year (FY) 2016/2017 Adopted Budget included $150,000 for the Palmitas Street Storm Drain Project. However, $50,000 was transferred to the Stevens-Valley Avenues Street Improvements Project for storm drains, leaving $100,000 for the Palmitas Street Storm Drain Project. The awarded contract was $77,481. City Council authorized a $12,000 construction contingency, for a total project budget of $89,481. The final construction cost was $87,610, which was within the project budget.

WORK PLAN:

Environmental Sustainability/Capital Projects/Major Storm Drain Projects.

OPTIONS:

- Adopt Staff recommendation.
- Deny Staff recommendation and provide direction.

DEPARTMENT RECOMMENDATION:

Staff recommends that the City Council adopt Resolution 2017-085:

1. Authorizing the City Council to accept as complete the Palmitas Street Storm Drain Project, Bid 2016-11, constructed by Miramar General Engineering.
2. Authorizing the City Clerk to file a Notice of Completion.

CITY MANAGER'S RECOMMENDATION:

Approve Department Recommendation.

Gregory Wade, City Manager

Attachments:

1. Resolution No. 2017-085

RESOLUTION 2017 - 085

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, ACCEPTING AS COMPLETE THE PALMITAS STREET STORM DRAIN PROJECT, BID NO. 2016-11, AND AUTHORIZING THE CITY CLERK TO FILE A NOTICE OF COMPLETION

WHEREAS, the Palmitas Street Storm Drain Project has been completed in accordance with the plans and specifications included as part of the construction contract with Miramar General Engineering to the satisfaction of the City Engineer.

NOW, THEREFORE, the City Council of the City of Solana Beach, California, does resolve as follows:

1. That the above recitations are true and correct.

2. That the City Council accepts as complete the Palmitas Street Storm Drain Project, Bid 2016-11, constructed by Miramar General Engineering.

3. That the City Council authorizes the City Clerk to file a Notice of Completion for the project.

PASSED AND ADOPTED this 24th day of May, 2017, at a regularly scheduled meeting of the City Council of the City of Solana Beach, California by the following vote:

AYES: Councilmembers –
NOES: Councilmembers –
ABSTAIN: Councilmembers –
ABSENT: Councilmembers –

_____
MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

_____
JOHANNA N. CANLAS, City Attorney

ATTEST:

_____
ANGELA IVEY, City Clerk

ATTACHMENT 1

STAFF REPORT
CITY OF SOLANA BEACH/SOLANA BEACH SUCCESSOR AGENCY

TO:	Honorable Mayor/Chair and City Councilmembers/Directors
FROM:	Gregory Wade, City Manager/Executive Director
MEETING DATE:	May 24, 2017
ORIGINATING DEPT:	Finance
SUBJECT:	**Possible Refunding of Series 2006 Tax Allocation Bonds** **a. Request Oversight Board to Direct Successor Agency to Refund 2006 Tax Allocation Bonds** **b. Authorize Executive Director to Execute Professional Services Agreements with Consultants Required for Bond Refunding**

BACKGROUND:

On June 8, 2006, the former Solana Beach Redevelopment Agency (RDA), now the Successor Agency to the RDA (SA), issued Tax Allocation Bonds (TA Bonds) in the amount of $3,555,000 to assist with the financing of various redevelopment projects throughout the City's RDA Project Areas.

At the May 10, 2017 City Council meeting, Staff requested authorization to move forward with the refinancing of the TA Bonds and were directed to proceed.

Debt service on the TA Bonds has been and is repaid solely with tax increment revenues generated within the former RDA Project Areas. As of June 1, 2017, the TA Bonds will be outstanding in the amount of $2,910,000, with annual principal maturities ranging from June 1, 2018 through June 1, 2036. These principal bond maturities were eligible to be prepaid on June 1, 2011, and on any subsequent date thereafter, without a prepayment penalty. The TA Bonds have interest rates ranging from 4.6% to 5.1%.

Pursuant to Assembly Bill No. X1 26 (AB 26) and Assembly Bill No. 1484 (AB 1484) (collectively referred to as the Dissolution Act), the SA may cause the refinance or refunding of the TA Bonds for debt service savings by issuing, or causing the issuance of, Tax Allocation Refunding Bonds, Series 2017 (2017 TA Bonds) in accordance with the Dissolution Act. Health & Safety Code Section 34177.5 requires that the refunding provide cost savings and meet certain specific tests. Any refunding must be approved by the Oversight Board (OB) and California Department of Finance (DOF).

SUCCESSOR AGENCY ACTION:

The SA may initiate the refunding itself and request OB and DOF approval only for the final bond documents. Alternatively, the OB may direct the SA to refund the bonds and then approve the final bond documents at a second meeting. The advantage of this two-step approach is that the SA can be assured that all of its consultant costs will be recovered even if the refinancing is not completed.

This item is before the SA Board of Directors to consider 1) requesting the OB to direct the SA to refund the bonds; and 2) authorizing the Executive Director to execute Professional Services Agreements (PSA) with consultants for the possible refinancing of the TA Bonds, contingent on OB and DOF approval.

DISCUSSION:

The proposed 2017 TA Bonds would be structured to refund in full the existing TA Bonds currently outstanding in the amount of $2.82 million. It is estimated that the 2017 TA Bonds would be issued in an estimated amount of $2.7 million. The amount of the 2017 TA Bond issue is slightly smaller than the $2.82 million outstanding debt on the existing TA Bonds because the existing TA Bonds have a reserve fund that would have been used to make the final payment on these bonds. Those dollars will be used to downsize the amount of the 2017 TA Bond issuance and, since direct placement investors no longer require a reserve fund, a reserve fund will not be funded as part of issuing the 2017 TA Bonds. The final maturity of the existing TA Bonds is June 1, 2036 and the final maturity of the 2017 TA Bonds is estimated to be shortened to December 1, 2035.

Given the short term remaining on these bonds (+/- 18 years), the relatively small amount that remains outstanding and the demand for SA debt, the Municipal Advisor has recommended a direct placement for this bond issuance. A full public offering of these 2017 TA Bonds would incur much greater time and expense to complete the process. While the interest rates can be lower on a public offering, when all the costs involved in a public offering are included, a direct placement makes better economic sense.

The SA's issuance of the 2017 TA Bonds requires approval of the OB and DOF. In the proposed two-step process, the SA would first request the OB to direct it to refund the bonds and to approve various consultant contracts.

Assuming DOF approval of these first phase actions is received, a term sheet would be formalized, and the Placement Agent, Brandis Tallman LLC (Placement Agent), would send the term sheet to the universe of direct placement lenders, generally commercial banks that purchase similar obligations.

An assembled Financing Team would then review the term sheet responses, decide on a lender, negotiate any deal terms, and finalize the documents. The final interest rate would not be determined until a lender has been identified, has agreed to all deal terms, and has formally locked the rate on the bonds prior to closing the transaction. When all refunding documents are final, the SA would approve them and return to the OB and DOF for final approval.

However, if DOF withholds initial approval due to material concerns regarding the proposed refinancing, then the transaction can be resubmitted to DOF which may require further SA and the OB reauthorization to move forward

Presented on the next page are targeted key activities and preliminary dates.

FINANCING SCHEDULE

(Revised May 16, 2017)

Date	✓	Event / Task	Party(ies)
Week of May 15th	✓	Hire Fiscal Consultant / Assemble Financing Team	IS, MA
Wed May 17th		Agenda Deadline for Successor Agency Meeting of May 24th	ALL
Week of May 22nd		Draft Savings Analysis Released	MA
Wed May 24th		Successor Agency Meeting (Adopt Contracts for BC and MA)	ALL
TBD		Oversight Board Meeting	ALL
Week of May 31st		First Draft Bond Documents Released Final Draft Savings Analysis Released	BC MA
Week of Jun 5th		Second Draft Bond Documents Released	BC
Wed Jun 7th		Agenda Deadline for Successor Agency Meeting of June 14th	ALL
Wed Jun 14th		Successor Agency Meeting (Approve Documents and Related Actions)	ALL
Thu Jun 15th		Agenda Deadline for Oversight Board Meeting of June 22nd	ALL
Week of Jun 19th		First Draft Fiscal Consultant's Report	FC
Thu Jun 22nd		Oversight Board Meeting	ALL
Fri Jun 23rd		Package Sent to DOF	IS
Week of Jun 26th		First Draft Term Sheet Released	PA, MA
Week of Jul 3rd		Final Draft Term Sheet Released and Forwarded to Lenders	PA, MA
Week of Jul 17th		Draft Term Sheet Responses Due from Lenders	PA
Week of Jul 24th		Lender Selected	IS, PA, MA
Week of Aug 7th		Revised Draft Documents (Lender and Lender Legal Review)	BC, LDR. LEG
Mon Aug 28th		DOF Approval Deadline	ALL
Week of Sep 4th		Documents Finalized and Executed	IS, BC, LDR
Week of Sep 11th		Pre-Closing and Closing	IS, PA, BC, LDR

Based on market conditions as of March 2017, issuance of 2017 TA Bonds is estimated to result in total savings of $326,315 and net present value (NPV) savings of approximately $247,042 which equates to 8.76% in NPV savings. Actual savings will be driven by the final interest rate, which in turn is driven by how quickly the DOF approves the financing and the team can lock the rate with the chosen lender.

Generally, NPV savings in excess of 3.00% are considered significant. The Government Finance Officers Association, in their best practices white paper titled "Analyzing and Issuing Bonds" from February 2011, reports that "one test often used by issuers to assess the appropriateness of a refunding is the requirement specifying the achievement of a minimum net present value (NPV) savings. A common threshold is that the savings (net of all issuance costs and any cash contribution to the refunding), as a percentage of the 2017 TA Bonds, exceeds 3-5%."

Any annual savings would become available after the payment of enforceable obligations as approved on the Recognized Obligation Payment Schedule ("ROPS") and would be distributed among various taxing entities such as the County, school district(s), and the City.

The table below highlights the current estimated savings for the 2017 TA Bonds:

Summary of Savings Results for 2017 TA Bonds*	
Net Present Value Savings ($)	$247,042
Net Present Value Savings (% of Par Value Refunded)	8.76%
Avg. Annual Savings	$18,128
Total Debt Service Savings	$326,315

**Projected savings are based on an interest rate from March 2017. The rate is subject to change based on market conditions at the time the rate is locked.*

The primary goal of the refunding is to generate savings to the various participating taxing entities, including the City. The issuance of the 2017 TA Bonds will not move forward unless the minimum savings threshold of 3.0% can be achieved, and subject to SA authorization.

Conformance with Section 34177.5(a) Requirements

Del Rio Advisors, LLC has reviewed the savings from the refunding and has determined that the refunding will meet the requirements of Section 34177.5(a). The refunding will provide savings to the SA, as demonstrated above; the total interest cost to maturity on the refunding bonds will be less than the remaining interest cost on the TA Bonds plus the remaining bond principal; and The principal amount of the refunding bonds will not exceed the amount needed to defease the TA Bonds and pay costs of issuance.

At this time, it is not anticipated that other taxing entities will be asked to subordinate their payments to the 2017 TA Bonds. Tax increment revenues are 4.69 times bond payments, and, with such strong coverage, it is unlikely that subordination will be needed.

Financing Team Members

Resolutions SA-013 through SA-016 would authorize the Executive Director to retain the services of Del Rio Advisors, LLC as Municipal Advisor, Quint & Thimmig as Bond Counsel, Fraser & Associates as Fiscal Consultant, and Brandis Tallman LLC as Placement Agent. All of the consultants would be part of the Financing Team that will review the refunding bonds transaction, as described below:

1. Bond Counsel – Quint & Thimmig LLP

    a. Bond Counsel is the law firm retained to provide a legal opinion confirming that the issuer is authorized to issue proposed securities, the issuer has met all legal requirements necessary for issuance, and interest on the proposed securities will be exempt from federal income taxation and, where applicable, from state and local taxation.

    b. Bond Counsel also prepares, or reviews and advises, the issuer regarding authorizing resolutions, ordinances, trust indentures, official statements, validation proceedings and litigation.

2. Municipal Advisor – Del Rio Advisors, LLC

    a. The Municipal Advisor is retained to advise and assist the issuer in formulating and/or executing a debt financing plan to accomplish the public purposes chosen by the issuer and advises the issuer on matters pertinent to the debt issue, such as structure, timing, marketing, credit enhancements, fairness of pricing, terms, and credit ratings.

    b. The Advisor serves the issuer in a "fiduciary capacity", representing the issuer's interests in negotiations with underwriters/placement agents, rating agencies, banks, and other parties.

    c. Municipal Advisor firms are required to register with the Securities and Exchange Commission (SEC) and with the Municipal Securities Rulemaking Board (MSRB), and are regulated by the MSRB.

3. Fiscal Consultant – Fraser & Associates

    a. The Fiscal Consultant prepares a report on the security of the debt issue, based on a review of development in the Project Area and likely tax increment.

    b. The views of the Fiscal Consultant are taken into account by the credit rating agencies, underwriters/placement agents and lenders in the process of marketing the bonds.

4. Placement Agent – Brandis Tallman LLC

   a. The Placement Agent will market the bonds to direct placement lenders, which consist primarily of commercial banks that operate in the municipal market and purchase municipal securities. Any issuance or placement of municipal securities requires a broker-dealer to act as an intermediary. They are seen as having an "arms-length" relationship with the issuer and the ultimate investor.

   b. Placement Agent firms also act as underwriters on public offerings and consist primarily of broker-dealers that are registered with the SEC and regulated by the Financial Industry Regulatory Agency ("FINRA")

Professional Services Agreements

Quint & Thimmig LLP, Del Rio Advisors, LLC, and Brandis Tallman LLC would provide professional services to the SA and would be funded through the issuance of the 2017 TA Bonds. As is typical in municipal bond financings, with the exception of the costs discussed below, the professional services costs of the financing team members are only paid if the bond deal is successfully completed, or closed. In other words, payment of the costs of issuance is generally made on a contingent basis.

All contingent costs of issuance would be deducted from the proceeds of the new 2017 TA Bonds issue, and would be included as part of the final financing documents submitted to the DOF for review.

There is one exception, however, to the financing team members rendering their services on a contingent basis. That exception is the total professional services fees and expenses of Fraser & Associates in an amount not to exceed $15,000. Due to preparing projections and other pertinent information in the Fiscal Consultant's Report, the fees and expenses of Fraser & Associates, acting as Fiscal Consultant, cannot be contingent on the sale of the 2017 TA Bonds. The fee for the Fiscal Consultant can be recovered through the costs of issuance upon successful closing and, should the refinancing not close, these costs can be recovered on a future ROPS, assuming that the OB approves the attached Resolution No. SA-017, which includes a request that the SA be able to recover any issuance costs.

CEQA COMPLIANCE STATEMENT:

Not a project as defined by CEQA, in that these activities are government fiscal activities that do not involve any commitment to any specific project. (CEQA Guidelines Section 15378(b)(4).)

FISCAL IMPACT:

As illustrated above, current estimated total savings of $326,315 or over $18,100 per year for a net present value benefit of $247,042 can be realized by refinancing the

existing TA Bonds. Savings would be distributed among various taxing entities, one of which is the City. The level of savings will depend upon market conditions at the time the rate is locked.

The 2017 TA Bonds would not be an obligation of the City, but rather the SA. Debt Service on the 2017 TA Bonds will be supported by tax increment revenues collected by the County and deposited into the SA's Redevelopment Property Tax Trust Fund ("RPTTF"). Property tax savings accruing to the City's General Fund will increase based upon the City's tax share percentage.

In addition to the direct economic benefit of the refunding, the SA will no longer be required to prepare and file Annual Continuing Disclosure to the Electronic Municipal Market Access system saving both time and dollars. In addition, depending on the selected lender, the SA may no longer need to pay the annual costs of a Trustee or Paying Agent.

The fee of Del Rio Advisors, LLC acting as Municipal Advisor to the City and SA are contingent upon closing and are currently estimated at $22,500, including expenses. The fee for Brandis Tallman LLC, acting as Placement Agent to the SA, is also contingent upon closing and is currently estimated at $22,500. The fee of Quint & Thimmig, LLP, acting as Bond Counsel, is also contingent upon closing is currently estimated at $25,000. The fee for Frasier & Associates, acting as Fiscal Consultant, is not contingent and is estimated at $15,000. However, if the OB directs the SA to refund the bonds, and DOF concurs, this cost can be recovered on a future ROPS even if the refunding does not proceed.

WORK PLAN:

N/A

OPTIONS:

- Approve staff recommendation.
- Approve staff recommendation with alternative amendments / modifications.
- Deny staff recommendation
-

DEPARTMENT RECOMMENDATION:

Staff recommends that the City Council approve:

1. Resolution SA-013 authorizing the Executive Director to execute a Professional Services Agreement with Del Rio Advisors, LLC for Municipal Advisors services in connection with the possible refinancing of the TA Bonds.

2. Resolution SA-014 authorizing the Executive Director to execute a Professional Services Agreement with Brandis Tallman, LLC for Placement Agent services in connection with the possible refinancing of the TA Bonds.

3. Resolution SA-015 authorizing the Executive Director to execute a Professional Services Agreement with Quint & Thimmig, LLP for Bond Counsel services in connection with the possible refinancing of the TA Bonds.

4. Resolution SA-016 authorizing the Executive Director to execute a Professional Services Agreement with Fraser & Associates for Fiscal Consultant services in connection with the possible refinancing of the TA Bonds.

5. Resolution SA-017 requesting the Oversight Board to direct the Successor Agency to refund the TA Bonds, including approval of refunding costs.

EXECUTIVE DIRECTOR'S RECOMMENDATION:

Approve Department Recommendation.

Gregory Wade, Executive Director

Attachments
1. Resolution SA-013
2. Resolution SA-014
3. Resolution SA-015
4. Resolution SA-016
5. Resolution SA-017

RESOLUTION NO. SA-013

A RESOLUTION OF THE SOLANA BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY APPROVING, AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE, A PROFESSIONAL SERVICES AGREEMENT WITH DEL RIO ADVISORS, LLC FOR MUNICIPAL ADVISOR SERVICES RELATING TO THE POTENTIAL REFUNDING OF THE SERIES 2006 TAX ALLOCATION BONDS

WHEREAS, the Solana Beach Redevelopment Agency ("Redevelopment Agency") was a redevelopment agency in the City of Solana Beach ("City"), duly created pursuant to the California Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the California Health and Safety Code) ("Redevelopment Law"); and

WHEREAS, the City Council has adopted redevelopment plans for Solana Beach's redevelopment project areas, and from time to time, the City Council has amended such redevelopment plans; and

WHEREAS, the Redevelopment Agency was responsible for the administration of redevelopment activities within the City; and

WHEREAS, Assembly Bill No. X1 26 (2011-2012 1st Ex. Sess.) ("AB 26") was signed by the Governor of California on June 28, 2011, making certain changes to the Redevelopment Law and the California Health and Safety Code ("Health and Safety Code"), including adding Part 1.8 (commencing with Section 34161) ("Part 1.8") and Part 1.85 (commencing with Section 34170) ("Part 1.85") to Division 24 of the Health and Safety Code; and

WHEREAS, pursuant to AB 26, as modified by the California Supreme Court on December 29, 2011 by its decision in *California Redevelopment Association v. Matosantos*, all California redevelopment agencies, including the Redevelopment Agency, were dissolved on February 1, 2012, and successor agencies were designated and vested with the responsibility of paying, performing and enforcing the enforceable obligations of the former redevelopment agencies and expeditiously winding down the business and fiscal affairs of the former redevelopment agencies; and

WHEREAS, the City Council of the City adopted Resolution No. 2012-011 on January 11, 2012, pursuant to Part 1.85 of AB 26, electing for the City to serve as the successor agency to the Redevelopment Agency upon the dissolution of the Redevelopment Agency under AB 26 ("Successor Agency"); and

WHEREAS, as part of the FY 2012-2013 State budget package, on June 27, 2012, the Legislature passed and the Governor signed Assembly Bill No. 1484 ("AB 1484", Chapter 26, Statutes 2012). Although the primary purpose of AB 1484 was to make technical and substantive amendments to AB 26 based on issues that have arisen in the implementation of AB 26, AB 1484 imposes additional statutory provisions

relating to the activities and obligations of successor agencies and to the wind down process of former redevelopment agencies, including without limitation refunding or refinancing bonds or other indebtedness; and

WHEREAS, Health and Safety Code Section 34179 of AB 26 as amended by AB 1484 (collectively the "Dissolution Act") establishes a seven (7) member local entity with respect to each successor agency and such entity is titled the "oversight board." The oversight board has been established for the Successor Agency (hereinafter referred to as the "Oversight Board") and all seven (7) members have been appointed to the Oversight Board pursuant to Health and Safety Code Section 34179. The duties and responsibilities of the Oversight Board are primarily set forth in Health and Safety Code Sections 34179 through 34181 of the Dissolution Act; and

WHEREAS, pursuant to Health and Safety Code Section 34179.7 of the Dissolution Act, the California Department of Finance ("DOF") has issued a Finding of Completion to the Successor Agency; and

WHEREAS, on June 8, 2006, the former Redevelopment Agency issued Tax Allocation Revenue Bonds, Series 2006 (TA Bonds) secured by the former Redevelopment Agency's tax increment revenues as funding for the debt service obligations. The TA Bonds were issued in order to finance redevelopment activities relating to improvements within the Redevelopment Project Areas (Project Areas) including street improvements, public park capital improvements, construction of community facilities, and landscaping improvements, among others; and

WHEREAS, debt service on the TA Bonds has been and is repaid solely with tax increment revenues generated within the Project Areas. As of June 1, 2017, the TA Bonds will be outstanding in the amount of $2,820,000, with annual principal maturities ranging from June 1, 2018 through June 1, 2036. These principal bond maturities can be prepaid on June 1, 2011, and on any subsequent date thereafter, without a prepayment penalty. The TA Bonds have interest rates ranging from 4.6% to 5.1%; and

WHEREAS, pursuant to the Dissolution Act, the Successor Agency may cause the refinancing or refunding of the TA Bonds for debt service savings by issuing, or causing the issuance, of Tax Allocation 2017 TA Bonds (2017 TA Bonds) in accordance with the Dissolution Act including, without limitation, Sections 34177.5 and 34180(b); and

WHEREAS, based on market conditions as of March 2017, issuance of 2017 TA Bonds is estimated to result in total savings of $326,315 and net present value (NPV) savings of approximately $247,042. This equates to 8.76% in NPV; and

WHEREAS, the Successor Agency desires to take advantage of the current low interest rate environment in order to minimize its total interest costs on outstanding debt by refinancing/refunding the TA Bonds at a comparatively lower interest rate than the current bond issue's average bond coupon rate and as low of a cost of issuance as possible; and

WHEREAS, in order to effectuate the refunding of the TA Bonds, the Successor

Agency desires to retain the services of Del Rio Advisors, LLC for Municipal Advisor services, including without limitation the following: to advise and assist in formulating and/or executing a debt financing plan to accomplish the public purposes of the issuer such as minimizing the Successor Agency's total interest costs on outstanding debt; to advise on matters pertinent to the refunding of its TA Bonds such as debt structure, marketing, timing, credit enhancements, fairness of pricing, terms and credit ratings; and to serve the issuer in a fiduciary capacity representing the issuer's interests in negotiations with underwriters/placement agents, rating agencies, banks, and other parties; and

WHEREAS, Del Rio Advisors, LLC is a municipal advisory firm registered with the Securities and Exchange Commission (SEC) and with the Municipal Securities Rulemaking Board (MSRB) and has represented that it possesses the necessary qualifications to provide the services required by the Successor Agency; and

WHEREAS, the Successor Agency staff has authorized the preparation of a Professional Services Agreement (PSA) to retain the services of Del Rio Advisors, LLC as a "Municipal Advisor" to the Successor Agency and recommends the Successor Agency's approval relating to same; and

WHEREAS, pursuant to the Agreement, and subject to the conditions below, Del Rio Advisors, LLC shall be compensated for work completed, in the amount of $22,500 for basic services rendered under the Agreement and all accrued expenses. Del Rio Advisors, LLC would be compensated for additional services only upon prior written approval of the Successor Agency. According to the Agreement, payment to Del Rio Advisors, LLC for compensation and accrued expenses not to exceed $22,500 is contingent on the closing of the bond issuance and will be made by the Successor Agency from the costs of issuance of the bonds and will be made available within thirty (30) calendar days of receipt of the invoice; and

WHEREAS, all of the prerequisites with respect to the approval of this Resolution have been met.

NOW, THEREFORE, BE IT RESOLVED by the Solana Beach Redevelopment Agency Successor Agency, as follows:

Section 1. The foregoing recitals are true and correct and are a substantive part of this Resolution.

Section 2. The Successor Agency hereby approves the Professional Services Agreement ("Agreement") with Del Rio Advisors, LLC in substantial form as the Agreement attached as Exhibit "A", for Municipal Advisor services for compensation and accrued expenses of $22,500 which fee is contingent on the successful closing of the bond issuance.

Section 3. The Executive Director, or designee, of the Successor Agency is hereby authorized and directed to execute the Agreement in substantial form as the Agreement attached as Exhibit "A", subject

to the approval of the Agreement by the Oversight Board and review by the California Department of Finance as required by the Dissolution Act or desired by the Executive Director.

Section 4. The Executive Director, or designee, of the Successor Agency is hereby authorized to make non-substantive changes and amendments to the Agreement deemed necessary and as approved by the Executive Director of the Successor Agency and its legal counsel and to take such other actions and execute such other documents as are necessary to effectuate the intent of this Resolution on behalf of the Successor Agency.

Section 5. The Successor Agency determines that the activity approved by this Resolution is not a "project" for purposes of CEQA, as that term is defined by Guidelines Section 15378, because this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per Section 15378(b)(5) of the Guidelines.

Section 6. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The Successor Agency declares that its board would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

Section 7. This Resolution shall take effect upon the date of its adoption

PASSED, APPROVED, AND ADOPTED by the Solana Beach Redevelopment Agency Successor Agency at its meeting held on the 24th day of May 2017, by the following vote:

AYES: Board of Directors –
NOES: Board of Directors –
ABSENT: Board of Directors -
ABSTAIN: Board of Directors -

MIKE NICHOLS, Chairperson

APPROVED AS TO FORM:

JOHANNA N. CANLAS, Agency Counsel

ATTEST:

ANGELA IVEY, Secretary

Successor Agency for the Solana Beach Redevelopment Agency

PROFESSIONAL SERVICES AGREEMENT

FOR MUNICIPAL ADVISORY SERVICES

THIS Professional Services Agreement ("AGREEMENT") is made and entered into this 10th day of MAY, 2017 by and between the SUCCESSOR AGENCY FOR THE SOLANA BEACH REDEVELOPMENT AGENCY ("SA"), and, DEL RIO ADVISORS, LLC an independent contractor, ("CONSULTANT") (collectively "PARTIES").

WHEREAS, the SA desires to employ a CONSULTANT to furnish MUNICIPAL ADVISORY ("PROFESSIONAL SERVICES") for REFINANCING TAX ALLOCATION BONDS, SERIES 2006; and

WHEREAS, the SA has determined that CONSULTANT is qualified by experience and ability to perform the services desired by the SA, and CONSULTANT is willing to perform such services; and

WHEREAS, CONSULTANT will conduct all the work as described and detailed in this AGREEMENT to be provided to the SA.

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

I. PROFESSIONAL SERVICES

A. **Scope of Services.** The CONSULTANT shall perform the PROFESSIONAL SERVICES as set forth in the written Scope of Services, attached as Exhibit "A" Scope of Services and Fee, at the direction of the SA. SA shall provide CONSULTANT access to appropriate staff and resources for the coordination and completion of the projects under this AGREEMENT.

B. **Project Coordinator.** The Finance Manager is hereby designated as the Project Coordinator for SA and will monitor the progress and execution of this AGREEMENT. CONSULTANT shall assign a single Project Director to provide supervision and have overall responsibility for the progress and execution of this AGREEMENT for CONSULTANT. Mr. Kenneth Dieker is hereby designated as the Project Director for CONSULTANT.

C. **SA Modification of Scope of Services.** SA may order changes to the Scope of Services within the general scope of this AGREEMENT consisting of additions, deletions, or other revisions. If such changes cause a change in the CONSULTANT's cost of, or time required for, completion of the Scope of Services, an equitable adjustment to CONSULTANT's compensation and/or contract time shall be made, subject to the SA'S approval. All such changes shall be authorized in writing, executed by CONSULTANT and SA.

II. DURATION OF AGREEMENT

A. **Term.** The term of this AGREEMENT shall be for a period of one (1) year beginning from the date of execution of the AGREEMENT. Time is of the essence in the performance of work under this AGREEMENT, unless otherwise specified.

B. **Extensions.** If marked, the SA shall have the option to extend the AGREEMENT for four (4) additional one (1) year periods or parts thereof for an amount not to exceed. Extensions shall be in the sole discretion of the SA Executive Director and shall be based upon CONSULTANT's satisfactory past performance, SA needs, and appropriation of funds by the SA Board. The SA shall give written notice to CONSULTANT prior to exercising the option.

C. **Delay.** Any delay occasioned by causes beyond the control of CONSULTANT may merit an extension of time for the completion of the Scope of Services. When such delay occurs, CONSULTANT shall immediately notify the Project Coordinator in writing of the cause and the extent of the delay, whereupon the Project Coordinator shall ascertain the facts and the extent of the delay and grant an extension of time for the completion of the PROFESSIONAL SERVICES when justified by the circumstances.

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

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

III. COMPENSATION

A. **Total Amount.** The total cost for all work described in the Scope of Services and Fee (Exhibit "A") shall not exceed twenty two thousand five hundred dollars ($22,500) without prior written authorization from SA and is contingent on the closing of the bond issuance and will be made by the Successor Agency from the costs of issuance of the bonds and will be made available within thirty (30) calendar days of receipt of the invoice.

B. **Additional Services.** SA may, as the need arises or in the event of an emergency, request additional services of CONSULTANT. Should such additional services be required, SA and CONSULTANT shall agree to the cost prior to commencement of these services.

C. **Costs.** Any costs billed to the SA shall be in accordance with any terms negotiated and incorporated herein as part of Exhibit "A" Scope of Services and Fee.

IV. INDEPENDENT CONTRACTOR

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

V. STANDARD OF PERFORMANCE

A. While performing the PROFESSIONAL SERVICES, CONSULTANT shall exercise the reasonable professional care and skill customarily exercised by reputable members of CONSULTANT's profession practicing in the metropolitan Southern California Area, and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

VI. WARRANTY OF CONSULTANT'S LICENSE

A. CONSULTANT warrants that CONSULTANT is properly licensed with the applicable government agency(ies) for any PROFESSIONAL SERVICES that require a license. If the CONSULTANT lacks such license, this AGREEMENT is void and of no effect.

VII. AUDIT OF RECORDS

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

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

VIII. CONFIDENTIALITY

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

IX. CONFLICTS OF INTEREST

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

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

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

D. SA represents that pursuant to California Government Code Section 1090 *et seq.*, none of its elected officials, officers, or employees has an interest in this AGREEMENT.

X. DISPOSITION AND OWNERSHIP OF DOCUMENTS

A. All documents, data, studies, drawings, maps, models, photographs and reports prepared by CONSULTANT under this AGREEMENT, whether paper or electronic, shall become the property of SA for use with respect to this PROJECT, and shall be turned over to the SA upon completion of the PROJECT or any phase thereof, as contemplated by this AGREEMENT.

B. Contemporaneously with the transfer of documents, the CONSULTANT hereby assigns to the SA and CONSULTANT thereby expressly waives and disclaims, any copyright in, and the right to reproduce, all written material, drawings, plans, specifications or other work prepared under this AGREEMENT, except upon the SA's prior authorization regarding reproduction, which authorization shall not be unreasonably withheld. The CONSULTANT shall, upon request of the SA, execute any further document(s) necessary to further effectuate this waiver and disclaimer.

XI. INSURANCE

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

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

C. **Types and Amounts Required.** CONSULTANT shall maintain, at minimum, the following insurance coverage for the duration of this AGREEMENT:

1. ☒**Commercial General Liability (CGL).** If checked the CONSULTANT shall maintain CGL Insurance written on an ISO Occurrence form or equivalent providing coverage at least as broad which shall cover liability arising from any and all personal injury or property damage in the amount of $2,000,000 per occurrence and subject to an annual aggregate of $4,000,000. There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability. All defense costs shall be outside the limits of the policy.

2. ☒**Commercial Automobile Liability.** If checked the CONSULTANT shall maintain Commercial Automobile Liability Insurance for all of the CONSULTANT's automobiles including owned, hired and non-owned automobiles, automobile insurance written on an ISO form CA 00 01 12 90 or a later version of this form or an equivalent form providing coverage at least as broad for bodily injury and property damage for a combined single limit of $1,000,000.00 per occurrence. Insurance certificate shall reflect coverage for any automobile (any auto).

3. ☒**Workers' Compensation.** If checked the CONSULTANT shall maintain Worker's Compensation insurance for all of the CONSULTANT's employees who are subject to this AGREEMENT and to the extent required by applicable state or federal law, a Workers' Compensation policy providing at minimum $1,000,000.00 employers' liability coverage. The CONSULTANT shall provide an endorsement that the insurer waives the right of subrogation against the SA and its respective elected officials, officers, employees, agents and representatives.

4. ☒**Professional Liability.** If checked the CONSULTANT shall also maintain Professional Liability (errors and omissions) coverage with a limit of $1,000,000.00 per claim and $2,000,000.00 annual aggregate. The CONSULTANT shall ensure both that (1) the policy retroactive date is on or before the date of commencement of the Scope of Services; and (2) the policy will be maintained in force for a period of three years after substantial completion of the Scope of Services or termination of this AGREEMENT whichever occurs last. The CONSULTANT agrees that for the time period defined above, there will be no changes or endorsements to the policy that increase the SA's exposure to loss. All defense costs shall be outside the limits of the policy.

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

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

1. The SA, its officers, officials, employees, and representatives shall be named as additional insureds. The SA's additional insured status must be reflected on additional insured endorsement form (20 10 1185 or 20 10 1001 and 20 37 1001) which shall be submitted to the SA.

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

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

XII. INDEMNIFICATION

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

XIII. SUBCONTRACTORS

A. The CONSULTANT's hiring or retaining of third parties (i.e. subcontractors) to perform services related to the PROJECT is subject to prior approval by the SA.

B. All contracts entered into between the CONSULTANT and its subcontractor shall also provide that each subcontractor shall obtain insurance policies which shall be kept in full force and effect during any and all work on this PROJECT and for the duration of this AGREEMENT. The CONSULTANT shall require the subcontractor to obtain, all policies described in Section 11 in the amounts required by the SA, which shall not be greater than the amounts required of the CONSULTANT.

C. In any dispute between the CONSULTANT and its subcontractor, the SA shall not be made a party to any judicial or administrative proceeding to resolve the dispute. The CONSULTANT agrees to defend and indemnify the SA as described in Section 12 of this AGREEMENT should the SA be made a party to any judicial or administrative proceeding to resolve any such dispute.

XIV. NON-DISCRIMINATION

A. CONSULTANT shall not discriminate against any employee or applicant for employment because of sex, race, color, age, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, or sexual orientation. CONSULTANT shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their sex, race, color, age, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, or sexual orientation and shall

make reasonable accommodation to qualified individuals with disabilities or medical conditions. Such action shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. CONSULTANT agrees to post in conspicuous places available to employees and applicants for employment any notices provided by SA setting forth the provisions of this non-discrimination clause.

XV. NOTICES

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

Marie Marron Berkuti, Finance Manager	Kenneth L. Dieker, Principal
SA of Solana Beach	Del Rio Advisors, LLC
635 S. Highway 101	1325 Country Club Dr.
Solana Beach, CA 92075	Modesto, CA 95356

XVI. ASSIGNABILITY

A. This AGREEMENT and any portion thereof shall not be assigned or transferred, nor shall any of the CONSULTANT's duties be delegated or sub-contracted, without the express written consent of the SA.

XVII. RESPONSIBILITY FOR EQUIPMENT

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

XVIII. CALIFORNIA LAW; VENUE

A. This AGREEMENT shall be construed and interpreted according to the laws of the State of California. Any action brought to enforce or interpret any portion of this AGREEMENT shall be brought in the county of San Diego, California. CONSULTANT hereby waives any and all rights it might have pursuant to California Code of Civil Procedure Section 394.

XIX. COMPLIANCE WITH LAWS

A. The CONSULTANT shall comply with all laws, ordinances, regulations, and policies of the federal, state, and local governments applicable to this AGREEMENT whether now in force or subsequently enacted. This includes maintaining a SA of Solana Beach Business Certificate.

XX. ENTIRE AGREEMENT

A. This AGREEMENT sets forth the entire understanding of the PARTIES with respect to the subject matters herein. There are no other understandings, terms or other agreements expressed or implied, oral or written, except as set forth herein. No change, alteration, or modification of the terms or conditions of this AGREEMENT, and no verbal understanding of the PARTIES, their officers, agents, or employees shall be valid unless agreed to in writing by both PARTIES.

XXI. NO WAIVER

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

XXII. SEVERABILITY

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

XXIII. DRAFTING AMBIGUITIES

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

XXIV. CONFLICTS BETWEEN TERMS

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

XXV. EXHIBITS INCORPORATED

A. All Exhibits referenced in this AGREEMENT are incorporated into the AGREEMENT by this reference.

XXVI. SIGNING AUTHORITY

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

B. ☐ If checked, a proper notary acknowledgement of execution by CONSULTANT must be attached.

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

CONSULTANT, an independent contractor

By:

Consultant Signature

Kenneth L. Dieker, Principal

SA OF SOLANA BEACH, a municipal corporation of the State of California,

By:

Gregory Wade,
Executive Director

ATTEST:

Angela Ivey,
SA Clerk

APPROVED AS TO FORM:

Johanna N. Canlas,
SA Attorney

APPROVED AS TO CONTENT:

Marie Marron Berkuti,
Finance Manager/Treasurer

EXHIBIT "A"

SCOPE OF SERVICES AND FEE

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Del Rio Advisors, LLC

"Independent Registered Municipal Advisor"

April 4, 2017

Ms. Marie Berkuti
Finance Manager / Treasurer
City of Solana Beach
635 South Highway 101
Solana Beach, CA 92075

RE: Engagement Agreement / Disclosures

Dear Ms. Berkuti:

This letter specifies a proposed engagement agreement between Del Rio Advisors, LLC ("MA") and the City of Solana Beach or any Authority utilized by the City to issue obligations ("City/Authority"). This letter also provides certain written policies and disclosures to be provided by the Municipal Advisor to the Municipal Entity effective July 1, 2014 and now required by both the Securities and Exchange Commission ("SEC") and the Municipal Securities Rulemaking Board ("MSRB").

Scope of Municipal Advisory Activities to be Performed

Under the new regulations, Municipal Advisors are now required to provide a specific list of services to be performed while acting as Municipal Advisor. This list can be amended at any time upon written agreement between the parties.

- Review all underwriter and placement agent proposals for specific transactions and make recommendations
- Either create or actively participate in the development of a sound financial plan
- Determine the most cost effective way to carry out the plan that is being considered including recommending innovative alternatives
- If requested, take primary responsibility for all quantitative analysis related to the project including: sources and uses of funds, debt service schedules, yield calculations, savings calculations, etc.
- Develop a detailed financing schedule and interested parties list

Del Rio Advisors, LLC
1325 Country Club Drive
Modesto, CA 95356
Phone: (209) 543-8704
Fax: (209) 554-0427
Mobile: (209) 480-1862
Email: kdieker@delrioadvisors.com

- Coordinate the efforts of bond counsel, disclosure counsel, underwriter(s), placement agent(s), trustee and consultants with respect to the preparation and approval of the financing documents
- Review and comment on all documents [1]
- Attend all meetings and present materials as needed
- If needed, prepare and coordinate comprehensive presentations to the rating agencies and bond insurers
- Prepare detailed costs of issuance and, if public sale, recommend a gross spread level
- Undertake pre-pricing analysis prior to sale; advise the issuer and help in the negotiation with respect to pricing on the day of sale
- Coordinate the approval, delivery and printing of all legal documents, closing certificates and the final official statement [1]
- Perform any other tasks or projects, as required, and amend this list as necessary to describe any new projects or tasks.
- If acting in the capacity of an Independent Registered Municipal Advisor ("IRMA") with regard to the IRMA exemption of the SEC Rule, MA will review all third-party recommendations submitted to the MA in writing by the Agency.

Note:

[1] MA will review and comment on all documents and assist in preparing any documents necessary for the sale of a new issue or reoffering of municipal securities, including the official statement, offering memorandum or similar disclosure documents. However, besides tables or charts specifically prepared by MA and footnoted as such, MA takes no responsibility for the accuracy or completeness of any of the data provided by others, including the City/Authority, contained therein. MA may rely upon data provided by others in the preparation of tables and charts and takes no responsibility for the accuracy or completeness of the data provided.

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Term of Engagement Agreement

The commencement date of the engagement is the execution date as indicated on the signature page of this engagement and the end date is the earlier of termination by either party or December 31, 2018.

Termination of Engagement Agreement

This engagement may be terminated by either party with 30 days' written notice delivered by registered mail to the other party. If terminated, City/Authority will pay any standard reimbursable expenses accrued to date.

Compensation and Out-of-Pocket Expenses

Del Rio Advisors, LLC proposes to act at Municipal Advisor on the following issuance of municipal securities:

Successor Agency to the Solana Beach Redevelopment Agency
Solana Beach Redevelopment Project
Tax Allocation Bonds, Series 2006

The size of the refunding transaction is not yet determined. Del Rio Advisors, LLC proposes a fixed contingent fee, including expenses, of $22,500. Again, the proposed fee is contingent upon successful closing of the transaction.

Solana Beach Pubic Financing Authority
Subordinate Wastewater Revenue Bonds, Series 2006

The size of the refunding transaction is not yet determined. Del Rio Advisors, LLC proposes a fixed contingent fee, including expenses, of $37,500 if the bonds are offered in a public sale and a fixed contingent fee, including expenses, of $22,500 if the bonds are offered in a direct placement. Again, the proposed fee is contingent upon successful closing of the transaction.

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Fiduciary Duty

MA is registered as a Municipal Advisor with the SEC and Municipal Securities Rulemaking Board (MSRB). As such, MA has a Fiduciary duty to the City/Authority and must provide both a Duty of Care and Loyalty that entail the following:

Duty of Care

a) exercise due care in performing its municipal advisory activities;

b) possess the degree of knowledge and expertise needed to provide the City/Authority with informed advice;

c) make a reasonable inquiry as to the facts that are relevant to the determination as to whether to proceed with a course of action or that form the basis for any advice provided to the City/Authority; and

d) undertake a reasonable investigation to determine that MA is not forming any recommendation on materially inaccurate or incomplete information; MA must have a reasonable basis for:

   i. any advice provided to or on behalf of the City/Authority;

   ii. any representations made in a certificate that it signs that will be reasonably foreseeably relied upon by the City/Authority, any other party involved in the municipal securities transaction or municipal financial product, or investors in the City/Authority securities; and

   iii. any information provided to the City/Authority or other parties involved in the municipal securities transaction when participating in the preparation of an official statement.

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Duty of Loyalty

MA must deal honestly and with the utmost good faith with City/Authority and act in City/Authority's best interests without regard to the financial or other interests of MA. MA will eliminate or provide full and fair disclosure (included herein) to City/Authority about each material conflict of interest (as applicable). MA will not engage in municipal advisory activities with City/Authority as a municipal entity, if it cannot manage or mitigate its conflicts in a manner that will permit it to act in City/Authority's best interests.

Conflicts of Interest and Other Matters Requiring Disclosures:

- As of the date of the Agreement, there are no actual or potential conflicts of interest that MA is aware of that might impair its ability to render unbiased and competent advice or to fulfill its fiduciary duty. If MA becomes aware of any potential conflict of interest that arises after this disclosure, MA will disclose the detailed information in writing to City/Authority in a timely manner.
- The fee paid to MA increases the cost of investment to City/Authority. The increased cost occurs from compensating MA for municipal advisory services provided.
- MA does not act as principal in any of the transaction(s) related to this Agreement.
- During the term of the municipal advisory relationship, this agreement will be promptly amended or supplemented to reflect any material changes in or additions to the terms or information within this agreement and the revised writing will be promptly delivered to City/Authority.
- MA does not have any affiliate that provides any advice, service, or product to or on behalf of the client that is directly or indirectly related to the municipal advisory activities to be performed by MA;
- MA has not made any payments directly or indirectly to obtain or retain the City/Authority's municipal advisory business;

- MA has not received any payments from third parties to enlist MA's recommendation to City/Authority of its services, any municipal securities transaction or any municipal finance product;
- MA has not engaged in any fee-splitting arrangements involving MA and any provider of investments or services to City/Authority;
- MA has a conflict of interest from compensation for municipal advisory activities to be performed, that is contingent on the size or closing of any transactions as to which MA is providing advice;
- MA does not have any other engagements or relationships that might impair MA's ability either to render unbiased and competent advice to or on behalf of City/Authority or to fulfill its fiduciary duty to the City/Authority, as applicable; and
- MA does not have any legal or disciplinary events that are material to City/Authority's evaluation of the municipal advisory or the integrity of its management or advisory personnel.

Legal Events and Disciplinary History

MA does not have any legal events and disciplinary history on their Form MA and Form MA-I, which includes information about any criminal actions, regulatory actions, investigations, terminations, judgments, liens, civil judicial actions, customer complaints, arbitrations and civil litigation. City/Authority may electronically access MA's most recent Forms MA and each most recent Forms MA-I filed with the Commission at the following website:
www.sec.gov/edgar/searchedgar/companysearch.html.

There have been no material changes to a legal or disciplinary event disclosure on any Form MA or Form MA-I filed with the SEC.

Recommendations

If MA makes a recommendation of a municipal securities transaction or municipal financial product or if the review of a recommendation of another party is requested in writing by City/Authority and is within the scope of the engagement, MA will determine, based on the information obtained through reasonable diligence of MA whether a municipal securities transaction or municipal financial product is suitable for City/Authority. In addition, MA will inform City/Authority of:

- the evaluation of the material risks, potential benefits, structure, and other characteristics of the recommendation;
- the basis upon which MA reasonably believes that the recommended municipal securities transaction or municipal financial product is, or is not, suitable for City/Authority; and
- whether MA has investigated or considered other reasonably feasible alternatives to the recommendation that might also or alternatively serve the City/Authority's objectives.

If City/Authority elects a course of action that is independent of or contrary to the advice provided by MA, MA is not required on that basis to disengage from City/Authority.

Record Retention

Effective July 1, 2014, pursuant to the Securities and Exchange Commission (SEC) record retention regulations, MA is required to maintain in writing, all communication and created documents between MA and City/Authority for five (5) years.

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Various Matters

Based upon the date of execution below, MA may begin work immediately on the understanding that the City/Authority may use this engagement letter as either an exhibit to any standard form of City/Authority contract or if one is not available will become the agreement between the parties. If there are any questions regarding the above, please do not hesitate to contact Kenneth L. Dieker of Del Rio Advisors, LLC. If the foregoing terms meet with your approval, please **acknowledge receipt** by executing this letter, scan and email a copy to kdieker@delrioadvisors.com.

Sincerely,

Del Rio Advisors, LLC

By: _____
Kenneth L. Dieker, Principal

City/Authority

By: _____
Ms. Marie Berkuti, Finance Manager / Treasurer

Dated as of _____ __, 2017

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Modesto, CA 95356
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RESOLUTION NO. SA-014

A RESOLUTION OF THE SOLANA BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY APPROVING, AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE, A PROFESSIONAL SERVICES AGREEMENT WITH BRANDIS TALLMAN, LLC FOR PLACEMENT AGENT SERVICES RELATING TO THE POTENTIAL REFUNDING OF THE SERIES 2006 TAX ALLOCATION BONDS

WHEREAS, the Solana Beach Redevelopment Agency ("Redevelopment Agency") was a redevelopment agency in the City of Solana Beach ("City"), duly created pursuant to the California Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the California Health and Safety Code) ("Redevelopment Law"); and

WHEREAS, the City Council has adopted redevelopment plans for Solana Beach's redevelopment project areas, and from time to time, the City Council has amended such redevelopment plans; and

WHEREAS, the Redevelopment Agency was responsible for the administration of redevelopment activities within the City; and

WHEREAS, Assembly Bill No. X1 26 (2011-2012 1st Ex. Sess.) ("AB 26") was signed by the Governor of California on June 28, 2011, making certain changes to the Redevelopment Law and the California Health and Safety Code ("Health and Safety Code"), including adding Part 1.8 (commencing with Section 34161) ("Part 1.8") and Part 1.85 (commencing with Section 34170) ("Part 1.85") to Division 24 of the Health and Safety Code; and

WHEREAS, pursuant to AB 26, as modified by the California Supreme Court on December 29, 2011 by its decision in *California Redevelopment Association v. Matosantos*, all California redevelopment agencies, including the Redevelopment Agency, were dissolved on February 1, 2012, and successor agencies were designated and vested with the responsibility of paying, performing and enforcing the enforceable obligations of the former redevelopment agencies and expeditiously winding down the business and fiscal affairs of the former redevelopment agencies; and

WHEREAS, the City Council of the City adopted Resolution No. 2012-011 on January 11, 2012, pursuant to Part 1.85 of AB 26, electing for the City to serve as the successor agency to the Redevelopment Agency upon the dissolution of the Redevelopment Agency under AB 26 ("Successor Agency"); and

WHEREAS, as part of the FY 2012-2013 State budget package, on June 27, 2012, the Legislature passed and the Governor signed Assembly Bill No. 1484 ("AB 1484", Chapter 26, Statutes 2012). Although the primary purpose of AB 1484 was to make technical and substantive amendments to AB 26 based on issues that have arisen in the implementation of AB 26, AB 1484 imposes additional statutory provisions relating to the activities and obligations of successor agencies and to the wind down

process of former redevelopment agencies, including without limitation refunding or refinancing bonds or other indebtedness; and

WHEREAS, Health and Safety Code Section 34179 of AB 26 as amended by AB 1484 (collectively the "Dissolution Act") establishes a seven (7) member local entity with respect to each successor agency and such entity is titled the "oversight board." The oversight board has been established for the Successor Agency (hereinafter referred to as the "Oversight Board") and all seven (7) members have been appointed to the Oversight Board pursuant to Health and Safety Code Section 34179. The duties and responsibilities of the Oversight Board are primarily set forth in Health and Safety Code Sections 34179 through 34181 of the Dissolution Act; and

WHEREAS, pursuant to Health and Safety Code Section 34179.7 of the Dissolution Act, the California Department of Finance ("DOF") has issued a Finding of Completion to the Successor Agency; and

WHEREAS, on June 8, 2006, the former Redevelopment Agency issued Tax Allocation Revenue Bonds, Series 2006 ("TA Bonds") secured by the former Redevelopment Agency's tax increment revenues as funding for the debt service obligations. The TA Bonds were issued in order to finance redevelopment activities relating to improvements within the Redevelopment Project Areas ("Project Areas") including street improvements, public park capital improvements, construction of community facilities, and landscaping improvements, among others; and

WHEREAS, debt service on the TA Bonds has been and is repaid solely with tax increment revenues generated within the Project Areas. As of June 1, 2017, the TA Bonds will be outstanding in the amount of $2,820,000, with annual principal maturities ranging from June 1, 2018 through June 1, 2036. These principal bond maturities can be prepaid on June 1, 2011, and on any subsequent date thereafter, without a prepayment penalty. The TA Bonds have interest rates ranging from 4.6% to 5.1%; and

WHEREAS, pursuant to the Dissolution Act, the Successor Agency may cause the refinancing or refunding of the TA Bonds for debt service savings by issuing, or causing the issuance, of Tax Allocation 2017 TA Bonds ("2017 TA Bonds") in accordance with the Dissolution Act including, without limitation, Sections 34177.5 and 34180(b); and

WHEREAS, based on market conditions as of March 2017, issuance of 2017 TA Bonds is estimated to result in total savings of $326,315 and net present value ("NPV") savings of approximately $247,042. This equates to 8.76% in NPV; and

WHEREAS, the Successor Agency desires to take advantage of the current low interest rate environment in order to minimize its total interest costs on outstanding debt by refinancing/refunding the TA Bonds at a comparatively lower interest rate than the current bond issue's average bond coupon rate and as low of a cost of issuance as possible; and

WHEREAS, in order to effectuate the refunding of the TA Bonds, the Successor Agency desires to retain the services of Brandis Tallman, LLC for Placement Agent services, including without limitation the following: monitor and comply with the

transaction process; compute sizing and design structure of the Financing; compile/draft disclosure reports for private placement distribution; draft, distribute, and evaluate Request for Proposal for investors; provide market commentary; review financing documents; and provide pre-closing assistance; and

WHEREAS, Brandis Tallman, LLC is a placement agent firm registered with the Securities and Exchange Commission ("SEC") and with the Municipal Securities Rulemaking Board ("MSRB") and has represented that it possesses the necessary qualifications to provide the services required by the Successor Agency; and

WHEREAS, the Successor Agency staff has authorized the preparation of a Professional Services Agreement ("PSA") to retain the services of Brandis Tallman, LLC as a "Placement Agent" to the Successor Agency and recommends the Successor Agency's approval relating to same; and

WHEREAS, pursuant to the Agreement, and subject to the conditions below, Brandis Tallman, LLC shall be compensated for work completed, in the amount of $22,500 for basic services rendered under the Agreement and all accrued expenses. Brandis Tallman, LLC would be compensated for additional services only upon prior written approval of the Successor Agency. According to the Agreement, payment to Brandis Tallman, LLC for compensation and accrued expenses not to exceed $22,500 is contingent on the closing of the bond issuance and will be made by the Successor Agency from the costs of issuance of the bonds and will be made available within thirty (30) calendar days of receipt of the invoice; and

WHEREAS, all of the prerequisites with respect to the approval of this Resolution have been met.

NOW, THEREFORE, BE IT RESOLVED by the Solana Beach Redevelopment Agency Successor Agency, as follows:

Section 1. The foregoing recitals are true and correct and are a substantive part of this Resolution.

Section 2. The Successor Agency hereby approves the Professional Services Agreement ("Agreement") with Brandis Tallman, LLC in substantial form as the Agreement attached as Exhibit "A", for Placement Agent services for compensation and accrued expenses of $22,500 which fee is contingent on the successful closing of the bond issuance.

Section 3. The Executive Director, or designee, of the Successor Agency is hereby authorized and directed to execute the Agreement in substantial form as the Agreement attached as Exhibit "A", subject to the approval of the Agreement by the Oversight Board and review by the California Department of Finance as required by the Dissolution Act or desired by the Executive Director.

Section 4. The Executive Director, or designee, of the Successor Agency is hereby authorized to make non-substantive changes and

amendments to the Agreement deemed necessary and as approved by the Executive Director of the Successor Agency and its legal counsel and to take such other actions and execute such other documents as are necessary to effectuate the intent of this Resolution on behalf of the Successor Agency.

Section 5. The Successor Agency determines that the activity approved by this Resolution is not a "project" for purposes of CEQA, as that term is defined by Guidelines Section 15378, because this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per Section 15378(b)(5) of the Guidelines.

Section 6. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The Successor Agency declares that its board would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

Section 7. This Resolution shall take effect upon the date of its adoption

PASSED, APPROVED, AND ADOPTED by the Solana Beach Redevelopment Agency Successor Agency at its meeting held on the 24th day of May 2017, by the following vote:

AYES: Board of Directors –
NOES: Board of Directors –
ABSENT: Board of Directors -
ABSTAIN: Board of Directors -

_____
MIKE NICHOLS, Chairperson

APPROVED AS TO FORM:

_____
JOHANNA N. CANLAS, Agency Counsel

ATTEST:

_____
ANGELA IVEY, Secretary

Successor Agency for the Solana Beach Redevelopment Agency

PROFESSIONAL SERVICES AGREEMENT

FOR PLACEMENT AGENT SERVICES

THIS Professional Services Agreement ("AGREEMENT") is made and entered into this 10th day of MAY, 2017 by and between the SUCCESSOR AGENCY FOR THE SOLANA BEACH REDEVELOPMENT AGENCY ("SA"), and, BRANDIS TALLMAN, LLC an independent contractor, ("CONSULTANT") (collectively "PARTIES").

WHEREAS, the SA desires to employ a CONSULTANT to furnish PLACEMENT AGENT SERVICES ("PROFESSIONAL SERVICES") for REFINANCING TAX ALLOCATION BONDS, SERIES 2006; and

WHEREAS, the SA has determined that CONSULTANT is qualified by experience and ability to perform the services desired by the SA, and CONSULTANT is willing to perform such services; and

WHEREAS, CONSULTANT will conduct all the work as described and detailed in this AGREEMENT to be provided to the SA.

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

I. PROFESSIONAL SERVICES

A. **Scope of Services.** The CONSULTANT shall perform the PROFESSIONAL SERVICES as set forth in the written Scope of Services, attached as Exhibit "A" Scope of Services and Fee, at the direction of the SA. SA shall provide CONSULTANT access to appropriate staff and resources for the coordination and completion of the projects under this AGREEMENT.

B. **Project Coordinator.** The Finance Manager is hereby designated as the Project Coordinator for SA and will monitor the progress and execution of this AGREEMENT. CONSULTANT shall assign a single Project Director to provide supervision and have overall responsibility for the progress and execution of this AGREEMENT for CONSULTANT. Nicki Tallman is hereby designated as the Project Director for CONSULTANT.

C. **SA Modification of Scope of Services.** SA may order changes to the Scope of Services within the general scope of this AGREEMENT consisting of additions, deletions, or other revisions. If such changes cause a change in the CONSULTANT's cost of, or time required for, completion of the Scope of Services, an equitable adjustment to CONSULTANT's compensation and/or contract time shall be made, subject to the SA'S approval. All such changes shall be authorized in writing, executed by CONSULTANT and SA.

II. DURATION OF AGREEMENT

A. **Term.** The term of this AGREEMENT shall be for a period of one (1) year beginning from the date of execution of the AGREEMENT. Time is of the essence in the performance of work under this AGREEMENT, unless otherwise specified.

B. **Extensions.** If marked, the SA shall have the option to extend the AGREEMENT for four (4) additional one (1) year periods or parts thereof for an amount not to exceed. Extensions shall be in the sole discretion of the SA Executive Director and shall be based upon

CONSULTANT's satisfactory past performance, SA needs, and appropriation of funds by the SA Board. The SA shall give written notice to CONSULTANT prior to exercising the option.

C. **Delay.** Any delay occasioned by causes beyond the control of CONSULTANT may merit an extension of time for the completion of the Scope of Services. When such delay occurs, CONSULTANT shall immediately notify the Project Coordinator in writing of the cause and the extent of the delay, whereupon the Project Coordinator shall ascertain the facts and the extent of the delay and grant an extension of time for the completion of the PROFESSIONAL SERVICES when justified by the circumstances.

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

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

III. COMPENSATION

A. **Total Amount.** The total cost for all work described in the Scope of Services and Fee (Exhibit "A") shall not exceed twenty two thousand five hundred dollars ($22,500) without prior written authorization from SA and is contingent on the closing of the bond issuance and will be made by the Successor Agency from the costs of issuance of the bonds and will be made available within thirty (30) calendar days of receipt of the invoice.

B. **Additional Services.** SA may, as the need arises or in the event of an emergency, request additional services of CONSULTANT. Should such additional services be required, SA and CONSULTANT shall agree to the cost prior to commencement of these services.

C. **Costs.** Any costs billed to the SA shall be in accordance with any terms negotiated and incorporated herein as part of Exhibit "A" Scope of Services and Fee.

IV. INDEPENDENT CONTRACTOR

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

V. STANDARD OF PERFORMANCE

A. While performing the PROFESSIONAL SERVICES, CONSULTANT shall exercise the reasonable professional care and skill customarily exercised by reputable members of CONSULTANT's profession practicing in the metropolitan Southern California Area, and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

VI. WARRANTY OF CONSULTANT'S LICENSE

A. CONSULTANT warrants that CONSULTANT is properly licensed with the applicable government agency(ies) for any PROFESSIONAL SERVICES that require a license. If the CONSULTANT lacks such license, this AGREEMENT is void and of no effect.

VII. AUDIT OF RECORDS

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

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

VIII. CONFIDENTIALITY

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

IX. CONFLICTS OF INTEREST

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

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

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

D. SA represents that pursuant to California Government Code Section 1090 *et seq.*, none of its elected officials, officers, or employees has an interest in this AGREEMENT.

X. DISPOSITION AND OWNERSHIP OF DOCUMENTS

A. All documents, data, studies, drawings, maps, models, photographs and reports prepared by CONSULTANT under this AGREEMENT, whether paper or electronic, shall become the property of SA for use with respect to this PROJECT, and shall be turned over to the SA upon completion of the PROJECT or any phase thereof, as contemplated by this AGREEMENT.

B. Contemporaneously with the transfer of documents, the CONSULTANT hereby assigns to the SA and CONSULTANT thereby expressly waives and disclaims, any copyright in, and the right to reproduce, all written material, drawings, plans, specifications or other work prepared under this AGREEMENT, except upon the SA's prior authorization regarding reproduction, which authorization shall not be unreasonably withheld. The CONSULTANT shall, upon request of the SA, execute any further document(s) necessary to further effectuate this waiver and disclaimer.

XI. INSURANCE

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

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

C. **Types and Amounts Required.** CONSULTANT shall maintain, at minimum, the following insurance coverage for the duration of this AGREEMENT:

1. ☒**Commercial General Liability (CGL).** If checked the CONSULTANT shall maintain CGL Insurance written on an ISO Occurrence form or equivalent providing coverage at least as broad which shall cover liability arising from any and all personal injury or property damage in the amount of $2,000,000 per occurrence and subject to an annual aggregate of $4,000,000. There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability. All defense costs shall be outside the limits of the policy.

2. ☒**Commercial Automobile Liability.** If checked the CONSULTANT shall maintain Commercial Automobile Liability Insurance for all of the CONSULTANT's automobiles including owned, hired and non-owned automobiles, automobile insurance written on an ISO form CA 00 01 12 90 or a later version of this form or an equivalent form providing coverage at least as broad for bodily injury and property damage for a combined single limit of $1,000,000.00 per occurrence. Insurance certificate shall reflect coverage for any automobile (any auto).

3. ☒**Workers' Compensation.** If checked the CONSULTANT shall maintain Worker's Compensation insurance for all of the CONSULTANT's employees who are subject to this AGREEMENT and to the extent required by applicable state or federal law, a Workers' Compensation policy providing at minimum $1,000,000.00 employers' liability coverage. The CONSULTANT shall provide an endorsement that the insurer waives the right of subrogation against the SA and its respective elected officials, officers, employees, agents and representatives.

4. ☒**Professional Liability.** If checked the CONSULTANT shall also maintain Professional Liability (errors and omissions) coverage with a limit of $1,000,000.00 per claim and $2,000,000.00 annual aggregate. The CONSULTANT shall ensure both that (1) the policy retroactive date is on or before the date of commencement of the Scope of Services; and (2) the policy will be maintained in force for a period of three years after substantial completion of the Scope of Services or termination of this AGREEMENT whichever occurs last. The CONSULTANT agrees that for the time period defined above, there will be no changes or endorsements to the policy that increase the SA's exposure to loss. All defense costs shall be outside the limits of the policy.

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

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

1. The SA, its officers, officials, employees, and representatives shall be named as additional insureds. The SA's additional insured status must be reflected on additional insured endorsement form (20 10 1185 or 20 10 1001 and 20 37 1001) which shall be submitted to the SA.

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

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

XII. INDEMNIFICATION

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

XIII. SUBCONTRACTORS

A. The CONSULTANT's hiring or retaining of third parties (i.e. subcontractors) to perform services related to the PROJECT is subject to prior approval by the SA.

B. All contracts entered into between the CONSULTANT and its subcontractor shall also provide that each subcontractor shall obtain insurance policies which shall be kept in full force and effect during any and all work on this PROJECT and for the duration of this AGREEMENT. The CONSULTANT shall require the subcontractor to obtain, all policies described in Section 11 in the amounts required by the SA, which shall not be greater than the amounts required of the CONSULTANT.

C. In any dispute between the CONSULTANT and its subcontractor, the SA shall not be made a party to any judicial or administrative proceeding to resolve the dispute. The CONSULTANT agrees to defend and indemnify the SA as described in Section 12 of this AGREEMENT should the SA be made a party to any judicial or administrative proceeding to resolve any such dispute.

XIV. NON-DISCRIMINATION

A. CONSULTANT shall not discriminate against any employee or applicant for employment because of sex, race, color, age, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, or sexual orientation. CONSULTANT shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their sex, race, color, age, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, or sexual orientation and shall

make reasonable accommodation to qualified individuals with disabilities or medical conditions. Such action shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. CONSULTANT agrees to post in conspicuous places available to employees and applicants for employment any notices provided by SA setting forth the provisions of this non-discrimination clause.

XV. NOTICES

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

Marie Marron Berkuti, Finance Manager	Nicki Tallman, CEO
SA of Solana Beach	Brandis Tallman, LLC
635 S. Highway 101	22 Battery Street #500
Solana Beach, CA 92075	San Francisco, CA 94111

XVI. ASSIGNABILITY

A. This AGREEMENT and any portion thereof shall not be assigned or transferred, nor shall any of the CONSULTANT's duties be delegated or sub-contracted, without the express written consent of the SA.

XVII. RESPONSIBILITY FOR EQUIPMENT

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

XVIII. CALIFORNIA LAW; VENUE

A. This AGREEMENT shall be construed and interpreted according to the laws of the State of California. Any action brought to enforce or interpret any portion of this AGREEMENT shall be brought in the county of San Diego, California. CONSULTANT hereby waives any and all rights it might have pursuant to California Code of Civil Procedure Section 394.

XIX. COMPLIANCE WITH LAWS

A. The CONSULTANT shall comply with all laws, ordinances, regulations, and policies of the federal, state, and local governments applicable to this AGREEMENT whether now in force or subsequently enacted. This includes maintaining a SA of Solana Beach Business Certificate.

XX. ENTIRE AGREEMENT

A. This AGREEMENT sets forth the entire understanding of the PARTIES with respect to the subject matters herein. There are no other understandings, terms or other agreements expressed or implied, oral or written, except as set forth herein. No change, alteration, or modification of the terms or conditions of this AGREEMENT, and no verbal understanding of the PARTIES, their officers, agents, or employees shall be valid unless agreed to in writing by both PARTIES.

XXI. NO WAIVER

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

XXII. SEVERABILITY

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

XXIII. DRAFTING AMBIGUITIES

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

XXIV. CONFLICTS BETWEEN TERMS

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

XXV. EXHIBITS INCORPORATED

A. All Exhibits referenced in this AGREEMENT are incorporated into the AGREEMENT by this reference.

XXVI. SIGNING AUTHORITY

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

B. ☐ If checked, a proper notary acknowledgement of execution by CONSULTANT must be attached.

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

CONSULTANT, an independent contractor

By:

Consultant Signature

Nicki Tallman, CEO

SA OF SOLANA BEACH, a municipal corporation of the State of California,

By:

Gregory Wade,
Executive Director

ATTEST:

Angela Ivey,
SA Clerk

APPROVED AS TO FORM:

Johanna N. Canlas,
SA Attorney

APPROVED AS TO CONTENT:

Marie Marron Berkuti,
Finance Manager/Treasurer

EXHIBIT "A"

SCOPE OF SERVICES AND FEE

AGREEMENT FOR
PLACEMENT AGENT SERVICES

SUCCESSOR AGENCY TO THE SOLANA BEACH REDEVELOPMENT AGENCY
Tax Allocation Bonds, Series 2017
(Solana Beach Redevelopment Project)

This Agreement, made and entered into, by and between the Successor Agency to the Solana Beach Redevelopment Agency (the "Agency") and Brandis Tallman LLC ("BTLLC") is for the purpose of establishing BTLLC as Placement Agent for the Tax Allocation Revenue Bonds, Series 2017 (the "Financing"). BTLLC will be compensated by a fee to be paid out of costs of issuance in the not-to-exceed amount of (including all expenses) $22,500 in connection with the Financing. Payment of the fee will be contingent on the closing of the transaction. The Agency reserves the right to terminate this Agreement or reject the proposed Financing at any time.

SCOPE OF SERVICES

BTLLC shall perform all the duties and services specifically set forth herein and shall provide such other services as it deems necessary or advisable, or are reasonable and necessary to accomplish the intent of the Agency in a manner consistent with the standards and practices of placement agents prevailing at the time such services are rendered to the Agency.

The Agency may, with the concurrence of BTLLC, expand this Scope of Services to include any additional services not specifically identified within the terms herein.

DEBT ISSUANCE SERVICES

Insofar as BTLLC is providing services which are rendered only to the Agency, the overall coordination of the Financing shall be such as to minimize the costs of the transaction coincident with maximizing the Agency's Financing flexibility and capital market access. BTLLC's proposed services may include, but shall not be limited to, the following:

- Monitor and Comply with the Transaction Process
- Compute Sizing and Design Structure of the Financing
- Compile/Draft Disclosure Reports for Private Placement Distribution
- Draft, Distribute, and Evaluate RFP for Investors
- Provide Market Commentary
- Review Financing Documents
- Provide Pre-Closing and Closing Assistance

Specifically, BTLLC will:

1. **Monitor and Comply with the Transaction Process.**

BTLLC shall have responsibility of working with the financing team for the successful implementation of the financing strategy and timetable that is adopted. BTLLC shall coordinate (and assist, where appropriate) in the preparation and review of the Financing documents and shall monitor the progress of all activities leading to the sale of the Financing. BTLLC shall monitor the timetables and work schedules necessary to achieve a successful close in a timely, efficient, and cost-effective manner and will coordinate with all parties engaged in the Financing.

2. **Compute Sizing and Design Structure of the Financing.**

BTLLC shall work with the financing team members to design the Financing to be consistent with the Agency's objectives and to reflect current conditions in the capital markets. Our goal is to achieve the best possible financing terms (which usually translates into the lowest cost of borrowing). These terms will be weighed and considered against what the investor will accept (and at what price) and what works best for the Financing. Financing terms can include final maturity, call provisions, reserve funds, and additional financing consideration. BTLLC will assist with the performance of numerical iterations to provide examples of financing scenarios, sources and uses of funds, debt service schedules, and cash flow projections, as needed. BTLLC will also work with the financing team to structure debt consistent with existing covenants and requirements, if any.

3. **Compile/Draft Disclosure Reports (as necessary and appropriate) for Distribution to Sophisticated Investors.**

BTLLC will assist the Agency and financing team to draft disclosure documents to distribute to private placement investors. We will schedule due diligence conference calls as necessary with potential investors.

4. **Draft, Distribute, and Evaluate RFP for Investors.**

BTLLC shall prepare a Request for Proposal to be distributed to all potential sophisticated investors, detailing the terms of the Financing and providing background information on the Agency. BTLLC shall prepare an evaluation of each potential investor's response to the Request for Proposal, taking into consideration the proposed interest rates, bank fees, rate lock ability, and prepayment provisions.

5. **Provide Market Commentary.**

BTLLC shall provide regular summaries of current market conditions, trends in the market and how these may favorably or unfavorably affect the proposed Financing.

6. **Review Financing Documents.**

BTLLC shall assist bond counsel and/or other legal advisors in the drafting of the respective Financing resolutions, notices and other legal documents. In this regard, BTLLC shall monitor document preparation for a consistent and accurate presentation of the recommended business terms and Financing structures, it being specifically understood however that BTLLC's services shall in no manner be construed as engaging in the practice of law.

7. **Provide Pre-Closing and Closing Activities.**

BTLLC shall assist in arranging for the closing. BTLLC shall assist bond counsel in assuming responsibility for such arrangements as they are required, including arranging for or monitoring the progress of final delivery of the securities and settlement of the costs of issuance.

Confirming discussions with the Agency regarding risk, BTLLC represents the following:

a. we have no conflict of interest with the Agency, such as a third party payment or profit-sharing with investors in connection with this Financing;
b. we have made every effort to have a reasonable basis for all information provided and to present it in a clear, accurate and not misleading presentation;
c. it must be noted that as a broker/dealer, our relationship with an issuer is basically an arm's-length commercial transaction and we may have financial and other interests that differ from the Agency.
d. we are not acting as a municipal advisor, financial advisor or fiduciary to the Agency or any other person or entity and have not assumed any advisory or fiduciary responsibility to the Agency with respect to the transaction contemplated hereby and the discussions, undertakings and proceedings leading thereto.
e. the only obligations we have to the Agency with respect to the transaction contemplated hereby expressly are set forth in this Agreement, except as otherwise provided by applicable rules and regulations of the SEC or the rules of the MSRB.
f. the Agency has consulted its own legal, accounting, tax, financial and other advisors, as applicable, to the extent it has deemed appropriate in connection with the transaction.

The Agency and BTLLC have each caused this Agreement to be executed by their duly authorized officers as of the date first above written.

BRANDIS TALLMAN LLC

By Nicki Tallman
Nicole Tallman, CEO

Date_____

SUCCESSOR AGENCY TO THE SOLANA BEACH REDEVELOPMENT AGENCY

By_____

Date_____

RESOLUTION NO. SA-015

A RESOLUTION OF THE SOLANA BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY APPROVING, AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE, A PROFESSIONAL SERVICES AGREEMENT WITH QUINT & THIMMIG, LLP FOR BOND COUNSEL SERVICES RELATING TO THE POTENTIAL REFUNDING OF THE SERIES 2006 TAX ALLOCATION BONDS

WHEREAS, the Solana Beach Redevelopment Agency ("Redevelopment Agency") was a redevelopment agency in the City of Solana Beach ("City"), duly created pursuant to the California Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the California Health and Safety Code) ("Redevelopment Law"); and

WHEREAS, the City Council has adopted redevelopment plans for Solana Beach's redevelopment project areas, and from time to time, the City Council has amended such redevelopment plans; and

WHEREAS, the Redevelopment Agency was responsible for the administration of redevelopment activities within the City; and

WHEREAS, Assembly Bill No. X1 26 (2011-2012 1st Ex. Sess.) ("AB 26") was signed by the Governor of California on June 28, 2011, making certain changes to the Redevelopment Law and the California Health and Safety Code ("Health and Safety Code"), including adding Part 1.8 (commencing with Section 34161) ("Part 1.8") and Part 1.85 (commencing with Section 34170) ("Part 1.85") to Division 24 of the Health and Safety Code; and

WHEREAS, pursuant to AB 26, as modified by the California Supreme Court on December 29, 2011 by its decision in *California Redevelopment Association v. Matosantos*, all California redevelopment agencies, including the Redevelopment Agency, were dissolved on February 1, 2012, and successor agencies were designated and vested with the responsibility of paying, performing and enforcing the enforceable obligations of the former redevelopment agencies and expeditiously winding down the business and fiscal affairs of the former redevelopment agencies; and

WHEREAS, the City Council of the City adopted Resolution No. 2012-011 on January 11, 2012, pursuant to Part 1.85 of AB 26, electing for the City to serve as the successor agency to the Redevelopment Agency upon the dissolution of the Redevelopment Agency under AB 26 ("Successor Agency"); and

WHEREAS, as part of the FY 2012-2013 State budget package, on June 27, 2012, the Legislature passed and the Governor signed Assembly Bill No. 1484 ("AB 1484", Chapter 26, Statutes 2012). Although the primary purpose of AB 1484 was to make technical and substantive amendments to AB 26 based on issues that have arisen in the implementation of AB 26, AB 1484 imposes additional statutory provisions relating to the activities and obligations of successor agencies and to the wind down

process of former redevelopment agencies, including without limitation refunding or refinancing bonds or other indebtedness; and

WHEREAS, Health and Safety Code Section 34179 of AB 26 as amended by AB 1484 (collectively the "Dissolution Act") establishes a seven (7) member local entity with respect to each successor agency and such entity is titled the "oversight board." The oversight board has been established for the Successor Agency (hereinafter referred to as the "Oversight Board") and all seven (7) members have been appointed to the Oversight Board pursuant to Health and Safety Code Section 34179. The duties and responsibilities of the Oversight Board are primarily set forth in Health and Safety Code Sections 34179 through 34181 of the Dissolution Act; and

WHEREAS, pursuant to Health and Safety Code Section 34179.7 of the Dissolution Act, the California Department of Finance ("DOF") has issued a Finding of Completion to the Successor Agency; and

WHEREAS, on June 8, 2006, the former Redevelopment Agency issued Tax Allocation Revenue Bonds, Series 2006 ("TA Bonds") secured by the former Redevelopment Agency's tax increment revenues as funding for the debt service obligations. The TA Bonds were issued in order to finance redevelopment activities relating to improvements within the Redevelopment Project Areas ("Project Areas") including street improvements, public park capital improvements, construction of community facilities, and landscaping improvements, among others; and

WHEREAS, debt service on the TA Bonds has been and is repaid solely with tax increment revenues generated within the Project Areas. As of June 1, 2017, the TA Bonds will be outstanding in the amount of $2,820,000, with annual principal maturities ranging from June 1, 2018 through June 1, 2036. These principal bond maturities can be prepaid on June 1, 2011, and on any subsequent date thereafter, without a prepayment penalty. The TA Bonds have interest rates ranging from 4.6% to 5.1%; and

WHEREAS, pursuant to the Dissolution Act, the Successor Agency may cause the refinancing or refunding of the TA Bonds for debt service savings by issuing, or causing the issuance, of Tax Allocation 2017 TA Bonds ("2017 TA Bonds") in accordance with the Dissolution Act including, without limitation, Sections 34177.5 and 34180(b); and

WHEREAS, based on market conditions as of March 2017, issuance of 2017 TA Bonds is estimated to result in total savings of $326,315 and net present value ("NPV") savings of approximately $247,042. This equates to 8.76% in NPV; and

WHEREAS, the Successor Agency desires to take advantage of the current low interest rate environment in order to minimize its total interest costs on outstanding debt by refinancing/refunding the TA Bonds at a comparatively lower interest rate than the current bond issue's average bond coupon rate and as low of a cost of issuance as possible; and

WHEREAS, in order to effectuate the refunding of the TA Bonds, the Successor Agency desires to retain the services of Quint & Thimmig, LLP for Bond Counsel services, including without limitation the following: review all financial documents for

legal sufficiency; prepare and provide signature and no-litigation certificates, arbitrage certificates and any and all other closing documents required to accompany the 2017 TA Bonds; prepare and provide complete transcripts of the conduct of the proceedings necessary to accompany the 2017 TA Bonds; subject to the completion of proceedings to the satisfaction of Attorneys, provide the legal opinions of Attorneys that the interest with respect to the 2017 TA Bonds is exempt from California personal income taxation; subject to the completion of proceedings to the satisfaction of Attorneys, provide the legal opinions of Attorneys approving the legality of the proceedings relating to the 2017 TA Bonds; and confer and consult with Successor Agency officials and agents with regard to problems which may arise during the servicing and payment of the 2017 TA Bonds; and

WHEREAS, Quint & Thimmig, LLP is a bond counsel firm registered with the Securities and Exchange Commission ("SEC") and with the Municipal Securities Rulemaking Board ("MSRB") and has represented that it possesses the necessary qualifications to provide the services required by the Successor Agency; and

WHEREAS, the Successor Agency staff has authorized the preparation of a Professional Services Agreement ("PSA") to retain the services of Quint & Thimmig, LLP as a "Bond counsel" to the Successor Agency and recommends the Successor Agency's approval relating to same; and

WHEREAS, pursuant to the Agreement, and subject to the conditions below, Quint & Thimmig, LLP shall be compensated for work completed, in the amount of $25,000 for basic services rendered under the Agreement and all accrued expenses. Quint & Thimmig, LLP would be compensated for additional services only upon prior written approval of the Successor Agency. According to the Agreement, payment to Quint & Thimmig, LLP for compensation and accrued expenses not to exceed $25,000 is contingent on the closing of the bond issuance and will be made by the Successor Agency from the costs of issuance of the bonds and will be made available within thirty (30) calendar days of receipt of the invoice; and

WHEREAS, all of the prerequisites with respect to the approval of this Resolution have been met.

NOW, THEREFORE, BE IT RESOLVED by the Solana Beach Redevelopment Agency Successor Agency, as follows:

Section 1. The foregoing recitals are true and correct and are a substantive part of this Resolution.

Section 2. The Successor Agency hereby approves the Professional Services Agreement ("Agreement") with Quint & Thimmig, LLP in substantial form as the Agreement attached as Exhibit "A", for Bond counsel services for compensation and accrued expenses of $25,000 which fee is contingent on the successful closing of the bond issuance.

Section 3. The Executive Director, or designee, of the Successor Agency is hereby authorized and directed to execute the Agreement in substantial form as the Agreement attached as Exhibit "A", subject

to the approval of the Agreement by the Oversight Board and review by the California Department of Finance as required by the Dissolution Act or desired by the Executive Director.

Section 4. The Executive Director, or designee, of the Successor Agency is hereby authorized to make non-substantive changes and amendments to the Agreement deemed necessary and as approved by the Executive Director of the Successor Agency and its legal counsel and to take such other actions and execute such other documents as are necessary to effectuate the intent of this Resolution on behalf of the Successor Agency.

Section 5. The Successor Agency determines that the activity approved by this Resolution is not a "project" for purposes of CEQA, as that term is defined by Guidelines Section 15378, because this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per Section 15378(b)(5) of the Guidelines.

Section 6. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The Successor Agency declares that its board would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

Section 7. This Resolution shall take effect upon the date of its adoption

PASSED, APPROVED, AND ADOPTED by the Solana Beach Redevelopment Agency Successor Agency at its meeting held on the 24th day of May 2017, by the following vote:

AYES: Board of Directors –
NOES: Board of Directors –
ABSENT: Board of Directors -
ABSTAIN: Board of Directors -

_____
MIKE NICHOLS, Chairperson

APPROVED AS TO FORM:

_____
JOHANNA N. CANLAS, Agency Counsel

ATTEST:

_____
ANGELA IVEY, Secretary

Successor Agency for the Solana Beach Redevelopment Agency

PROFESSIONAL SERVICES AGREEMENT

FOR BOND COUNSEL SERVICES

THIS Professional Services Agreement ("AGREEMENT") is made and entered into this 10th day of MAY, 2017 by and between the SUCCESSOR AGENCY FOR THE SOLANA BEACH REDEVELOPMENT AGENCY ("SA"), and, QUINT & THIMMIG, LLP an independent contractor, ("CONSULTANT") (collectively "PARTIES").

WHEREAS, the SA desires to employ a CONSULTANT to furnish BOND COUNSEL SERVICES ("PROFESSIONAL SERVICES") for REFINANCING TAX ALLOCATION BONDS, SERIES 2006; and

WHEREAS, the SA has determined that CONSULTANT is qualified by experience and ability to perform the services desired by the SA, and CONSULTANT is willing to perform such services; and

WHEREAS, CONSULTANT will conduct all the work as described and detailed in this AGREEMENT to be provided to the SA.

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

I. PROFESSIONAL SERVICES

A. **Scope of Services.** The CONSULTANT shall perform the PROFESSIONAL SERVICES as set forth in the written Scope of Services, attached as Exhibit "A" Scope of Services and Fee, at the direction of the SA. SA shall provide CONSULTANT access to appropriate staff and resources for the coordination and completion of the projects under this AGREEMENT.

B. **Project Coordinator.** The Finance Manager is hereby designated as the Project Coordinator for SA and will monitor the progress and execution of this AGREEMENT. CONSULTANT shall assign a single Project Director to provide supervision and have overall responsibility for the progress and execution of this AGREEMENT for CONSULTANT. Mr. Brian D. Quint is hereby designated as the Project Director for CONSULTANT.

C. **SA Modification of Scope of Services.** SA may order changes to the Scope of Services within the general scope of this AGREEMENT consisting of additions, deletions, or other revisions. If such changes cause a change in the CONSULTANT's cost of, or time required for, completion of the Scope of Services, an equitable adjustment to CONSULTANT's compensation and/or contract time shall be made, subject to the SA'S approval. All such changes shall be authorized in writing, executed by CONSULTANT and SA.

II. DURATION OF AGREEMENT

A. **Term.** The term of this AGREEMENT shall be for a period of one (1) year beginning from the date of execution of the AGREEMENT. Time is of the essence in the performance of work under this AGREEMENT, unless otherwise specified.

B. **Extensions.** If marked, the SA shall have the option to extend the AGREEMENT for four (4) additional one (1) year periods or parts thereof for an amount not to exceed. Extensions shall be in the sole discretion of the SA Executive Director and shall be based upon

CONSULTANT's satisfactory past performance, SA needs, and appropriation of funds by the SA Board. The SA shall give written notice to CONSULTANT prior to exercising the option.

C. **Delay.** Any delay occasioned by causes beyond the control of CONSULTANT may merit an extension of time for the completion of the Scope of Services. When such delay occurs, CONSULTANT shall immediately notify the Project Coordinator in writing of the cause and the extent of the delay, whereupon the Project Coordinator shall ascertain the facts and the extent of the delay and grant an extension of time for the completion of the PROFESSIONAL SERVICES when justified by the circumstances.

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

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

III. COMPENSATION

A. **Total Amount.** The total cost for all work described in the Scope of Services and Fee (Exhibit "A") shall not exceed twenty two thousand five hundred dollars ($25,000) without prior written authorization from SA and is contingent on the closing of the bond issuance and will be made by the Successor Agency from the costs of issuance of the bonds and will be made available within thirty (30) calendar days of receipt of the invoice.

B. **Additional Services.** SA may, as the need arises or in the event of an emergency, request additional services of CONSULTANT. Should such additional services be required, SA and CONSULTANT shall agree to the cost prior to commencement of these services.

C. **Costs.** Any costs billed to the SA shall be in accordance with any terms negotiated and incorporated herein as part of Exhibit "A" Scope of Services and Fee.

IV. INDEPENDENT CONTRACTOR

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

V. STANDARD OF PERFORMANCE

A. While performing the PROFESSIONAL SERVICES, CONSULTANT shall exercise the reasonable professional care and skill customarily exercised by reputable members of CONSULTANT's profession practicing in the metropolitan Southern California Area, and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

VI. WARRANTY OF CONSULTANT'S LICENSE

A. CONSULTANT warrants that CONSULTANT is properly licensed with the applicable government agency(ies) for any PROFESSIONAL SERVICES that require a license. If the CONSULTANT lacks such license, this AGREEMENT is void and of no effect.

VII. AUDIT OF RECORDS

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

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

VIII. CONFIDENTIALITY

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

IX. CONFLICTS OF INTEREST

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

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

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

D. SA represents that pursuant to California Government Code Section 1090 *et seq.*, none of its elected officials, officers, or employees has an interest in this AGREEMENT.

X. DISPOSITION AND OWNERSHIP OF DOCUMENTS

A. All documents, data, studies, drawings, maps, models, photographs and reports prepared by CONSULTANT under this AGREEMENT, whether paper or electronic, shall become the property of SA for use with respect to this PROJECT, and shall be turned over to the SA upon completion of the PROJECT or any phase thereof, as contemplated by this AGREEMENT.

B. Contemporaneously with the transfer of documents, the CONSULTANT hereby assigns to the SA and CONSULTANT thereby expressly waives and disclaims, any copyright in, and the right to reproduce, all written material, drawings, plans, specifications or other work prepared under this AGREEMENT, except upon the SA's prior authorization regarding reproduction, which authorization shall not be unreasonably withheld. The CONSULTANT shall, upon request of the SA, execute any further document(s) necessary to further effectuate this waiver and disclaimer.

XI. INSURANCE

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

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

C. **Types and Amounts Required.** CONSULTANT shall maintain, at minimum, the following insurance coverage for the duration of this AGREEMENT:

1. ☒**Commercial General Liability (CGL).** If checked the CONSULTANT shall maintain CGL Insurance written on an ISO Occurrence form or equivalent providing coverage at least as broad which shall cover liability arising from any and all personal injury or property damage in the amount of $2,000,000 per occurrence and subject to an annual aggregate of $4,000,000. There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability. All defense costs shall be outside the limits of the policy.

2. ☒**Commercial Automobile Liability.** If checked the CONSULTANT shall maintain Commercial Automobile Liability Insurance for all of the CONSULTANT's automobiles including owned, hired and non-owned automobiles, automobile insurance written on an ISO form CA 00 01 12 90 or a later version of this form or an equivalent form providing coverage at least as broad for bodily injury and property damage for a combined single limit of $1,000,000.00 per occurrence. Insurance certificate shall reflect coverage for any automobile (any auto).

3. ☒**Workers' Compensation.** If checked the CONSULTANT shall maintain Worker's Compensation insurance for all of the CONSULTANT's employees who are subject to this AGREEMENT and to the extent required by applicable state or federal law, a Workers' Compensation policy providing at minimum $1,000,000.00 employers' liability coverage. The CONSULTANT shall provide an endorsement that the insurer waives the right of subrogation against the SA and its respective elected officials, officers, employees, agents and representatives.

4. ☒**Professional Liability.** If checked the CONSULTANT shall also maintain Professional Liability (errors and omissions) coverage with a limit of $1,000,000.00 per claim and $2,000,000.00 annual aggregate. The CONSULTANT shall ensure both that (1) the policy retroactive date is on or before the date of commencement of the Scope of Services; and (2) the policy will be maintained in force for a period of three years after substantial completion of the Scope of Services or termination of this AGREEMENT whichever occurs last. The CONSULTANT agrees that for the time period defined above, there will be no changes or endorsements to the policy that increase the SA's exposure to loss. All defense costs shall be outside the limits of the policy.

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

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

1. The SA, its officers, officials, employees, and representatives shall be named as additional insureds. The SA's additional insured status must be reflected on additional insured endorsement form (20 10 1185 or 20 10 1001 and 20 37 1001) which shall be submitted to the SA.

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

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

XII. INDEMNIFICATION

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

XIII. SUBCONTRACTORS

A. The CONSULTANT's hiring or retaining of third parties (i.e. subcontractors) to perform services related to the PROJECT is subject to prior approval by the SA.

B. All contracts entered into between the CONSULTANT and its subcontractor shall also provide that each subcontractor shall obtain insurance policies which shall be kept in full force and effect during any and all work on this PROJECT and for the duration of this AGREEMENT. The CONSULTANT shall require the subcontractor to obtain, all policies described in Section 11 in the amounts required by the SA, which shall not be greater than the amounts required of the CONSULTANT.

C. In any dispute between the CONSULTANT and its subcontractor, the SA shall not be made a party to any judicial or administrative proceeding to resolve the dispute. The CONSULTANT agrees to defend and indemnify the SA as described in Section 12 of this AGREEMENT should the SA be made a party to any judicial or administrative proceeding to resolve any such dispute.

XIV. NON-DISCRIMINATION

A. CONSULTANT shall not discriminate against any employee or applicant for employment because of sex, race, color, age, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, or sexual orientation. CONSULTANT shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their sex, race, color, age, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, or sexual orientation and shall

make reasonable accommodation to qualified individuals with disabilities or medical conditions. Such action shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. CONSULTANT agrees to post in conspicuous places available to employees and applicants for employment any notices provided by SA setting forth the provisions of this non-discrimination clause.

XV. NOTICES

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

Marie Marron Berkuti, Finance Manager	Brian D. Quint, Partner
SA of Solana Beach	Quint & Thimmig, LLP
635 S. Highway 101	900 Larkspur Landing Circle, #270.
Solana Beach, CA 92075	Larkspur, CA 94939

XVI. ASSIGNABILITY

A. This AGREEMENT and any portion thereof shall not be assigned or transferred, nor shall any of the CONSULTANT's duties be delegated or sub-contracted, without the express written consent of the SA.

XVII. RESPONSIBILITY FOR EQUIPMENT

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

XVIII. CALIFORNIA LAW; VENUE

A. This AGREEMENT shall be construed and interpreted according to the laws of the State of California. Any action brought to enforce or interpret any portion of this AGREEMENT shall be brought in the county of San Diego, California. CONSULTANT hereby waives any and all rights it might have pursuant to California Code of Civil Procedure Section 394.

XIX. COMPLIANCE WITH LAWS

A. The CONSULTANT shall comply with all laws, ordinances, regulations, and policies of the federal, state, and local governments applicable to this AGREEMENT whether now in force or subsequently enacted. This includes maintaining a SA of Solana Beach Business Certificate.

XX. ENTIRE AGREEMENT

A. This AGREEMENT sets forth the entire understanding of the PARTIES with respect to the subject matters herein. There are no other understandings, terms or other agreements expressed or implied, oral or written, except as set forth herein. No change, alteration, or modification of the terms or conditions of this AGREEMENT, and no verbal understanding of the PARTIES, their officers, agents, or employees shall be valid unless agreed to in writing by both PARTIES.

XXI. NO WAIVER

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

XXII. SEVERABILITY

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

XXIII. DRAFTING AMBIGUITIES

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

XXIV. CONFLICTS BETWEEN TERMS

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

XXV. EXHIBITS INCORPORATED

A. All Exhibits referenced in this AGREEMENT are incorporated into the AGREEMENT by this reference.

XXVI. SIGNING AUTHORITY

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

B. ☐ If checked, a proper notary acknowledgement of execution by CONSULTANT must be attached.

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

CONSULTANT, an independent contractor

By:

Consultant Signature

Brian D. Quint, Partnerl

SA OF SOLANA BEACH, a municipal corporation of the State of California,

By:

Gregory Wade,
Executive Director

ATTEST:

Angela Ivey,
SA Clerk

APPROVED AS TO FORM:

Johanna N. Canlas,
SA Attorney

APPROVED AS TO CONTENT:

Marie Marron Berkuti,
Finance Manager/Treasurer

EXHIBIT "A"

SCOPE OF SERVICES AND FEE

SUCCESSOR AGENCY OF THE
SOLANA BEACH REDEVELOPMENT AGENCY
Tax Allocation Refunding Bonds, Series 2017

Agreement for Legal Services

THIS AGREEMENT FOR LEGAL SERVICES is made and entered into this _____ day of _____, 2017, by and between the SUCCESSOR AGENCY OF THE SOLANA BEACH REDEVELOPMENT AGENCY (the "Successor Agency") and QUINT & THIMMIG LLP, Larkspur, California ("Attorneys").

WITNESSETH:

WHEREAS, prior to the dissolution of the Solana Beach Redevelopment Agency (the "Former Agency"), the Former Agency issued its Solana Beach Redevelopment Agency Solana Beach Redevelopment Project Tax Allocation Bonds, Series 2006 (the "2006 Bonds") for the purpose of financing redevelopment activities;

WHEREAS, section 34177.5 of the California Health and Safety Code authorizes the Successor Agency to issue refunding bonds pursuant to Article 11 (commencing with section 53580) of Chapter 3 of Part 1 of Division 2 of Title 5 of the California Government Code for the purpose of achieving debt service savings;

WHEREAS, the Successor Agency has determined to issue its tax allocation refunding bonds (the "Refunding Bonds") to refund the Prior Bonds;

WHEREAS, the Successor Agency requires the services of bond counsel in connection with the authorization, issuance and sale of the Refunding Bonds;

WHEREAS, the Successor Agency has determined that Attorneys are qualified by training and experience to perform the services of bond counsel and Attorneys are willing to provide such services; and

WHEREAS, the public interest, economy and general welfare will be served by this Agreement for Legal Services;

NOW, THEREFORE, IT IS HEREBY AGREED, as follows:

Section 1. Duties of Attorneys.

(a) *Services Provided.* Attorneys shall provide legal services, as *bond counsel*, in connection with the authorization, issuance and consummation of the Refunding Bonds proceedings relating to the Refunding Bonds. Such services shall include the following:

(i) Confer and consult with the officers and administrative staff of the Successor Agency as to matters relating to the Refunding Bonds proceedings;

(ii) Attend all meetings of the Successor Agency and any administrative meetings at which any proceedings are to be discussed, deemed necessary by Attorneys for the proper planning of the Refunding Bonds proceedings or when specifically requested to attend;

(iii) Prepare any required resolutions, notices and legal documents necessary for the proper conduct of the Refunding Bonds proceedings relating to the Refunding Bonds;

(iv) Review all financial documents for legal sufficiency;

(v) Prepare and provide signature and no-litigation certificates, arbitrage certificates and any and all other closing documents required to accompany the Refunding Bonds;

(vi) Prepare and provide complete transcripts of the conduct of the proceedings necessary to accompany the Refunding Bonds;

(vii) Subject to the completion of proceedings to the satisfaction of Attorneys, provide the legal opinions of Attorneys that the interest with respect to the Refunding Bonds is exempt from California personal income taxation;

(viii) Subject to the completion of proceedings to the satisfaction of Attorneys, provide the legal opinions of Attorneys approving the legality of the proceedings relating to the Refunding Bonds; and

(ix) Confer and consult with Successor Agency officials and agents with regard to problems which may arise during the servicing and payment of the Refunding Bonds.

(b) *Services Not Provided.* Attorneys shall not be responsible for:

(i) any continuing disclosure requirements under federal securities laws that may apply to the Refunding Bonds during the period following the closing of the Refunding Bonds,

(ii) on-going advice and preparation of necessary documentation regarding compliance with section 148 of the Internal Revenue Code of 1986, relating to arbitrage limitations and rebate provisions applicable to the Refunding Bonds, or

(iii) the representation of the Successor Agency in connection with any litigation involving the Refunding Bonds.

Without limiting the generality of the foregoing, Attorneys shall not be responsible for preparing any documentation related to, or for providing any, ongoing continuing disclosure, arbitrage and rebate computation services or litigation services in respect of the Refunding Bonds without a separate agreement between the Successor Agency and Attorneys. In addition, unless

specifically retained to do so by a separate agreement between Attorneys and the Successor Agency, Attorneys shall not be responsible for auditing or otherwise reviewing or assuring compliance by the Successor Agency with any past or existing continuing disclosure obligations of the Successor Agency related to any debt obligations.

Section 2. Compensation. For the services set forth under Section 1 above, Attorneys shall be paid a legal fee of $25,000.00, inclusive of all out-of-pocket expenses.

Payment of said fees shall be entirely contingent, shall be due and payable upon the delivery of the Refunding Bonds and shall be payable solely from the proceeds of the Refunding Bonds and from no other funds of the Successor Agency.

Section 3. Responsibilities of the Successor Agency. The Successor Agency shall cooperate with Attorneys and shall furnish Attorneys with certified copies of all proceedings taken by the Successor Agency, or other documents deemed necessary by Attorneys to render an opinion upon the validity of such proceedings. All costs and expenses incurred incidental to the Refunding Bonds, including the cost and expense of preparing certified copies of proceedings required by Attorneys in connection with the Refunding Bonds and any other expenses incurred in connection with the Refunding Bonds, shall be paid from the proceeds of the Refunding Bonds.

Section 4. Non-Legal Services. In performing their services as bond counsel pursuant to this Agreement for Legal Services, it is understood and acknowledged by the Successor Agency that Attorneys will not be providing financial advisory, placement agent, investment banking or other similar services. It is expected that the Successor Agency will engage other consultants to provide any such services with respect to the Refunding Bonds.

Section 5. Termination of Agreement. This Agreement for Legal Services may be terminated at any time by the Successor Agency, with or without cause, upon written notice to Attorneys. In the event of such termination, all finished and unfinished documents shall, at the option of the Successor Agency, become its property and shall be delivered by Attorneys to the Successor Agency.

Section 6. Amendment or Modification. No amendment, modification, or other alteration of this Agreement shall be valid unless in writing and signed by both of the parties hereto.

Section 7. Entire Agreement. This Agreement contains the entire agreement of the parties hereto. No other agreement, statement, or promise made on or before the effective date of this Agreement will be binding on the parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their respective officers thereunto duly authorized as of the day and year first above written.

SUCCESSOR AGENCY OF THE SOLANA BEACH REDEVELOPMENT AGENCY

By _____
Name _____
Title _____

QUINT & THIMMIG LLP

By _____
Brian D. Quint, Partner

RESOLUTION NO. SA-016

A RESOLUTION OF THE SOLANA BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY APPROVING, AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE, A PROFESSIONAL SERVICES AGREEMENT WITH FRASER & ASSOCIATES FOR FISCAL CONSULTANT SERVICES RELATING TO THE POTENTIAL REFUNDING OF THE SERIES 2006 TAX ALLOCATION BONDS

WHEREAS, the Solana Beach Redevelopment Agency ("Redevelopment Agency") was a redevelopment agency in the City of Solana Beach ("City"), duly created pursuant to the California Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the California Health and Safety Code) ("Redevelopment Law"); and

WHEREAS, the City Council has adopted redevelopment plans for Solana Beach's redevelopment project areas, and from time to time, the City Council has amended such redevelopment plans; and

WHEREAS, the Redevelopment Agency was responsible for the administration of redevelopment activities within the City; and

WHEREAS, Assembly Bill No. X1 26 (2011-2012 1st Ex. Sess.) ("AB 26") was signed by the Governor of California on June 28, 2011, making certain changes to the Redevelopment Law and the California Health and Safety Code ("Health and Safety Code"), including adding Part 1.8 (commencing with Section 34161) ("Part 1.8") and Part 1.85 (commencing with Section 34170) ("Part 1.85") to Division 24 of the Health and Safety Code; and

WHEREAS, pursuant to AB 26, as modified by the California Supreme Court on December 29, 2011 by its decision in *California Redevelopment Association v. Matosantos*, all California redevelopment agencies, including the Redevelopment Agency, were dissolved on February 1, 2012, and successor agencies were designated and vested with the responsibility of paying, performing and enforcing the enforceable obligations of the former redevelopment agencies and expeditiously winding down the business and fiscal affairs of the former redevelopment agencies; and

WHEREAS, the City Council of the City adopted Resolution No. 2012-011 on January 11, 2012, pursuant to Part 1.85 of AB 26, electing for the City to serve as the successor agency to the Redevelopment Agency upon the dissolution of the Redevelopment Agency under AB 26 ("Successor Agency"); and

WHEREAS, as part of the FY 2012-2013 State budget package, on June 27, 2012, the Legislature passed and the Governor signed Assembly Bill No. 1484 ("AB 1484", Chapter 26, Statutes 2012). Although the primary purpose of AB 1484 was to make technical and substantive amendments to AB 26 based on issues that have arisen in the implementation of AB 26, AB 1484 imposes additional statutory provisions relating to the activities and obligations of successor agencies and to the wind down

process of former redevelopment agencies, including without limitation refunding or refinancing bonds or other indebtedness; and

WHEREAS, Health and Safety Code Section 34179 of AB 26 as amended by AB 1484 (collectively the "Dissolution Act") establishes a seven (7) member local entity with respect to each successor agency and such entity is titled the "oversight board." The oversight board has been established for the Successor Agency (hereinafter referred to as the "Oversight Board") and all seven (7) members have been appointed to the Oversight Board pursuant to Health and Safety Code Section 34179. The duties and responsibilities of the Oversight Board are primarily set forth in Health and Safety Code Sections 34179 through 34181 of the Dissolution Act; and

WHEREAS, pursuant to Health and Safety Code Section 34179.7 of the Dissolution Act, the California Department of Finance ("DOF") has issued a Finding of Completion to the Successor Agency; and

WHEREAS, on June 8, 2006, the former Redevelopment Agency issued Tax Allocation Revenue Bonds, Series 2006 ("TA Bonds") secured by the former Redevelopment Agency's tax increment revenues as funding for the debt service obligations. The TA Bonds were issued in order to finance redevelopment activities relating to improvements within the Redevelopment Project Areas ("Project Areas") including street improvements, public park capital improvements, construction of community facilities, and landscaping improvements, among others; and

WHEREAS, debt service on the TA Bonds has been and is repaid solely with tax increment revenues generated within the Project Areas. As of June 1, 2017, the TA Bonds will be outstanding in the amount of $2,820,000, with annual principal maturities ranging from June 1, 2018 through June 1, 2036. These principal bond maturities can be prepaid on June 1, 2011, and on any subsequent date thereafter, without a prepayment penalty. The TA Bonds have interest rates ranging from 4.6% to 5.1%; and

WHEREAS, pursuant to the Dissolution Act, the Successor Agency may cause the refinancing or refunding of the TA Bonds for debt service savings by issuing, or causing the issuance, of Tax Allocation 2017 TA Bonds ("2017 TA Bonds") in accordance with the Dissolution Act including, without limitation, Sections 34177.5 and 34180(b); and

WHEREAS, based on market conditions as of March 2017, issuance of 2017 TA Bonds is estimated to result in total savings of $326,315 and net present value ("NPV") savings of approximately $247,042. This equates to 8.76% in NPV; and

WHEREAS, the Successor Agency desires to take advantage of the current low interest rate environment in order to minimize its total interest costs on outstanding debt by refinancing/refunding the TA Bonds at a comparatively lower interest rate than the current bond issue's average bond coupon rate and as low of a cost of issuance as possible; and

WHEREAS, in order to effectuate the refunding of the TA Bonds, the Successor Agency desires to retain the services of Fraser & Associates for Fiscal Consultant services, including without limitation the following: preparing an in depth analysis of the

tax increment revenues to be generated for the Project Area including the preparation of a review of historical revenues; an estimate of current year revenue; an analysis of County of San Diego allocation procedures; tax increment revenue projections; an analysis of the impact of the housing market on revenues in the Project Area; a review of the impacts of the Redevelopment Dissolution Act; and the preparation of a Fiscal Consultants Report summarizing the analysis of historical, current, and projected tax increments revenues; and

WHEREAS, Fraser & Associates is a Fiscal Consultant firm registered with the Securities and Exchange Commission ("SEC") and with the Municipal Securities Rulemaking Board ("MSRB") and has represented that it possesses the necessary qualifications to provide the services required by the Successor Agency; and

WHEREAS, the Successor Agency staff has authorized the preparation of a Professional Services Agreement ("PSA") to retain the services of Fraser & Associates as a "Fiscal Consultant" to the Successor Agency and recommends the Successor Agency's approval relating to same; and

WHEREAS, pursuant to the Agreement, and subject to the conditions below, Fraser & Associates shall be compensated for work completed in the amount of $17,500 for basic services rendered under the Agreement and all accrued expenses. Fraser & Associates would be compensated for additional services only upon prior written approval of the Successor Agency. Health & Safety Code Section 34177.5(f) provides that these costs may be recovered by the Successor Agency if the Oversight Board directs the Successor Agency to proceed with issuance of the 2017 TA Bonds; and

WHEREAS, all of the prerequisites with respect to the approval of this Resolution have been met.

NOW, THEREFORE, BE IT RESOLVED by the Solana Beach Redevelopment Agency Successor Agency, as follows:

Section 1. The foregoing recitals are true and correct and are a substantive part of this Resolution.

Section 2. The Successor Agency hereby approves the Professional Services Agreement ("Agreement") with Fraser & Associates in substantial form as the Agreement attached as Exhibit "A", for Fiscal Consultant services for compensation and accrued expenses of $17,500 which fee is contingent on the successful closing of the bond issuance.

Section 3. The Executive Director, or designee, of the Successor Agency is hereby authorized and directed to execute the Agreement in substantial form as the Agreement attached as Exhibit "A", subject to the approval of the Agreement by the Oversight Board and review by the California Department of Finance as required by the Dissolution Act or desired by the Executive Director.

Section 4. The Executive Director, or designee, of the Successor Agency is hereby authorized to make non-substantive changes and amendments to the Agreement deemed necessary and as approved by the Executive Director of the Successor Agency and its legal counsel and to take such other actions and execute such other documents as are necessary to effectuate the intent of this Resolution on behalf of the Successor Agency.

Section 5. The Successor Agency determines that the activity approved by this Resolution is not a "project" for purposes of CEQA, as that term is defined by Guidelines Section 15378, because this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per Section 15378(b)(5) of the Guidelines.

Section 6. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The Successor Agency declares that its board would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

Section 7. This Resolution shall take effect upon the date of its adoption

PASSED, APPROVED, AND ADOPTED by the Solana Beach Redevelopment Agency Successor Agency at its meeting held on the 24th day of May 2017, by the following vote:

AYES: Board of Directors –
NOES: Board of Directors –
ABSENT: Board of Directors -
ABSTAIN: Board of Directors -

_____
MIKE NICHOLS, Chairperson

APPROVED AS TO FORM:

_____
JOHANNA N. CANLAS, Agency Counsel

ATTEST:

_____
ANGELA IVEY, Secretary

Successor Agency for the Solana Beach Redevelopment Agency

PROFESSIONAL SERVICES AGREEMENT

FOR FISCAL CONSULTANT SERVICES

THIS Professional Services Agreement ("AGREEMENT") is made and entered into this 10th day of MAY, 2017 by and between the SUCCESSOR AGENCY FOR THE SOLANA BEACH REDEVELOPMENT AGENCY ("SA"), and, FRASER & ASSOCIATES an independent contractor, ("CONSULTANT") (collectively "PARTIES").

WHEREAS, the SA desires to employ a CONSULTANT to furnish FISCAL CONSULTANT SERVICES ("PROFESSIONAL SERVICES") for REFINANCING TAX ALLOCATION BONDS, SERIES 2006; and

WHEREAS, the SA has determined that CONSULTANT is qualified by experience and ability to perform the services desired by the SA, and CONSULTANT is willing to perform such services; and

WHEREAS, CONSULTANT will conduct all the work as described and detailed in this AGREEMENT to be provided to the SA.

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

I. PROFESSIONAL SERVICES

A. **Scope of Services.** The CONSULTANT shall perform the PROFESSIONAL SERVICES as set forth in the written Scope of Services, attached as Exhibit "A" Scope of Services and Fee, at the direction of the SA. SA shall provide CONSULTANT access to appropriate staff and resources for the coordination and completion of the projects under this AGREEMENT.

B. **Project Coordinator.** The Finance Manager is hereby designated as the Project Coordinator for SA and will monitor the progress and execution of this AGREEMENT. CONSULTANT shall assign a single Project Director to provide supervision and have overall responsibility for the progress and execution of this AGREEMENT for CONSULTANT. Mr. Donald J. Fraser is hereby designated as the Project Director for CONSULTANT.

C. **SA Modification of Scope of Services.** SA may order changes to the Scope of Services within the general scope of this AGREEMENT consisting of additions, deletions, or other revisions. If such changes cause a change in the CONSULTANT's cost of, or time required for, completion of the Scope of Services, an equitable adjustment to CONSULTANT's compensation and/or contract time shall be made, subject to the SA'S approval. All such changes shall be authorized in writing, executed by CONSULTANT and SA.

II. DURATION OF AGREEMENT

A. **Term.** The term of this AGREEMENT shall be for a period of one (1) year beginning from the date of execution of the AGREEMENT. Time is of the essence in the performance of work under this AGREEMENT, unless otherwise specified.

B. **Extensions.** If marked, the SA shall have the option to extend the AGREEMENT for four (4) additional one (1) year periods or parts thereof for an amount not to exceed. Extensions shall be in the sole discretion of the SA Executive Director and shall be based upon

CONSULTANT's satisfactory past performance, SA needs, and appropriation of funds by the SA Board. The SA shall give written notice to CONSULTANT prior to exercising the option.

C. **Delay.** Any delay occasioned by causes beyond the control of CONSULTANT may merit an extension of time for the completion of the Scope of Services. When such delay occurs, CONSULTANT shall immediately notify the Project Coordinator in writing of the cause and the extent of the delay, whereupon the Project Coordinator shall ascertain the facts and the extent of the delay and grant an extension of time for the completion of the PROFESSIONAL SERVICES when justified by the circumstances.

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

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

III. COMPENSATION

A. **Total Amount.** The total cost for all work described in the Scope of Services and Fee (Exhibit "A") shall not exceed twenty two thousand five hundred dollars ($17,500) without prior written authorization from SA.

B. **Additional Services.** SA may, as the need arises or in the event of an emergency, request additional services of CONSULTANT. Should such additional services be required, SA and CONSULTANT shall agree to the cost prior to commencement of these services.

C. **Costs.** Any costs billed to the SA shall be in accordance with any terms negotiated and incorporated herein as part of Exhibit "A" Scope of Services and Fee.

IV. INDEPENDENT CONTRACTOR

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

V. STANDARD OF PERFORMANCE

A. While performing the PROFESSIONAL SERVICES, CONSULTANT shall exercise the reasonable professional care and skill customarily exercised by reputable members of CONSULTANT's profession practicing in the metropolitan Southern California Area, and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

VI. WARRANTY OF CONSULTANT'S LICENSE

A. CONSULTANT warrants that CONSULTANT is properly licensed with the applicable government agency(ies) for any PROFESSIONAL SERVICES that require a license. If the CONSULTANT lacks such license, this AGREEMENT is void and of no effect.

VII. AUDIT OF RECORDS

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

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

VIII. CONFIDENTIALITY

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

IX. CONFLICTS OF INTEREST

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

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

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

D. SA represents that pursuant to California Government Code Section 1090 *et seq.*, none of its elected officials, officers, or employees has an interest in this AGREEMENT.

X. DISPOSITION AND OWNERSHIP OF DOCUMENTS

A. All documents, data, studies, drawings, maps, models, photographs and reports prepared by CONSULTANT under this AGREEMENT, whether paper or electronic, shall become the property of SA for use with respect to this PROJECT, and shall be turned over to the SA upon completion of the PROJECT or any phase thereof, as contemplated by this AGREEMENT.

B. Contemporaneously with the transfer of documents, the CONSULTANT hereby assigns to the SA and CONSULTANT thereby expressly waives and disclaims, any copyright in, and the right to reproduce, all written material, drawings, plans, specifications or other work prepared under this AGREEMENT, except upon the SA's prior authorization regarding reproduction, which authorization shall not be unreasonably withheld. The CONSULTANT shall, upon request of the SA, execute any further document(s) necessary to further effectuate this waiver and disclaimer.

XI. INSURANCE

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

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

C. **Types and Amounts Required.** CONSULTANT shall maintain, at minimum, the following insurance coverage for the duration of this AGREEMENT:

1. ☒**Commercial General Liability (CGL).** If checked the CONSULTANT shall maintain CGL Insurance written on an ISO Occurrence form or equivalent providing coverage at least as broad which shall cover liability arising from any and all personal injury or property damage in the amount of $2,000,000 per occurrence and subject to an annual aggregate of $4,000,000. There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. insured claims or contractual liability. All defense costs shall be outside the limits of the policy.

2. ☒**Commercial Automobile Liability.** If checked the CONSULTANT shall maintain Commercial Automobile Liability Insurance for all of the CONSULTANT's automobiles including owned, hired and non-owned automobiles, automobile insurance written on an ISO form CA 00 01 12 90 or a later version of this form or an equivalent form providing coverage at least as broad for bodily injury and property damage for a combined single limit of $1,000,000.00 per occurrence. Insurance certificate shall reflect coverage for any automobile (any auto).

3. ☒**Workers' Compensation.** If checked the CONSULTANT shall maintain Worker's Compensation insurance for all of the CONSULTANT's employees who are subject to this AGREEMENT and to the extent required by applicable state or federal law, a Workers' Compensation policy providing at minimum $1,000,000.00 employers' liability coverage. The CONSULTANT shall provide an endorsement that the insurer waives the right of subrogation against the SA and its respective elected officials, officers, employees, agents and representatives.

4. ☒**Professional Liability.** If checked the CONSULTANT shall also maintain Professional Liability (errors and omissions) coverage with a limit of $1,000,000.00 per claim and $2,000,000.00 annual aggregate. The CONSULTANT shall ensure both that (1) the policy retroactive date is on or before the date of commencement of the Scope of Services; and (2) the policy will be maintained in force for a period of three years after substantial completion of the Scope of Services or termination of this AGREEMENT whichever occurs last. The CONSULTANT agrees that for the time period defined above, there will be no changes or endorsements to the policy that increase the SA's exposure to loss. All defense costs shall be outside the limits of the policy.

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

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

1. The SA, its officers, officials, employees, and representatives shall be named as additional insureds. The SA's additional insured status must be reflected on additional insured endorsement form (20 10 1185 or 20 10 1001 and 20 37 1001) which shall be submitted to the SA.

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

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

XII. INDEMNIFICATION

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

XIII. SUBCONTRACTORS

A. The CONSULTANT's hiring or retaining of third parties (i.e. subcontractors) to perform services related to the PROJECT is subject to prior approval by the SA.

B. All contracts entered into between the CONSULTANT and its subcontractor shall also provide that each subcontractor shall obtain insurance policies which shall be kept in full force and effect during any and all work on this PROJECT and for the duration of this AGREEMENT. The CONSULTANT shall require the subcontractor to obtain, all policies described in Section 11 in the amounts required by the SA, which shall not be greater than the amounts required of the CONSULTANT.

C. In any dispute between the CONSULTANT and its subcontractor, the SA shall not be made a party to any judicial or administrative proceeding to resolve the dispute. The CONSULTANT agrees to defend and indemnify the SA as described in Section 12 of this AGREEMENT should the SA be made a party to any judicial or administrative proceeding to resolve any such dispute.

XIV. NON-DISCRIMINATION

A. CONSULTANT shall not discriminate against any employee or applicant for employment because of sex, race, color, age, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, or sexual orientation. CONSULTANT shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their sex, race, color, age, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, or sexual orientation and shall

make reasonable accommodation to qualified individuals with disabilities or medical conditions. Such action shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. CONSULTANT agrees to post in conspicuous places available to employees and applicants for employment any notices provided by SA setting forth the provisions of this non-discrimination clause.

XV. NOTICES

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

Marie Marron Berkuti, Finance Manager	Donald J. Fraser, Principal
SA of Solana Beach	Fraser & Associates
635 S. Highway 101	225 Holmfirth Court
Solana Beach, CA 92075	Roseville, CA 95661

XVI. ASSIGNABILITY

A. This AGREEMENT and any portion thereof shall not be assigned or transferred, nor shall any of the CONSULTANT's duties be delegated or sub-contracted, without the express written consent of the SA.

XVII. RESPONSIBILITY FOR EQUIPMENT

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

XVIII. CALIFORNIA LAW; VENUE

A. This AGREEMENT shall be construed and interpreted according to the laws of the State of California. Any action brought to enforce or interpret any portion of this AGREEMENT shall be brought in the county of San Diego, California. CONSULTANT hereby waives any and all rights it might have pursuant to California Code of Civil Procedure Section 394.

XIX. COMPLIANCE WITH LAWS

A. The CONSULTANT shall comply with all laws, ordinances, regulations, and policies of the federal, state, and local governments applicable to this AGREEMENT whether now in force or subsequently enacted. This includes maintaining a SA of Solana Beach Business Certificate.

XX. ENTIRE AGREEMENT

A. This AGREEMENT sets forth the entire understanding of the PARTIES with respect to the subject matters herein. There are no other understandings, terms or other agreements expressed or implied, oral or written, except as set forth herein. No change, alteration, or modification of the terms or conditions of this AGREEMENT, and no verbal understanding of the PARTIES, their officers, agents, or employees shall be valid unless agreed to in writing by both PARTIES.

XXI. NO WAIVER

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

XXII. SEVERABILITY

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

XXIII. DRAFTING AMBIGUITIES

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

XXIV. CONFLICTS BETWEEN TERMS

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

XXV. EXHIBITS INCORPORATED

A. All Exhibits referenced in this AGREEMENT are incorporated into the AGREEMENT by this reference.

XXVI. SIGNING AUTHORITY

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

B. ☐ If checked, a proper notary acknowledgement of execution by CONSULTANT must be attached.

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

CONSULTANT, an independent contractor

By:

Consultant Signature

Donald J. Fraser, Principal

SA OF SOLANA BEACH, a municipal corporation of the State of California,

By:

Gregory Wade,
Executive Director

ATTEST:

Angela Ivey,
SA Clerk

APPROVED AS TO FORM:

Johanna N. Canlas,
SA Attorney

APPROVED AS TO CONTENT:

Marie Marron Berkuti,
Finance Manager/Treasurer

EXHIBIT "A"

SCOPE OF SERVICES AND FEE

FA FRASER & ASSOCIATES

Redevelopment and Financial Consulting

225 Holmfirth Court
Roseville CA 95661

Phone: (916) 791-8958
FAX: (916) 791-9234

May 3, 2017

Ms. Marie Marron Berkuti
Finance Officer
City of Solana Beach /Successor Agency
635 S. Highway 101
Solana Beach, CA 92075

Dear Ms. Berkuti:

Per my discussion with Ken Dieker, Fraser & Associates is pleased to provide this proposal for bond services to the Solana Beach Successor Agency (Agency). The Agency is considering a private placement that will refund certain tax allocation bonds that are outstanding for the Woodland Redevelopment Project Area (Project Area) and has requested that Fraser & Associates provide fiscal consulting services.

Scope of Services

Fraser & Associates will prepare an in depth analysis of the tax increment revenues to be generated from the Project Area. In order to accomplish this, we recommend the following scope of services:

1) **Review of Historical Revenues**: Fraser & Associates will review the growth in taxable values over the past ten fiscal years and provide a table showing such trends. The major reasons for taxable value changes over the recent past will be provided. In addition, an analysis will be prepared of the actual tax increment receipts to the initial County levy in order to determine collection trends.
2) **Current Year Revenue Estimate**: An estimate of the 2016-17 tax increment revenues expected to be received in the Project Area will be prepared. Existing liens on tax increment will be estimated in order to determine the amount of tax increment available for debt service. This will include a projection of the impact of pass through payments on the Project Area.
3) **Analysis of County Allocation Procedures**: A review of County procedures used for the calculation of tax increment, including tax increment from the application of tax rates to incremental value and unitary property taxes, will be

prepared for the current year revenue estimate. This analysis ensures that the current year revenue estimate is accurate.

4) **Tax Increment Projection**: A projection showing the tax increment revenues estimated to be annually allocated to the Agency for the Project Area will be prepared. The projection will include estimates of taxable value of developments identified by the Agency as completed or under construction but not yet on the assessment rolls. An analysis of recently resolved and open appeals will be reflected in the tax increment projection. The tax increment projections will also include an analysis of the senior liens on revenue available for debt service, including pass through payments.
5) **Housing Market Impact Analysis:** Volatility in the housing market has caused rating agencies to require additional information concerning housing prices and property transfers. As a result, the impact that housing price declines have had on the Project Area from Proposition 8 will be analyzed, including recent reversals. We will also review recent sales data in order to substantiate that housing price declines and Proposition 8 reductions are unlikely to occur in the near future.
6) **Impacts of Redevelopment Dissolution Act**: We will review the impact of AB 26, AB 1484 and SB 107 have on the flow of revenues to the Agency.
7) **Fiscal Consultants Report**: A Fiscal Consultants Report (FCR) will be prepared summarizing the analysis of historical, current and projected tax increment revenues. The FCR will include our methodology in preparing the tax increment study. The FCR is typically included as an appendix to the Official Statement for the bond issue.
8) **Presentations and Meetings**: Fraser & Associates will be available to represent the Agency in meetings and presentations to the private placement bank, and to attend other meetings as requested by the Agency.

Compensation

Services shall be compensated on the basis of a fixed fee of Seventeen Thousand Five Hundred Dollars ($17,500), exclusive of expenses, for items one through seven above, including two meetings. Additional meetings shall be compensated on a time and material basis in accordance with our standard hourly rates:

President	$250 per hour
Associate	140 per hour
Secretarial/Administrative	60 per hour

It is estimated that hourly rate services will not exceed One Thousand Dollars ($1,000). Expenses are estimated at $1,500.

Payment for services can be made from the cost of issuance fund created as part of the bond issue, but the fee is not contingent upon a successful closing of the bond issue. If the bond issue is not completed, payment shall still be owed to Fraser & Associates.

Fraser & Associates appreciates the opportunity to submit this proposal and looks forward to continuing our relationship with the Agency. Please let me know if you have any questions.

Sincerely,

Donald J. Fraser

RESOLUTION NO. SA-017

RESOLUTION OF THE SUCCESSOR AGENCY FOR THE SOLANA BEACH REDEVELOPMENT AGENCY REQUESTING THAT THE OVERSIGHT BOARD DIRECT THE SUCCESSOR AGENCY TO REGARDING REFUNDING OF TAX ALLOCATION BONDS, INCLUDING APPROVING REFUNDING COSTS AS AN ENFORCEABLE OBLIGATION

WHEREAS, ON December 29, 2011, the California Supreme Court delivered its decision in *California Redevelopment Association v. Matosantos,* finding Assembly Bill X1 26 (the "Dissolution Act") largely constitutional; and

WHEREAS, under the Dissolution Act and the California Supreme Court's decision in *California Redevelopment Association v. Matosantos,* all California redevelopment agencies, including the Solana Beach Redevelopment Agency (the "Former RDA"), were dissolved on February 1, 2012, and successor agencies were designated and vested with the responsibility of winding down the business and fiscal affairs of the former redevelopment agencies; and

WHEREAS, on January 11, 2012, the City Council of the City of Solana Beach adopted Resolution No. 2012-011 accepting for the City the role of Successor Agency to the Former RDA (the "Successor Agency"); and

WHEREAS, under the Dissolution Act, an oversight board is established for each successor agency to a former redevelopment agency with the responsibility of overseeing the activities of the successor agency and approving certain actions of the successor agency in connection with the successor agency's wind down of the affairs of the former redevelopment agency; and

WHEREAS, the oversight board (the "Oversight Board") for the Successor Agency has been duly constituted pursuant to the Dissolution Act: and

WHEREAS, prior to its dissolution, the Former RDA on May 1, 2006 issued Tax Allocation Bonds, Series 2006 in the principal amount of $3,555,000 (the "2006 Bonds") for the purpose of funding certain public improvements; and

WHEREAS, Health & Safety Code Section 34177.5 authorizes the Successor Agency to issue refunding bonds pursuant to Article 11 (commencing with Section 53580) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code for the purpose of achieving debt service savings within the parameters set forth in Section 34177.5(a)(1) (the "Savings Parameters"); and

WHEREAS, to determine compliance with the Savings Parameters for purposes of the issuance by the Successor Agency of proposed Tax Allocation Refunding Bonds, Series 2017 (the "2017 TA Bonds"), the Successor Agency has caused its municipal advisor, Del Rio Advisors, LLC (the "Municipal Advisor"), to prepare an initial analysis of the potential savings that will accrue to the Successor Agency and applicable taxing entities as a result of such refunding; and

WHEREAS, the Municipal Advisor has estimated that the potential savings to the Successor Agency and taxing entities due to issuance of the 2017 TA Bonds will total approximately $325,000 and will otherwise meet the Savings Parameters.

NOW, THEREFORE, BE IT RESOLVED, by the Successor Agency for the Solana Beach Redevelopment Agency, as follows:

Section 1. Recitals Correct. The Successor Agency finds that the above Recitals are true and correct and have served as the basis for the findings and approvals set forth below.

Section 2. Request for Oversight Board Approval of Refunding Activities. The Successor Agency hereby requests the Oversight Board to:

A. Direct the Successor Agency to proceed with preparation of documents and analysis required to refund the 2006 Bonds issued by the Former Agency and issue the 2017 TA Bonds, pursuant to Health & Safety Code Section 34177.5(f), so long as the Savings Parameters continue to be met; and

B. Authorize costs incurred to refund the 2006 Bonds and issue the 2017 TA Bonds to be recognized as enforceable obligations to be recovered on the Successor Agency's Recognized Obligation Payment Schedule

Section 3. California Environmental Quality Act. The Successor Agency determines that the activity approved by this Resolution is not a "project" for purposes of CEQA, as that term is defined by Guidelines Section 15378, because this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per Section 15378(b)(5) of the Guidelines.

Section 4. Further Actions and Documents. The Executive Director or designee, following consultation with the Agency Counsel, is authorized to take all actions and execute all documents on behalf of the Successor Agency necessary to effectuate the purpose of this Resolution.

Section 5. Severability. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The Successor Agency declares that its board would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

Section 6. Effective Date. This Resolution shall become effective immediately upon its passage and adoption.

PASSED, APPROVED, AND ADOPTED by the Solana Beach Redevelopment Agency Successor Agency at its meeting held on the 24th day of May 2017, by the following vote:

AYES: Board of Directors –
NOES: Board of Directors –
ABSENT: Board of Directors -
ABSTAIN: Board of Directors -

MIKE NICHOLS, Chairperson

APPROVED AS TO FORM:

JOHANNA N. CANLAS, Agency Counsel

ATTEST:

ANGELA IVEY, Secretary

STAFF REPORT
CITY OF SOLANA BEACH

TO: Honorable Mayor and City Councilmembers
FROM: Gregory Wade, City Manager
MEETING DATE: May 24, 2017
ORIGINATING DEPT: City Manager's Department
SUBJECT: **Residential Solid Waste Rate Review – Proposition 218 Public Noticing and Majority Protest Voting Procedures**

BACKGROUND:

The City entered into Franchise Agreements (Agreements) with Coast Waste Management (Waste Management) and EDCO Waste and Recycling Services (EDCO) to provide solid waste and recycling collection services. Waste Management provides residential services and EDCO provides commercial services.

Under the terms of the Agreements, the waste haulers may request a rate review annually to adjust the amount charged for providing services. The Agreements contain specific language regarding the rate review methodology. Rates may only be increased due to tipping (landfill disposal) fee or cost of living (CPI) increases on the base rate. City Staff reviews the rate review requests submitted by both Waste Management and EDCO and, if appropriate, brings the requests before the City Council for consideration.

EDCO and WM have both submitted rate review requests for rate increases for Fiscal Year (FY) 2017/18. Council authorized proceeding with the Proposition 218 notification process and set the public hearing date (June 28, 2017) for a majority protest vote for commercial rates (EDCO) at the May 10, 2017 Council meeting. This request is to initiate the same Proposition 218 process for the residential rates.

This item is before City Council to consider approving Resolution 2017-087 (Attachment 1) authorizing the City to proceed with the proper Proposition 218 noticing and majority protest voting procedures including setting a Public Hearing to disclose any protest votes for residential solid waste and recycling rate increases on July 12, 2017.

COUNCIL ACTION:

_____

_____

DISCUSSION:

Solid waste and recycling service rates are generally adjusted annually every July per the terms of the Agreements. However, there has not been an increase to the solid waste or recycling fees for residential or commercial properties since 2013. This has been due to a combination of low CPI's and successful negotiations of the disposal contracts by the Regional Solid Waste Association (RSWA), of which the City is a member. Councilmember Nichols represents the City on the board of RSWA, which has benefitted the City in many ways, among those by leveraging the tonnage of multiple agencies to keep tipping fees low.

The CPI increased 1.97% for the period from December 2015 to December 2016 and the tipping fee increased to $47.58 per ton. Therefore, the proposed rate increase for residential rates will increase from $22.40 to $22.85 per month. The full rate review package can be found in Attachment 2. These requests must go through the Proposition 218 noticing requirements, which Staff and WM have initiated. Residential property owners/customers will receive notification through the mail on the proposed rate increases and will have a chance to submit a protest vote if they oppose. The vote outcome will be revealed during the Public Hearing at the City Council meeting on July 12, 2017.

Another item that Staff believes should be addressed is the Annual Rate Adjustment Request submitted by WM on March 31, 2017 (Attachment 2). WM suggests a potential rate freeze if the City gets involved in negotiating a change with EDCO in the designated disposal facility. Staff believes it is inappropriate to suggest that the City become involved in a private agreement made between WM and EDCO years ago that WM now wishes to terminate. The disposal facility was established through the RSWA contract, separate from City involvement. WM initiated the private agreement with EDCO for operational efficiencies but now wishes to terminate the agreement and have the City negotiate to officially change the designated facility. Staff believes this request should be made to EDCO or RSWA to officially change the disposal facility, as the City is bound by the terms of the RSWA agreement.

CEQA COMPLIANCE STATEMENT:

Not a project as defined by CEQA.

FISCAL IMPACT:

The City receives funding through the Franchise Agreements for street sweeping, litter abatement/reduction and to help subsidize the City's Household Hazardous Waste program. In addition, the City receives a 7.5% Franchise Fee on the hauler's adjusted gross revenue recorded for all services rendered within City limits during the preceding calendar quarter.

WORK PLAN:

N/A

OPTIONS:

- Approve Staff recommendations
- Reject Staff recommendations
- Provide alternative direction to Staff

DEPARTMENT RECOMMENDATION:

Staff recommends that the City Council approve Resolution 2017-087 authorizing the City to proceed with the proper Proposition 218 noticing and majority protest voting procedures and setting the residential Solid Waste Rate Review Public Hearing protest vote for July 12, 2017.

CITY MANAGER'S RECOMMENDATION:

Approve Department Recommendation

Gregory Wade, City Manager

Attachments:

1. Resolution 2017-087
2. Waste Management Annual Rate Adjustment Request Letter

RESOLUTION NO. 2017-087

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA ESTABLISHING A PUBLIC HEARING DATE TO DISCLOSE ANY PROTEST VOTES FOR THE PROPOSED RESIDENTIAL FY 2017/2018 SOLID WASTE RATE INCREASES

WHEREAS, the City of Solana Beach (City) entered into Franchise Agreements (Agreements) with Coast Waste Management (Waste Management) and EDCO Waste and Recycling Services (EDCO) to provide solid waste and recycling collection services; and

WHEREAS, under the terms of the Agreements, the waste haulers may request a rate review annually to adjust the amount charged for providing services; and

WHEREAS, WM has submitted a rate review adjustment request for Fiscal Year 2017/2018; and

WHEREAS, the rate review request must go through the proper Proposition 218 noticing requirements and majority protest proceedings; and

WHEREAS, the protest hearing be conducted during a Public Hearing at a duly noticed City Council Meeting.

NOW, THEREFORE, the City Council of the City of Solana Beach, California, does resolve as follows:

1. That the above recitals are all true and correct.

2. That a Public Hearing be conducted to disclose any protest votes at the July 12, 2017 regularly scheduled City Council Meeting.

PASSED AND ADOPTED this 24th day of May, 2017, at a regularly scheduled meeting of the City Council of the City of Solana Beach, California by the following vote:

AYES: Councilmembers –
NOES: Councilmembers –
ABSENT: Councilmembers –
ABSTAIN: Councilmembers –

_____
MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

_____
JOHANNA N. CANLAS, City Attorney

ATTEST:

_____
ANGELA IVEY, City Clerk

ATTACHMENT 1

WASTE MANAGEMENT

March 31, 2017

Dan King
City of Solana Beach
635 S. Highway 101
Solana Beach, CA 92075

Subject: Annual Rate Adjustment Request

Dear Dan,

Waste Management hereby submits our Residential, Commercial Multifamily, and Roll Off rate calculations completed in accordance with the terms of our Solid Waste Franchise Agreement, Article 8, Services Rates and Review.

Waste Management is requesting an adjustment to rates on the service, or "Base" component of 1.97%, and a 2.81% increase in the tipping fee component. The RSWA tipping fee is expected to increase on July 1, 2017 from $46.28 to $47.58.

However, Waste Management is offering to waive any CPI increase this year, including the tipping fee increase if EDCO will designate Palomar Transfer Station (PTS) as an approved facility prior to July 1st, per the terms of the RSWA agreement Section 2.1 Change of Designated Destination. By designating PTS as a RSWA disposal site, we propose to freeze rates at their current levels. This will result in a savings of $.45 per month per resident, or an overall savings of 1.96%.

We understand the City has until May 30th to review our request to adjust rates, however, we are requesting you notify us no later than April 7 on which path you would like for us to proceed. If we do not hear back, we will assume that we are moving forward with the increase adjustment to both the Base and Tipping Fees.

Sincerely,

Lori Somers

Lori Somers
Community & Municipal Relations Manager

Cc: Ken Ryan, District Manager, Waste Management

w/attachment

ATTACHMENT 2

City of Solana Beach
Proposed Monthly Rates - Effective July 1st, 2017

Service Component Change	Actual
Consumer Price Index - Los Angeles/Orange County/Riverside 2015	245.36
Consumer Price Index - Los Angeles/Orange County/Riverside 2016	250.19
Change in Index	4.83
Percent Change	1.97%

Disposal Component Change	
Esconidido Transfer Stn Rate 2016-RSWA	$ 46.28
Esconidido Transfer Stn Rate 2017-RSWA	$ 47.58
Change in Index	1.30
Percent Change	2.81%

		Current Rates					Proposed Rates 7.1.2017				
Description	Frequency per Week	Net Operating Expense	RSWA Disposal Component	Franchise Fee 7.5%	Customer Total w/o NPDES	Customer Total with NPDES	Net Operating Expense	EDCO Disposal Component	Franchise Fee 7.5%	Customer Total w/o NPDES	Customer Total with NPDES
Commercial Multi- Family Rates											
Commercial - Two Yard Bin											
	1	$ 35.86	$ 25.37	$ 4.96	$ 66.19	$ 71.75	$ 36.56	$ 26.08	$ 5.08	$ 67.72	$ 73.28
	2	$ 57.48	$ 50.74	$ 8.77	$ 116.99	$ 128.11	$ 58.61	$ 52.16	$ 8.98	$ 119.75	$ 130.87
	3	$ 63.52	$ 76.11	$ 11.32	$ 150.95	$ 167.63	$ 64.77	$ 78.24	$ 11.60	$ 154.61	$ 171.29
	4	$ 79.99	$ 101.47	$ 14.71	$ 196.18	$ 218.42	$ 81.57	$ 104.33	$ 15.07	$ 200.96	$ 223.20
	5	$ 96.35	$ 126.84	$ 18.10	$ 241.29	$ 269.09	$ 98.25	$ 130.41	$ 18.54	$ 247.19	$ 274.99
Commercial - Three Yard Bin											
	1	$ 53.83	$ 38.05	$ 7.45	$ 99.33	$ 107.67	$ 54.89	$ 39.12	$ 7.62	$ 101.63	$ 109.97
	2	$ 87.85	$ 76.11	$ 13.29	$ 177.25	$ 193.93	$ 89.58	$ 78.24	$ 13.61	$ 181.43	$ 198.11
	3	$ 121.87	$ 114.16	$ 19.14	$ 255.17	$ 280.19	$ 124.27	$ 117.37	$ 19.59	$ 261.23	$ 286.25
	4	$ 155.85	$ 152.21	$ 24.98	$ 333.04	$ 366.40	$ 158.92	$ 156.49	$ 25.57	$ 340.98	$ 374.34
	5	$ 194.03	$ 190.26	$ 31.16	$ 415.45	$ 457.15	$ 197.85	$ 195.61	$ 31.90	$ 425.36	$ 467.06
Commercial - Four Yard Bin											
	1	$ 66.61	$ 50.74	$ 9.51	$ 126.86	$ 137.98	$ 67.92	$ 52.16	$ 9.74	$ 129.82	$ 140.94
	2	$ 104.72	$ 101.47	$ 16.72	$ 222.91	$ 245.15	$ 106.78	$ 104.33	$ 17.12	$ 228.22	$ 250.46
	3	$ 142.81	$ 152.21	$ 23.92	$ 318.94	$ 352.30	$ 145.62	$ 156.49	$ 24.50	$ 326.60	$ 359.96
	4	$ 180.91	$ 202.95	$ 31.12	$ 414.98	$ 459.46	$ 184.47	$ 208.65	$ 31.87	$ 424.99	$ 469.47
	5	$ 218.70	$ 253.69	$ 38.30	$ 510.69	$ 566.29	$ 223.01	$ 260.81	$ 39.23	$ 523.05	$ 578.65
Commercial - Five Yard Bin											
	1	$ 79.39	$ 63.42	$ 11.58	$ 154.39	$ 168.29	$ 80.95	$ 65.20	$ 11.85	$ 158.01	$ 171.91
	2	$ 123.15	$ 126.84	$ 20.27	$ 270.26	$ 298.06	$ 125.57	$ 130.41	$ 20.76	$ 276.73	$ 304.53
	3	$ 167.62	$ 190.26	$ 29.02	$ 386.90	$ 428.60	$ 170.92	$ 195.61	$ 29.72	$ 396.25	$ 437.95
	4	$ 210.56	$ 253.69	$ 37.64	$ 501.89	$ 557.49	$ 214.71	$ 260.81	$ 38.56	$ 514.08	$ 569.68
	5	$ 254.01	$ 317.11	$ 46.31	$ 617.43	$ 686.93	$ 259.02	$ 326.02	$ 47.44	$ 632.47	$ 701.97
Muti Family Recyling Rate											
	1	$ 1.34		$ 0.11	$ 1.45	$ 1.45	$ 1.37		$ 0.11	$ 1.48	$ 1.48
Commercial Can (1-Trash 1-Recy)											
	1	$ 23.02	$ 12.68	$ 2.90	$ 38.60	$ 42.12	$ 23.47	$ 13.04	$ 2.96	$ 39.48	$ 43.00
	Extra Cart	$ 1.66		$ 0.13	$ 1.79	$ 3.55	$ 1.69		$ 0.14	$ 1.83	$ 3.59
	2	$ 20.64	$ 50.74	$ 5.79	$ 77.16	$ 84.20	$ 21.04	$ 52.16	$ 5.94	$ 79.14	$ 86.18
	Extra Cart	$ 3.32		$ 0.27	$ 3.59	$ 7.11	$ 3.38		$ 0.27	$ 3.66	$ 7.18
Multi-family Temp Bin(1 wk rental)	1	$ 43.61	$ 38.05	$ 6.62	$ 88.28	$ 96.62	$ 44.47	$ 39.12	$ 6.78	$ 90.37	$ 98.71

Description	Frequency per Week	Current Rates: Net Operating Expense	Current Rates: RSWA Disposal Component	Current Rates: Franchise Fee 7.5%	Current Rates: Customer Total w/o NPDES	Current Rates: Customer Total with NPDES	Proposed Rates 7.1.2017: Net Operating Expense	Proposed Rates 7.1.2017: EDCO Disposal Component	Proposed Rates 7.1.2017: Franchise Fee 7.5%	Proposed Rates 7.1.2017: Customer Total w/o NPDES	Proposed Rates 7.1.2017: Customer Total with NPDES
Residential Rates							$ 0.30	$ 0.11	$ 0.03	$ 0.45	$ 0.45
Solid Waste Service (1 cart)	96 gal	$ 15.43	$ 4.07	$ 1.58	$ 21.08	$ 22.40	$ 15.73	$ 4.18	$ 1.61	$ 21.53	$ 22.85
	64 gal	$ 15.43	$ 4.07	$ 1.58	$ 21.08	$ 21.96	$ 15.73	$ 4.18	$ 1.61	$ 21.53	$ 22.41
	35 gal	$ 15.43	$ 4.07	$ 1.58	$ 21.08	$ 21.52	$ 15.73	$ 4.18	$ 1.61	$ 21.53	$ 21.97
Recycling Service (1 cart)	96 gal					$ 1.32					$ 1.32
	64 gal					$ 0.88					$ 0.88
	35 gal					$ 0.44					$ 0.44
Extra Cart	96 gal	$ 2.78	$ -	$ 0.23	$ 3.00	$ 4.32	$ 2.83	$ -	$ 0.23	$ 3.06	$ 4.38
	64 gal	$ 2.78	$ -	$ 0.23	$ 3.00	$ 3.88	$ 2.83	$ -	$ 0.23	$ 3.06	$ 3.94
	35 gal	$ 2.78	$ -	$ 0.23	$ 3.00	$ 3.44	$ 2.83	$ -	$ 0.23	$ 3.06	$ 3.50
Rolloff Rates											
Haul Rate		$ 231.57		$ 18.78	$ 250.35		$ 236.13		$ 19.15	$ 255.28	
Disposal Fee per Ton		$ -	$ 46.28	$ 3.75	$ 50.03		$ -	$ 47.58	$ 3.86	$ 51.44	
OTHER FEES:											
Bin Exchange		$ 37.00	$ -	$ 3.00	$ 40.00		$ 37.73	$ -	$ 3.06	$ 40.79	
Lock Fees		$ 7.86	$ -	$ 0.64	$ 8.50		$ 8.02	$ -	$ 0.65	$ 8.67	
Pull Out Fees											
16' - 50' per bin, per number of service days		$ 3.64	$ -	$ 0.30	$ 3.94		$ 3.64	$ -	$ 0.30	$ 3.94	
51' or more per bin, per number of service days		$ 4.93	$ -	$ 0.40	$ 5.33		$ 4.93	$ -	$ 0.40	$ 5.33	
Reinstate Fee:		$ 23.13	$ -	$ 1.88	$ 25.00		$ 23.58	$ -	$ 1.91	$ 25.49	
Late Fee: Minimum $3 charge on any deliquent account		$ 2.78	$ -	$ 0.23	$ 3.00		$ 2.78	$ -	$ 0.23	$ 3.00	
Bulky Items		$ 26.21	$ 8.50	$ 2.81	$ 37.52		$ 26.72	$ 8.74	$ 2.88	$ 38.34	
Each Addtl Bulky Item		$ 3.56	$ 1.16	$ 0.38	$ 5.10		$ 3.63	$ 1.19	$ 0.39	$ 5.21	
Recycling Contamination Fee		$ 30.06	$ 8.50	$ 3.13	$ 41.69		$ 30.66	$ 8.74	$ 3.19	$ 42.59	
Overage Fee		$ 29.98	$ 8.50	$ 3.12	$ 41.60		$ 30.57	$ 8.74	$ 3.19	$ 42.50	
Cart Delivery Fee		$ 13.88	$ -	$ 1.13	$ 15.00		$ 14.15	$ -	$ 1.15	$ 15.30	
Extra Pickup All Bin Sizes		$ 34.79	$ -	$ 2.82	$ 37.61		$ 35.47	$ -	$ 2.88	$ 38.35	

STAFF REPORT
CITY OF SOLANA BEACH

TO:	Honorable Mayor and City Councilmembers
FROM:	Gregory Wade, City Manager
MEETING DATE:	May 24, 2017
ORIGINATING DEPT:	Community Development Department
SUBJECT:	**Public Hearing: Request for DRP and SDP to Demolish an Existing Single-Family Residence and Construct a New Two-Story, Single-Family Residence with an Attached Two-Car Garage at 216 Ocean Street (Case # 17-16-10 Applicants: Larry and Audrey Jackel; Resolution No. 2017-062)**

BACKGROUND:

The Applicants, Larry and Audrey Jackel, are requesting Council approval of a Development Review Permit (DRP) and Structure Development Permit (SDP) to demolish an existing single family residence and construct a new two-story, single-family residence with a subterranean basement and a main floor, attached two-car garage on a 5,817 square-foot lot in the Medium Residential (MR) Zone. The maximum building height would be 22.9 feet and 106.53 feet above Mean Sea Level (MSL). The project includes 915 cubic yards of cut, 80 cubic yards of fill, and 835 cubic yards of export. The project requires a DRP for construction of square footage in excess of 60 percent of the maximum allowable floor area, construction of a second story in excess of 40 percent of the total first-level floor area and for grading in excess of 100 cubic yards aggregate. The project requires a SDP because the proposed residence exceeds 16 feet in height above the existing grade.

This project was originally heard at the May 10, 2017 City Council meeting. The Staff Report and Resolution have been attached for reference (Attachment 1). The project went through the View Assessment process, and the View Assessment Commission voted to approve the project subject to a condition of approval. The View Assessment Claimants requested that the City Council re-evaluate their View Assessment Applications and the VAC's Notice of Recommendation. After receiving public testimony and evidence regarding the project, the City Councilmembers were able make the required findings to approve the project in regard to the View Assessment Applications from Joseph Heilig and Lorraine Pillus at 222 Ocean Street and from Jorge Valdes and Suzanne Lopez-Calleja at 615 E. Circle Drive. Concerns were raised about the view

CITY COUNCIL ACTION:

impairment caused by the proposed project for the third View Assessment Application from Frank and Michelle Stribling at 212 Ocean Street, directly east of the project site.

As currently designed, the second story deck proposed in the southeast corner of the master bedroom poses a potential view impairment from the neighboring property owner's roof deck. The City Council voted 5-0-0 to continue the application, date-certain, to the May 24, 2017 Council meeting. During Council discussion, the Applicants agreed to revise the second story to switch the location of the master bedroom and master bathroom and closet and place the second floor deck in front of the new master bedroom location on the southwest corner of the second floor in order to mitigate any potential view impairment. The Council also asked that the Applicants erect new story pole flags in a different color to illustrate the differences to the three-dimensional envelope for the proposed modifications prior to the distribution of this Staff Report.

The issue before the Council is whether to approve, approve with conditions, or deny the Applicants' revised project application for a DRP and SDP.

DISCUSSION:

At the May 10, 2017 Council meeting, the Applicants indicated that they were willing to address comments and concerns raised at the Public Hearing and revise the second story of their proposed residence; therefore, the hearing was continued to May 24, 2017. The Applicants submitted revised plans to the Community Development Department on May 15, 2017, which are provided in Attachment 2 along with a description of the proposed changes in Attachment 3.

The project revisions include the following modifications:

- The master bedroom would be located where the master bathroom was originally proposed.

- The northern wall of the new location of the master bathroom would move six feet and six inches to the north to utilize the area originally proposed as a second floor deck for closet space. The southern wall of the southeast corner of the second story would be moved three feet to the north. This would result in the addition of 64 square feet to the second floor living area. The proposed phantom space of 225 square feet would stay the same. The revised floor area breakdown has been provided on the next page.

Table 1			
Lot Information:		**Floor Area Breakdown:**	
Lot Size:	**5,817 ft²**	Subterranean Basement	1,702 ft²
Max. Allowable Floor Area:	**2,906 ft²**	First Floor Living Area	1,714 ft²
Proposed Floor Area:	**2,770 ft²**	Second Floor Living Area	737 ft²
Below Max. Floor Area by:	**136 ft²**	Phantom Floor Area	225 ft²
Max. Allowable Height:	**25 ft.**	Garage	494 ft²
Max. Proposed Height:	**22.90 ft.**	Subtotal:	4,872 ft²
Highest Point/Ridge:	**106.53 MSL** (SP 25)	Basement Exemption	- 1,702 ft²
		Off-Street Parking Exemption	- 400 ft²
		Total Floor Area:	**2,770 ft²**

- The deck originally proposed in the southeast corner of the second story would be removed and placed on the southwest corner of the second floor in front of the new location of the proposed master bedroom. The proposed deck would extend four feet and six inches in depth from the exterior surface of the southern wall of the master bedroom and would have a glass railing.

- The ceiling height of the first floor would be lowered to nine feet and 1 inch.

- The "Syagrus Romanzoffiana" Queen Palm, "Archontophoenic Cunninghamiana" King Palm, and the Pittosporum Silver Sheen have been replaced with "Rhaphiolepis Umbellata Minor" – Dwarf Yeddo which has a mature height of 4-6 feet.

The attached Resolution 2017-062 (Attachment 4) has been revised to reflect the revised project design.

On May 15, 2017, Staff also received the attached email (Attachment 5) that was sent from the Striblings to the Applicants and their team.

In conclusion, as conditioned, the revised project could be found to meet the requirements for the zoning regulations, the General Plan, and could be found to meet the findings required to approve a DRP and SDP.

CEQA COMPLIANCE STATEMENT:

The project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 of the State CEQA Guidelines. Section 15303 is a Class 3 exemption for new construction or the conversion of small structures. Examples of this exemption include one single-family residence or second dwelling unit in a residential zone. In urbanized areas, up to three-single-family residences may be constructed or converted under this exemption.

FISCAL IMPACT: N/A

WORK PLAN: N/A

OPTIONS:

- Approve Staff recommendation adopting the attached Resolution 2017-062.
- Approve Staff recommendation subject to additional specific conditions necessary for the City Council to make all required findings for the approval of a SDP and DRP.
- Deny the project if all required findings for the DRP cannot be made.

DEPARTMENT RECOMMENDATION:

The proposed project meets the minimum objective requirements under the SBMC, is consistent with the General Plan and may be found, as conditioned, to meet the discretionary findings required as discussed in this report to approve a DRP and issue a SDP. Therefore, Staff recommends that the City Council:

1. Conduct the Public Hearing: Open the Public Hearing, Report Council Disclosures, Receive Public Testimony, and Close the Public Hearing.
2. Find the project exempt from the California Environmental Quality Act pursuant to Section 15303 of the State CEQA Guidelines; and
3. If the City Council makes the requisite findings and approves the project, adopt Resolution 2017-062 conditionally approving a SDP and a DRP to demolish an existing single family residence, construct a new two-story, single-family residence with a subterranean basement and an attached two-car garage, and perform associated site improvements at 216 Ocean Street, Solana Beach.

CITY MANAGER'S RECOMMENDATION:

Approve Department Recommendation.

Gregory Wade, City Manager

Attachments:

1. May 10, 2017 Staff Report
2. Revised Project Plans Dated 5-15-17
3. Applicant Revision Descripton
4. Updated Resolution 2017-062
5. May 15, 2017 Email from the Striblings

STAFF REPORT
CITY OF SOLANA BEACH

TO:	Honorable Mayor and City Councilmembers
FROM:	Gregory Wade, City Manager
MEETING DATE:	May 10, 2017
ORIGINATING DEPT:	Community Development Department
SUBJECT:	**Public Hearing: Request for a Structure Development Permit (SDP) and Development Review Permit (DRP) to Demolish an Existing Single-Family Residence and Construct a New Two-Story, Single-Family Residence with an Attached Two-Car Garage at 216 Ocean Street (Case # 17-16-10 Applicants: Larry and Audrey Jackel; Resolution No. 2017-062)**

Attached is the Staff Report for a proposed new residence at 216 Ocean Street that will be subject to a Public Hearing at the May 10, 2017 City Council Meeting.

The project was presented to the View Assessment Commission (VAC) at their February 21 and March 21, 2017 VAC meetings. At the March 21, 2017 meeting, the VAC approved the project subject to a condition of approval. The View Claimants have requested that the City Council reconsider their View Assessment claims. As such, the Council will have to consider the required findings necessary to approve the Structure Development Permit (SDP).

The Staff Report is being provided in advance to allow the City Councilmembers additional time to review the report and schedule site visits to each Claimant's residence to assess their view claims prior to the Council Meeting on May 10.

Applicant Information:

Name: Larry and Audrey Jackel
Address: 216 Ocean Street
Phone Number: [redacted]

Claimant Information:

Name: Joseph Heilig and Lorraine Pillus
Address: 222 Ocean Street, Solana Beach
Phone Number: [redacted]

Name: Jorge Valdes and Suzanne Lopez-Calleja
Address: 615 E. Circle Drive, Solana Beach
Phone Number: [redacted]

Name: Frank and Michelle Stribling
Address: 212 Ocean Street, Solana Beach
Phone Number: [redacted]

STAFF REPORT
CITY OF SOLANA BEACH

TO:	Honorable Mayor and City Councilmembers
FROM:	Gregory Wade, City Manager
MEETING DATE:	May 10, 2017
ORIGINATING DEPT:	Community Development Department
SUBJECT:	**Public Hearing: Request for DRP and SDP to Demolish an Existing Single-Family Residence and Construct a New Two-Story, Single-Family Residence with an Attached Two-Car Garage at 216 Ocean Street (Case # 17-16-10 Applicants: Larry and Audrey Jackel; Resolution No. 2017-062)**

BACKGROUND:

The Applicants, Larry and Audrey Jackel, are requesting City Council approval of a Development Review Permit (DRP) and a Structure Development Permit (SDP) to demolish an existing single family residence and construct a new two-story, single-family residence with a subterranean basement and a main floor, attached two-car garage and associated site improvements. The 5,817 square-foot lot is located at 216 Ocean Street.

The project proposes grading in the amounts of 850 cubic yards of cut and export in order to construct the proposed basement. An additional 65 cubic yards of cut and 80 cubic yards of fill is proposed for the associated yard improvements. The maximum building height would be 22.90 feet above the proposed (finished) grade and 106.53 feet above Mean Sea Level (MSL). The project meets three thresholds for the requirement of a DRP, including: 1) construction in excess of 60 percent of the allowable floor area; 2) construction of a second story in excess of 35 percent of the total first-level floor area; and 3) an aggregate grading quantity in excess of 100 cubic yards. The project requires a SDP because the proposed development exceeds 16 feet in height above the existing grade.

The issue before the Council is whether to approve, approve with conditions, or deny the Applicants' request.

CITY COUNCIL ACTION:

DISCUSSION:

The property is located on the north side of Ocean Street and is the fourth property east of the intersection of W. Circle Drive and Ocean Street. The rear of the lot can be accessed from the alley which can be accessed off of Circle Drive between 664 and 680 Circle Drive. The topography of the property is relatively flat, however, between Ocean Street and the southern property line, within the public right of way, the land slopes upward approximately five feet. The elevation at the sidewalk is 75 MSL and the front property line, along Ocean Street, is at approximately 80 MSL. The rear property line is at approximately 83 MSL, which results in a change in elevation of approximately 3 feet.

The site is rectangular in shape with 110-foot side property lines and 60-foot front and rear property lines. The lot is currently developed with a single-story, single-family residence. The Applicants propose to demolish the existing residence and replace it with a new, two-story residence with a subterranean basement and an attached two-car garage in the same building footprint as the existing residence. The Applicants are also proposing associated yard improvements including a spa in the rear yard and a patio, water feature and fire pit in front of the proposed principal residence as well as other hardscape and landscaping. The project plans are provided in Attachment 1.

Table 1 (below) provides a comparison of the Solana Beach Municipal Code (SBMC) applicable zoning regulations with the Applicants' proposed design.

Table 1

LOT INFORMATION

Property Address:	216 Ocean Street	**Zoning Designation:**	MR (5-7 du/ac)	
Lot Size:	5,817 ft^2	**# of Units Allowed:**	1 Dwelling Unit	
Max. Allowable Floor Area:	2,906 ft^2	**# of Units Requested:**	1 Dwelling Unit	
Proposed Floor Area:	2,706 ft^2	**Setbacks:**	**Required**	**Proposed**
Below Max. Floor Area by:	200 ft^2	Front	20 ft.	20 ft.
Max. Allowable Height:	25 ft.	Side (N)	5 ft.	5 ft.
Max. Proposed Height:	22.90 ft.	Side (S)	5 ft.	5 ft.
Highest Point/Ridge:	106.53 MSL (SP 25)	Rear	25 ft.	5 ft.*
Overlay Zone(s):	SROZ	*residence: 25 ft., garage: 5 ft.per SBMC 17.20.030(D)(1)(d)		

PROPOSED PROJECT INFORMATION

Floor Area Breakdown:		**Required Permits:**
Subterranean Basement	1,702 ft^2	
First Floor Living Area	1,714 ft^2	**DRP:** A DRP is required for a structure that exceeds 60% of the maximum allowable floor area, a structure with a second story in excess of 35% of the first story floor area, and for grading in excess of 100 cubic yards (aggregate)
Second Floor Living Area	673 ft^2	
Phantom Floor Area	225 ft^2	
Garage	494 ft^2	
Subtotal:	4,808 ft^2	
Basement Exemption	- 1,702 ft^2	
Off-Street Parking Exemption	- 400 ft^2	**SDP:** A SDP is required for a new structure that exceeds 16 feet in height from the existing grade.
Total Floor Area:	**2,706 ft^2**	

Proposed Grading:
For the Basement: **Cut:** 850 yd^3 **Fill:** 0 yd^3 **Export:** 850 yd^3

For Associated Yard Improvements: **Cut:** 65 yd^3 **Fill:** 80 yd^3 **Import:** 15 yd^3 Total: **Cut:** 915 yd^3 **Fill:** 80 yd^3 **Export:** 835 yd^3	
Proposed Parking: Attached 2-car garage **Proposed Fences and Walls:** Yes **Proposed Guest House:** No **Proposed Accessory Dwelling Unit:** No **Proposed Accessory Structure:** No	**Existing Development:** Single-family residence to be demolished.

Staff has prepared draft findings for approval of the project in the attached Resolution 2017-062 (Attachment 2) for Council's consideration based upon the information in this report. The applicable SBMC sections are provided in italicized text and conditions from the Planning, Engineering and Fire Departments are incorporated in the Resolution of Approval. The Council may direct Staff to modify the Resolution to reflect the findings and conditions it deems appropriate as a result of the public hearing process. If the Council determines the project is to be denied, Staff will prepare a Resolution of Denial for adoption at a subsequent Council meeting.

The following is a discussion of the findings for a SDP and a DRP as each applies to the proposed project as well as references to recommended conditions of approval contained in Resolution 2017-062.

Structure Development Permit Compliance:

The proposed residence exceeds 16 feet in height above the existing grade, therefore, the project must comply with all of the View Assessment requirements of SBMC Chapter 17.63 and the Applicants were required to complete the SDP process. A final Story Pole Height Certification was issued by a licensed land surveyor on November 2, 2016 which showed the tallest point of the structure illustrated by story pole #20 certified at 25 feet or 108.62 MSL. The highest story pole is illustrated by story pole #21 and has a building height of 24.93 or 109.04 MSL. Notices establishing the 30 day public notice period to apply for View Assessment were mailed to property owners and occupants within 300 feet of the project site. The deadline to file for View Assessment was December 27, 2016. Three applications for View Assessment were received.

The original project design was presented at the February 21, 2017 View Assessment Commission (VAC) Meeting. The February VAC agenda meeting packet has been attached for reference (Attachment 3). At the VAC meeting, after hearing from the Applicants, the Claimants, and discussing the project, VAC member Jack Hegenauer asked the Applicants if they were willing to redesign their project, and they agreed. After discussion among the Commission, the Applicants and the Claimants, VAC member Pat Coad made a motion to continue the project for a period of 60 days to allow for redesign, with the possibility to come back earlier if possible. VAC member Paul Bishop seconded the motion. The motion passed 6/0/1 (Pasko absent). The action minutes of the February VAC meeting have been provided in Attachment 4.

The Applicants submitted revised plans to Staff on March 9, 2017 and revised the existing story poles onsite to reflect the revised project design. The proposed revisions

were inside of the originally story poled three dimensional building envelope, therefore, an additional 30-day public notice period was not required. A revised height certification was submitted on March 14, 2017 which certified the revised structure with a maximum height of 22.90 feet or 106.53 MSL. The revised project was presented at the March 21, 2017 VAC meeting and the agenda packet has been provided in Attachment 5. At the March 21, 2017 VAC meeting, after hearing from the Applicants and Claimants and discussing the project, VAC member Kelly Harless made a motion to approve the project subject to the following condition:

> Reduce the proposed deck on the southeast corner of the second floor master bedroom so that the southernmost extent of the deck railing would move to the north by three feet and raise the finished floor height of the deck by one foot as shown in the original project design.

The motion carried 4/2/1 (Coad and Hegenauer opposed/Bishop absent). The Notice of Recommendation has been provided in Attachment 6. The minutes from the March 21, 2017 meeting have not been approved by the VAC and, therefore, have not been provided.

The Claimants have requested that the City Council reconsider their View Assessment Claims. Therefore, the Council would have to be able to make the following required findings in order to approve the SDP:

1. The applicant for the structure development permit has made a reasonable attempt to resolve the view impairment issues with the person(s) requesting view assessment. Written evidence of a good faith voluntary offer to meet and discuss view issues, or of a good faith voluntary offer to submit the matter to mediation, is hereby deemed to be a reasonable attempt to resolve the view impairment issues.

2. The proposed structure does not significantly impair a view from public property (parks, major thoroughfares, bike ways, walkways, equestrian trails) which has been identified in the city's general plan, local coastal program, or city designated viewing areas.

3. The structure is designed and situated in such a manner as to minimize impairment of views.

4. There is no significant cumulative view impairment caused by granting the application. Cumulative view impairment shall be determined by: (a) Considering the amount of view impairment caused by the proposed structure; and (b) considering the amount of view impairment that would be caused by the construction on other parcels of structures similar to the proposed structure.

5. The proposed structure is compatible with the immediate neighborhood character.

In assessing submitted view claims, the SBMC requires that all feasible solutions for development be reviewed and that an alternative be chosen which provides the best balance between the owner's desire to develop their property in accordance with applicable regulations and the neighbor's desire to protect their view.

In making their determination, the Council would have the following options in evaluating the SDP:

- Approve the project subject to the Notice of Recommendation from the VAC.
- Approve the project subject to a different and/or additional condition(s) of approval.
- Continue the project for redesign.
- Deny the project.

Development Review Permit Compliance (SBMC Section 17.68.40):

A DRP is required for the following reasons: 1) the total proposed square footage would exceed 60 percent of the maximum allowable floor area in a residential zone; 2) the square footage of the proposed second story is more than 35 percent of the square footage of the proposed first floor; and 3) the proposal includes an aggregate grading quantity that exceeds 100 cubic yards of grading. The total floor area proposed is 2,706 square feet and the lot allows a maximum of 2,906 square feet. The total proposed floor area would be 93 percent of the maximum allowable. The total floor area of the second floor would be 673 square feet and the first floor would be 1,714 square feet. The second floor would be 39 percent of the size of the first floor. There would be a total of 915 cubic yards of cut, 80 cubic yards of fill, and 835 cubic yards of export.

In addition to meeting zoning requirements, the project must also be found in compliance with development review criteria. The following is a list of the development review criteria topics:

2. Relationship with Adjacent Land Uses
3. Building and Structure Placement
4. Landscaping
5. Roads, Pedestrian Walkways, Parking, and Storage Areas
6. Grading
7. Lighting
8. Usable Open Space

The Council may approve, or conditionally approve, a DRP only if all of the findings listed below can be made. Resolution 2017-062 (Attachment 2) provides the full discussion of the findings.

1. The proposed development is consistent with the general plan and all applicable requirements of the zoning ordinance including special regulations, overlay zones, and specific plans.

2. The proposed development complies with the development review criteria.

3. All required permits and approvals issued by the city, including variances, conditional use permits, comprehensive sign plans, and coastal development permits have been obtained prior to or concurrently with the development review permit.

4. If the development project also requires a permit or approval to be issued by a state or federal agency, the city council may conditionally approve the development review permit upon the Applicants obtaining the required permit or approval from the other agency.

If the above findings cannot be made, the Council shall deny the DRP. The following is a discussion of the applicable development review criteria as they relate to the proposed project.

Relationship with Adjacent Land Uses:

The property is located within the Medium Residential (MR) Zone. Properties surrounding the lot are also located within the MR Zone and are developed with one and two-story, single-family residences. The project site is currently developed with a single-story, single-family residence located in the center of the lot, which would be demolished entirely. The Applicants propose to construct a replacement, two-story residence with a subterranean basement and an attached two-car garage.

The project, as designed, is consistent with the permitted uses for the MR Zone as described in SBMC Sections 17.20.010 and 17.12.020. The property is designated Medium Density Residential in the General Plan and intended for single-family residences developed at a maximum density of five to seven dwelling units per acre. The proposed development could be found to be consistent with the objectives of the General Plan as it encourages the development and maintenance of healthy residential neighborhoods, the stability of transitional neighborhoods, and the rehabilitation of deteriorated neighborhoods.

The property is not located within any of the City's Specific Plan areas; however, it is located within the boundaries of the Scaled Residential Overlay Zone (SROZ) and within the Coastal Zone. The project has been evaluated, and could be found to be in conformance with, the regulations of the SROZ, which are discussed further in this report. As a condition of project approval, the Applicants would be required to obtain a Coastal Development Permit, Waiver or Exemption from the California Coastal Commission prior to the issuance of a Building Permit.

Building and Structure Placement:

The residence, as designed, would be constructed in the center of the property within the same general footprint as the existing residence. The garage would be located toward the northeast corner of the lot and would be accessed from the alley. SBMC 17.20.030(D)(1)(g) indicates that,

> *On residential lots abutting a public street on one side and an alley on the opposite side, attached garages may be built in the yard adjacent to the alley in accordance with detached accessory structure standards contained in SBMC 17.20.020(C)(3).*

According to SBMC 17.20.020(C)(3), detached accessory structures are required to conform to all front and side yard setbacks, however, they may encroach into the required rear yard setback provided that they maintain a 5 foot setback from the rear property line. In addition, the detached accessory structure cannot take up more than 30% of the rear yard area and cannot be more than one third of the lot width. The structure cannot be more than 12 feet in height where located within the rear yard setback. As designed, the proposed 12 foot tall garage would maintain a minimum five foot setback from the northern property line, would be 20 feet in width and would take up 333 square feet of the total 1,500 square foot rear yard area or 22% and is, therefore, in compliance with the specific development regulations of the Municipal Code.

The remainder of the proposed residence would be located entirely within the buildable area of the lot. The only projection into the required setback at the ground level would be proposed lightwells in order to provide emergency egress to and from the proposed subterranean basement. The lightwells are allowed to encroach into the required setback a maximum of three feet, however, they are required to be covered with a grate that is capable of supporting the weight of a 250lb person that can be opened by someone of minimal strength with no special knowledge, effort or use of key or tool.

Roof eaves along the southern, northern, and eastern sides of the second floor and the eastern side of the second floor roof would encroach a maximum of two feet into the setback areas, pursuant to SBMC Section 17.20.030(D)(4). The residence would be setback 20 feet from the southern (front) property line, 5 feet from the eastern and western side property lines, and 25 feet from the northern (rear) property line. A spa is proposed within the rear yard setback toward the northwest corner of the lot and a water feature and fire pit are proposed on a patio within the front yard setback.

The Applicants are proposing a 1,702 square-foot subterranean basement consisting of three bedrooms, two bathrooms and a den. The 1,714 square foot main floor would consist of the kitchen, living room, dining room, laundry room, one bathroom and one bedroom. The proposed two car garage would be attached to the main floor. The 696 square foot second floor would consist of a master suite with two attached decks, one toward the southeast corner of the master bedroom and one toward the northeast side of the second floor; 225 square feet of the second floor volume is area that is open to

the main floor below and has a ceiling height of 15 feet or greater so this area is counted twice towards the calculation of floor area.

The proposed project, as designed, meets the minimum required setbacks and is below the maximum allowable floor area for the property.

Neighborhood Comparison:

Staff compared the proposed project to 40 other properties within the surrounding area. This area includes properties along both sides of East and West Circle Drive, Pacific Avenue and Acacia Avenue and both sides of Ocean Street as shown on the following Map:

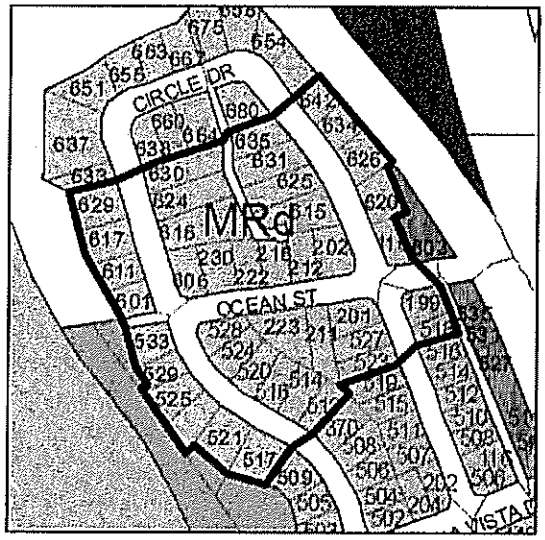


Table 2, below, provides the data for each property including approximate lot size, existing building area on each lot, and the maximum allowable square footage for potential new development.

The properties in the comparison area have a maximum FAR allowance that is calculated by using a tiered formula of 0.5 for the first 6,000 square feet of lot area, 0.175 for the next 9,000 square feet, 0.1 for the next 5,000 square feet and 0.05 for the remainder of the lot. The maximum allowable floor area for this 5,817 square foot lot is calculated as follows:

0.500 for the first 5,817 ft^2=	2,909 ft^2
Maximum Allowable Floor Area =	**2,909 ft^2**

The existing neighboring homes range in size from 884 square feet to 4,897 square feet, according to the County Assessor records. It should be noted that the County Assessor does not include the garage, phantom space or porch areas in their total square footage. However, the Assessor does include finished basements in the square

footage calculation, which the City does not. Accordingly, the building area of the proposed project has been calculated for comparison purposes as follows:

Proposed Gross Building Area:	4808 ft^2
Delete Garage Area:	- 494 ft^2
Delete Phantom Area:	- 225 ft^2
Project Area for Comparison Table:	**4,089 ft^2**

Table 2 is based upon the County Assessor's data and SanGIS data. It contains neighboring lot sizes, the square footage of existing development and the maximum allowable square footage for potential development on each lot.

Table 2:

#	Property Address	Lot Size in ft^2 (GIS)	Existing ft^2 Onsite (Assessor's)	Proposed / Recently Approved ft^2	Max. Allowable ft^2 S.R.O.Z.	Zone
1	601 W. Circle Drive	6,142	1,509		3,025	MR
2	611 W. Circle Drive	6,014	2,010		3,002	MR
3	617 W. Circle Drive	9,094	2,535		6,541	MR
4	629 W. Circle Drive	9,199	2,283		3,550	MR
5	642 W. Circle Drive	6,259	2,266		3,045	MR
6	634 W. Circle Drive	6,230	1,555		3,040	MR
7	626 W. Circle Drive	8,338	1,678		3,409	MR
8	620 W. Circle Drive	8,182	1,602		3,382	MR
9	604 E. Circe Drive	6,696	1,498		3,122	MR
10	616 W. Circle Drive	15,655	2,409		4,641	MR
11	606 W. Circle Drive	7,597	2,924		3,279	MR
12	230 Ocean Street	7,884	3,161		3,330	MR
13	222 Ocean Street	6,899	3,141		3,157	MR
14	**216 Ocean Street**	**5,817**	**1,548**	**4,089***	**2,906**	**MR**
15	212 Ocean Street	6,422	1,452		3,074	MR
16	202 Ocean Street	8,733	2,016		3,478	MR
17	615 E. Circle Drive	11,853	2,913		4,024	MR
18	625 E. Circle Drive	9,898	3,392		3,682	MR
19	631 E. Circle Drive	9,845	2,739		3,673	MR
20	635 E. Circle Drive	7,411	2,517		3,072	MR
21	630 W. Circle Drive	11,603	2,135		3,247	MR
22	624 W. Circle Drive	10,788	2,350		3,839	MR
23	533 Pacific Avenue	8,279	2,917		3,399	MR
24	529 Pacific Avenue	6,016	1,609		3,003	MR
25	521 Pacific Avenue	11,469	3,431		3,957	MR
26	525 Pacific Avenue	7,857	3,408		3,345	MR
27	0 Pacific Avenue	8,489	VACANT		3,436	MR
28	517 Pacific Avenue	10,686	2,912		3,820	MR
29	528 Pacific Avenue	5,963	2,647		2,982	MR

30	524 Pacific Avenue	7,049	4,897**		3,184	MR
31	520 Pacific Avenue	6,855	3,774**		3,150	MR
32	223 Ocean Street	11,141	2,618		3,900	MR
33	211 Ocean Street	8,314	1,259		3,405	MR
34	201 Ocean Street	7,729	1,897		3,303	MR
35	527 N. Acacia Avenue	6,364	884		3,064	MR
36	523 N. Acacia Avenue	6,786	1,016		3,138	MR
37	514 Pacific Avenue	7,339	1,542		3,234	MR
38	512 Pacific Avenue	6,731	1,414		3,128	MR
39	516 Pacific Avenue	6,344	1,827		3,060	MR
40	199 Ocean Street	6,541	2,733		3,095	MR
41	518 N. Acacia Avenue	4560	2,730**		2,280	MR

* This square footage includes the basement square footage of 1,702 square feet which the Assessor includes in the square footage calculation but the City does not.

** These structures exceed the maximum allowable floor area for the lot because they were built prior to the adoption of the Scaled Residential Overlay Zone which reduced the Floor Area Ratio for the lots.

Fences, Walls and Retaining Walls:

Within the front yard setback area, the SBMC Section 17.20.040(O) allows fences and walls, or any combination thereof, to be no higher than 42 inches in height as measured from existing grade, except for an additional two feet of fence that is at least 80% open to light. Fences, walls and retaining walls located within the rear and interior side yards are allowed to be up to six feet in height with an additional 24 inches that is 50% open to light and air. However, the SBMC also permits fences or walls to be 5 feet high in the front-yard setback to comply with pool fencing requirements. It should also be noted that fences and walls are measured from the pre-existing grade.

Currently, in front of the property, within the public right of way along Ocean Street is a approximately four foot retaining wall. With the proposed project, the Applicants would demolish the existing wall and plant the sloped area with low water use succulents. Two new retaining walls ranging from 2.5 feet to 3.5 feet would be constructed at the southern property line. A staircase would encroach into the public right of way in order to provide pedestrian access to the residence from Ocean Street. Any drop from a walkable area of more than 30 inches would require a 42 inch handrail pursuant to the California Building Code. Retaining walls and walking surfaces are proposed in the front yard setback at 30 inches and would not require railings. However, the proposed stairway (more than three steps) in the public right of way would need a railing on one side of the staircase.

In addition, a 6-foot high wooden fence is proposed that would surround the western, northern and eastern property lines. This fence will provide screening for the proposed location of the trash cans on the northeast side of the lot.

Currently, the plans show fences and walls that comply with the requirements of SBMC 17.20.040(O) and 17.60.070(C). If the Applicants decide to modify any of the proposed fences and walls or construct additional fences and walls, on the project site, a condition of project approval indicates that they would be required to be in compliance with the Municipal Code.

Landscape:

The project is subject to the current water efficient landscaping regulations of SBMC Chapter 17.56. A Landscape Documentation Package is required for new development projects with an aggregate landscape equal to or greater than 500 square feet requiring a building permit, plan check or development review. The Applicants provided a conceptual landscape plan (Attachment 1) that has been reviewed by the City's third-party landscape architect who has recommended approval of the conceptual landscape plan. The Applicants will be required to submit detailed construction landscape drawings that will be reviewed by the City's third-party landscape architect for conformance with the conceptual plan. In addition, the City's third-party landscape architect will perform inspections during the construction phase of the project. A separate condition has been added to require that native or drought-tolerant and non-invasive plant materials and water-conserving irrigation systems are required to be incorporated into the landscaping to the extent feasible.

Parking:

Because the lot is adjacent to an alley, the attached garage can encroach into the required rear yards setback subject to the specific development regulations of SBMC Section 17.20.020(C)(3). The SBMC and the Off-Street Parking Design Manual (OSPDM) require two (2) parking spaces for a single-family residence. The Applicants are proposing to construct an attached, two-car garage in the southeastern corner of the buildable area that would be accessed by the alley at the northeast corner of the lot. Pedestrian access would be provided by a staircase off of Ocean Street. SBMC Section 17.08.030 indicates that required parking up to 200 square feet per parking space provided in a garage is exempt from the floor area calculation. The proposed garage will provide the two required parking spaces, therefore, 400 square feet of garage area is exempt from the project's floor area calculation.

Grading:

The total grading quantity for the project includes 915 cubic yards of cut, 80 cubic yards of fill and 835 cubic yards of export. A majority of the proposed grading (850 cubic yards of cut and export) is required in order to construct the proposed basement toward the center of the lot. The remaining 65 cubic yards of cut and 80 cubic yards of fill are proposed in order to perform the proposed lot improvements including the retaining walls on the southern property line and the flat patios in the front and rear yards.

Lighting:

A condition of project approval is that all new exterior lighting fixtures comply with the City-Wide Lighting Regulations of the Zoning Ordinance (SBMC 17.60.060). All light fixtures shall be shielded so that no light or glare is transmitted or reflected in such concentrated quantities or intensities as to be detrimental to the surrounding area.
Usable Open Space:

The project consists of the construction of a new single-family residence with an attached garage on a residential lot, therefore, usable open space and recreational facilities are neither proposed nor required according to SBMC Section 17.20.040.

Public Hearing Notice:

Notice of the City Council Public Hearing for the project was published in the Union Tribune more than 10 days prior to the public hearing. The same public notice was mailed to property owners and occupants within 300 feet of the proposed project site on April 28, 2017. As of the date of preparation of this Staff Report, Staff has not received any call, letters, or emails regarding the project.

Conditions from the Planning, Engineering, and Fire Departments have been incorporated into the Resolution of Approval (Attachment 2).

In conclusion, the proposed project, as conditioned, could be found to be consistent with the Zoning regulations and the General Plan. Should the Council determine that the findings can be made to approve the project, the SDP will be issued administratively with the DRP.

CEQA COMPLIANCE STATEMENT:

The project is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15303 of the State CEQA Guidelines. Class 3 consists of construction and location of limited numbers of new, small facilities or structures. Examples of this exemption include one single-family residence or second dwelling unit in a residential zone. In urbanized areas, up to three-single-family residences may be constructed or converted under this exemption.

FISCAL IMPACT: N/A

WORK PLAN: N/A

OPTIONS:

- Approve Staff recommendation adopting the attached Resolution 2017-062.
- Approve Staff recommendation subject to additional specific conditions necessary for the City Council to make all required findings for the approval of a SDP and DRP.

- Deny the project if all required findings for the SDP and DRP cannot be made.

DEPARTMENT RECOMMENDATION:

The proposed project meets the minimum zoning requirements under the SBMC, may be found to be consistent with the General Plan and may be found, as conditioned, to meet the discretionary findings required as discussed in this report to approve a SDP and a DRP. Therefore, Staff recommends that the City Council:

1. Conduct the Public Hearing: Open the Public Hearing, Report Council Disclosures, Receive Public Testimony, and Close the Public Hearing.
2. Find the project exempt from the California Environmental Quality Act pursuant to Section 15303 of the State CEQA Guidelines; and
3. If the City Council makes the requisite findings and approves the project, adopt Resolution 2017-062 conditionally approving a SDP and a DRP to demolish an existing single family residence, construct a new two-story, single-family residence with a subterranean basement and an attached two-car garage, and perform associated site improvements at 216 Ocean Street, Solana Beach.

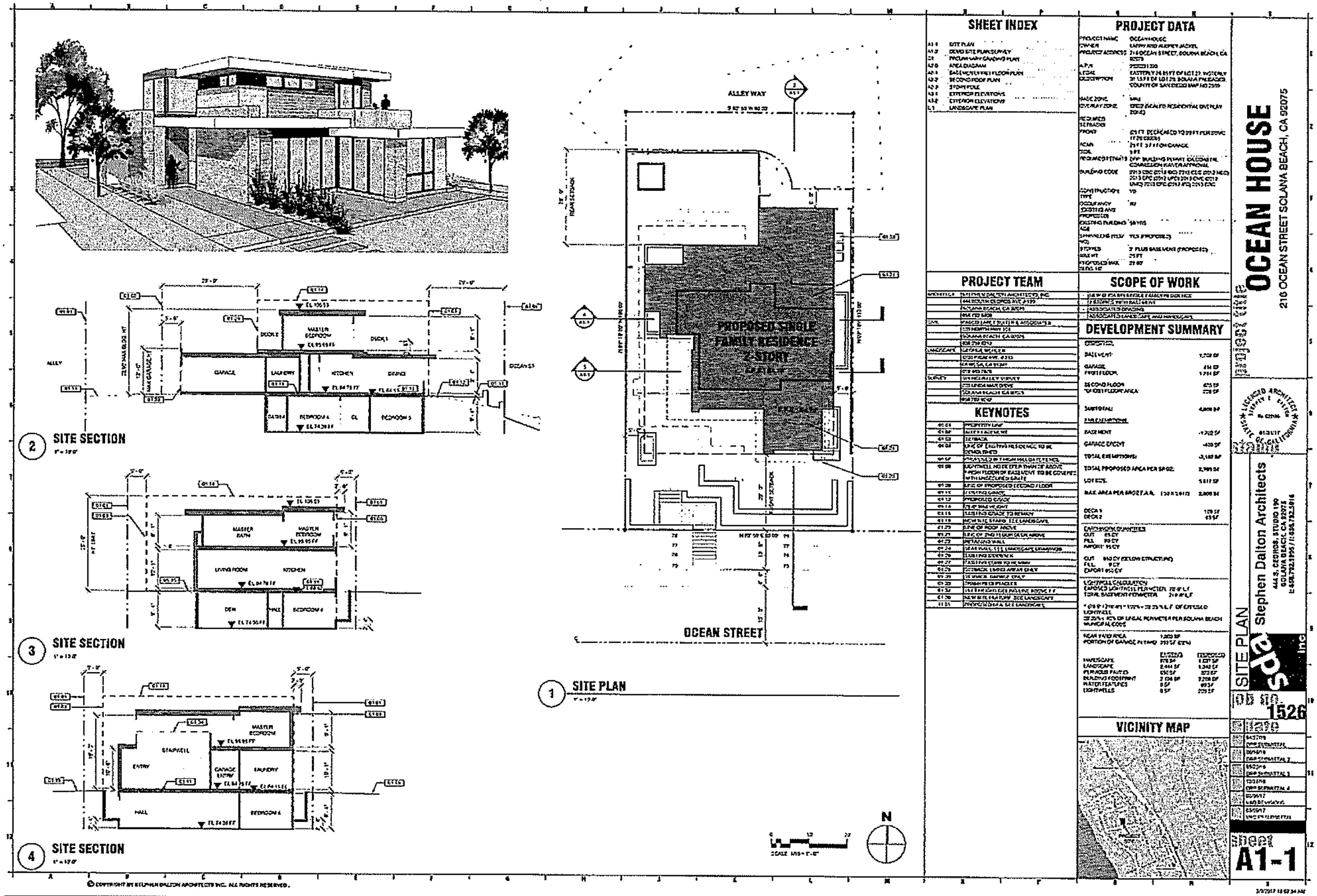
CITY MANAGER'S RECOMMENDATION:

Approve Department Recommendation.

Gregory Wade, City Manager

Attachments:

1. Project Plans
2. Resolution 2017-062
3. 2.21.17 VAC Meeting Agenda Packet
4. Approved 2.21.17 VAC Meeting Action Minutes
5. 3.21.17 VAC Meeting Agenda Packet
6. 3.21.17 VAC Notice of Recommendation

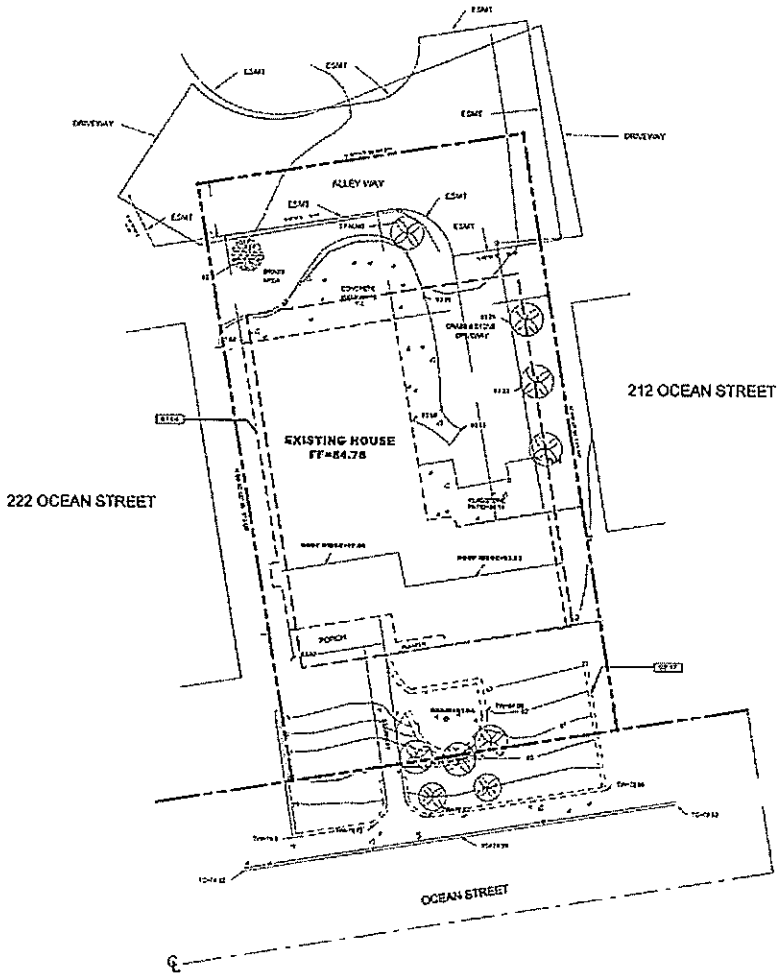


ATTACHMENT 1

KEYNOTES

C17	[illegible]
D17	[illegible]

216 OCEAN STREET



11/6/14

ELEVATION IS TIED TO CITY OF SOLANA BEACH BENCHMARK ENC-43.
BOUNDARY TIED TO MAP 2560, ROS 12005 AND TITLE REPORT FURNISHED BY OWNER.

PLOT BY SPENCER-LUEY SURVEY.

NOTE: THIS IS A TOPOGRAPHIC PLOT NOT A BOUNDARY SURVEY. A RECORD OF SURVEY WOULD BE REQUIRED TO SET THE PROPERTY CORNERS.

1 DEMO SURVEY

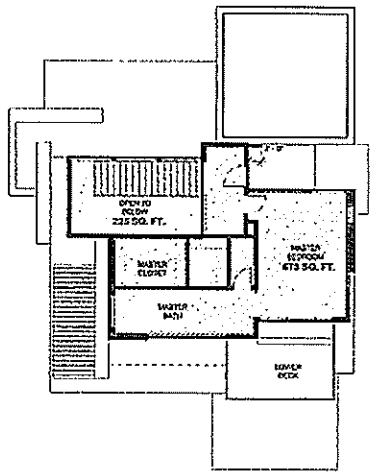
PROJECT NAME
OCEAN HOUSE
216 OCEAN STREET SOLANA BEACH, CA 92075

DEMO SITE PLAN/SURVEY

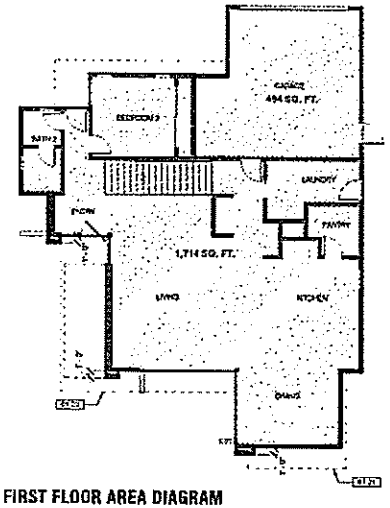
Stephen Dalton Architects
444 S. CEDROS, STUDIO 100
SOLANA BEACH, CA 92075
T: 858.792.8300 / F: 858.792.8310

1526

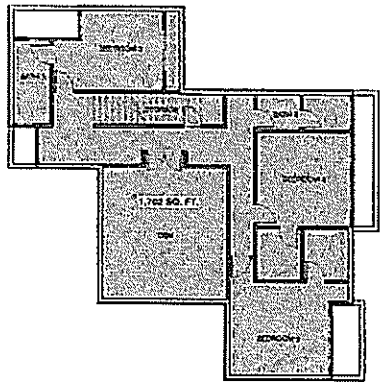
A1-2



3 **SECOND FLOOR AREA DIAGRAM**



2 **FIRST FLOOR AREA DIAGRAM**



1 **BASEMENT AREA DIAGRAM**

KEYHOTES

01.01	PROPERTY LINE
01.02	UTILITY EASEMENT
01.03	SETBACK
01.04	LINE OF ROOF ABOVE
01.05	LINE OF 2ND FLOOR DECK ABOVE

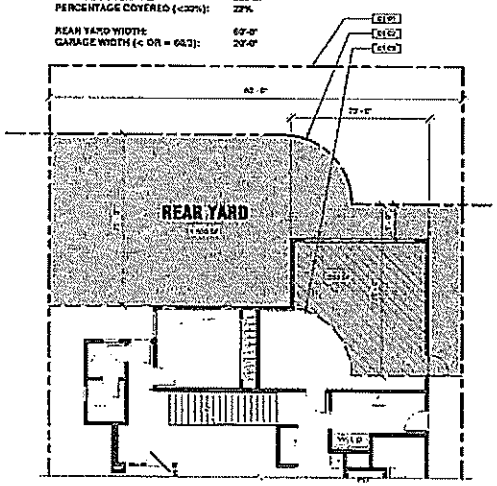
LEGEND

- NOT INCLUDED TOWARDS FAR
- INCLUDED TOWARDS FAR
- ADDITIONAL AREA TOWARDS FAR

FLOOR AREA CALCS

BASEMENT AREA	1,722 SF
GARAGE AREA	494 SF
FIRST FLOOR	1,714 SF
SECOND FLOOR	968 SF
TOTAL PROPOSED	4,978 SF
CITY OF S.B. EXEMPTIONS AND CREDITS	
GARAGE CREDIT	400 SF
BASEMENT FAR EXEMPTION	1,722 SF
TOTAL EXEMPTIONS	2,122 SF
TOTAL EXCLUDED AREA	2,756 SF

REAR YARD AREA:	1,500 SF
GARAGE COVERAGE:	333 SF
PERCENTAGE COVERED (<30%):	22%
REAR YARD WIDTH:	60'-0"
GARAGE WIDTH (< OR = 60%):	20'-0"



4 **REAR YARD DIAGRAM**

OCEAN HOUSE

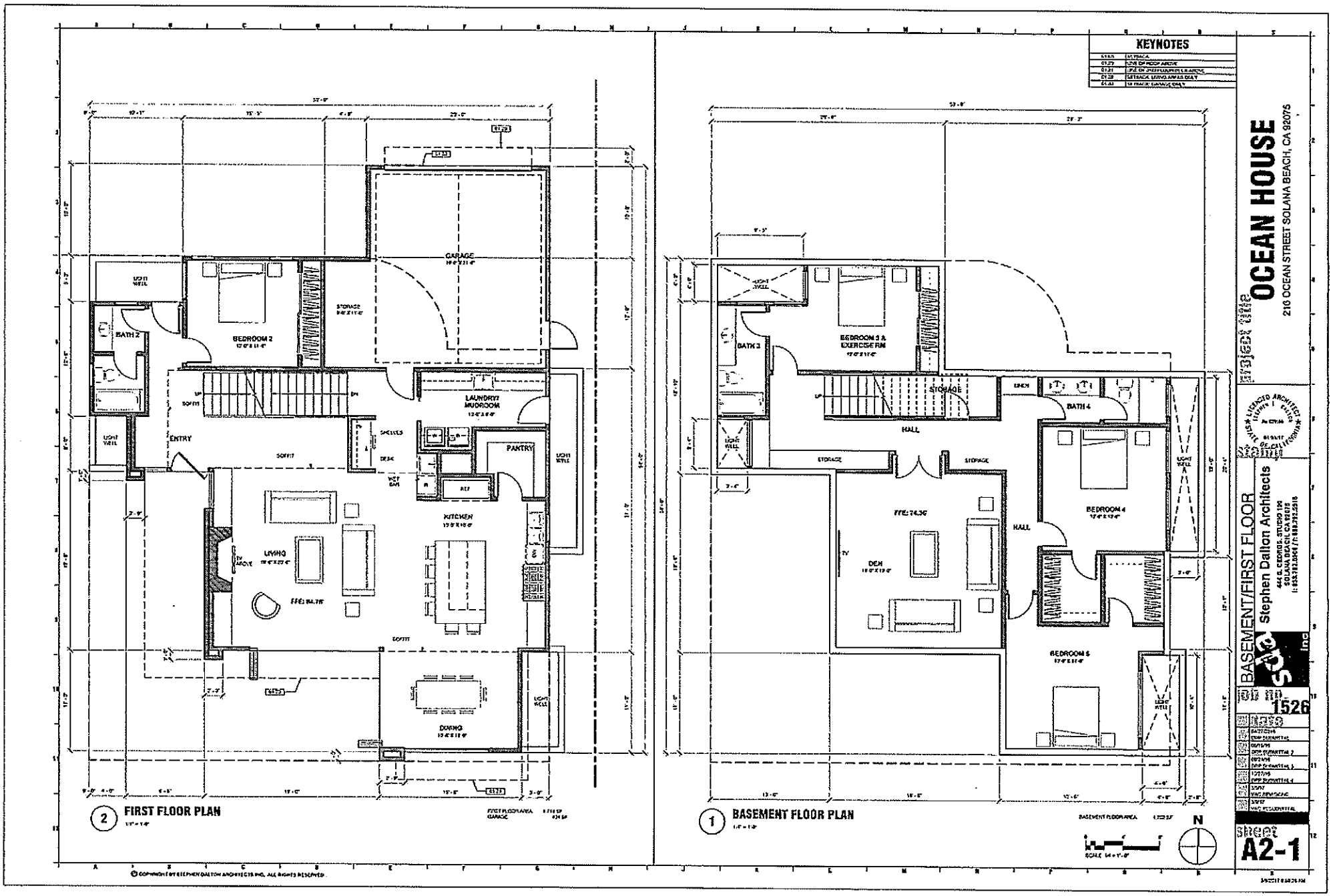
216 OCEAN STREET SOLANA BEACH, CA 92075

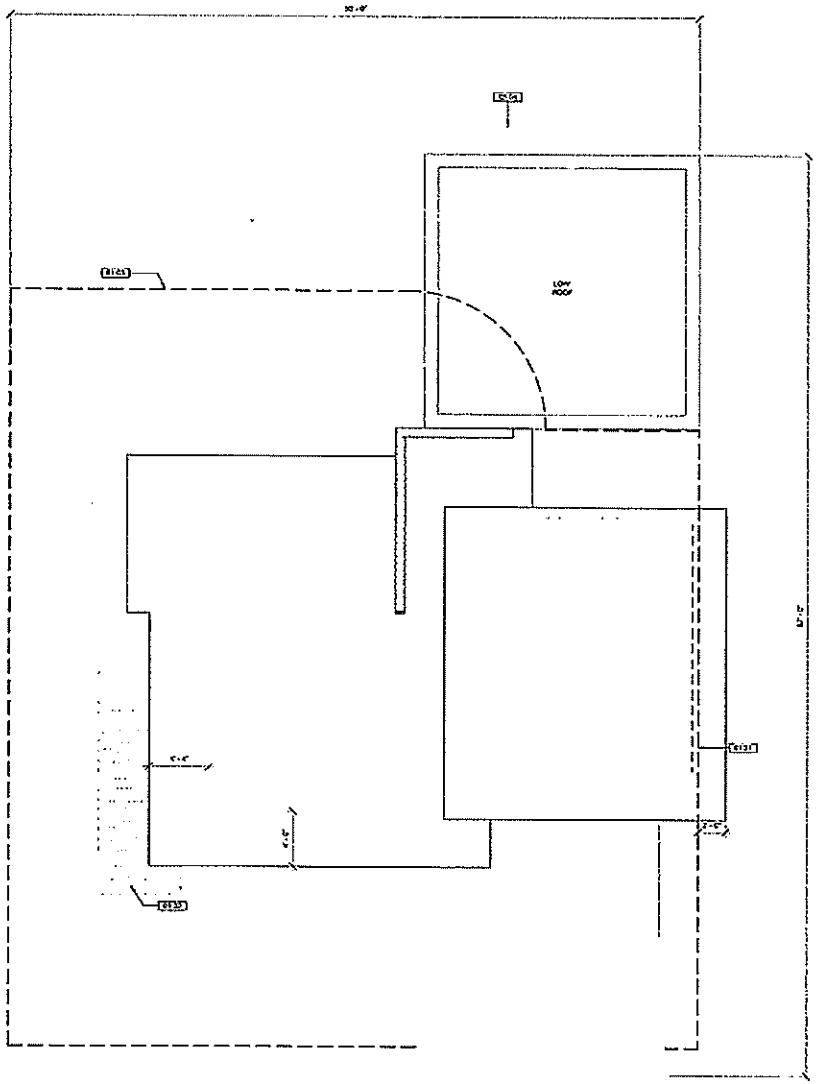
AREA DIAGRAMS

Stephen Dalton Architects, Inc.
444 S. CEDROS, STUDIO 190
SOLANA BEACH, CA 92075
T: 858.792.9999 / F: 858.792.9919

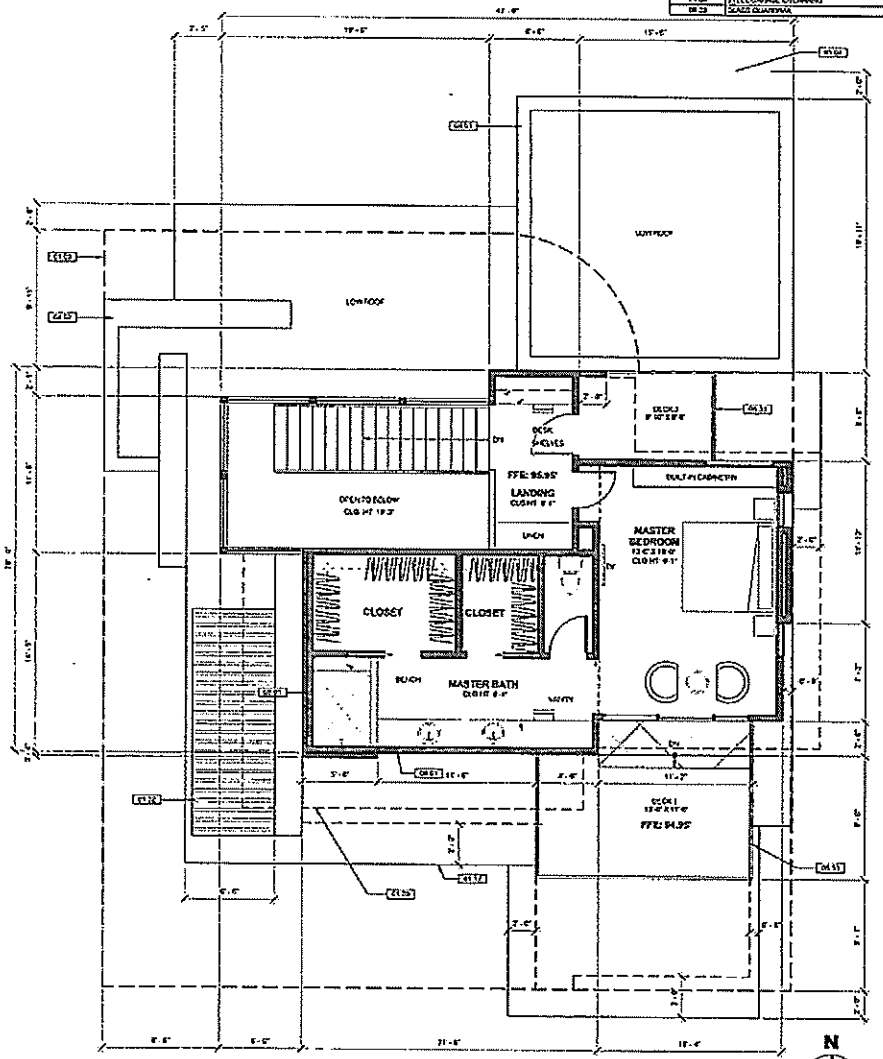
1526

A2-0


KEYNOTES
OCEAN HOUSE
210 OCEAN STREET SOLANA BEACH, CA 92075
GARAGE
BEDROOM 2
BATH 2
STORAGE
LAUNDRY/ MUDROOM
ENTRY
SOFFIT
PANTRY
KITCHEN
LIVING
DINING
LIGHT WELL
2 FIRST FLOOR PLAN
BEDROOM 3 & EXERCISE RM
BATH 3
STORAGE
HALL
BATH 4
BEDROOM 4
DEN
BEDROOM 5
1 BASEMENT FLOOR PLAN
N
BASEMENT/FIRST FLOOR
Stephen Dalton Architects
1526
A2-1



1 ROOF PLAN



2 SECOND FLOOR PLAN

KEYNOTES

E1.00	SKYLIGHT
E1.12	LINE OF ROOF OVERHANG
E1.23	LINE OF ROOF ABOVE
E1.31	LINE OF WALL BELOW
E1.32	ROOD OPENING
E2.11	5 5/8" PARAPET
E4.02	STUCCO PARAPET
E5.04	STEEL GARAGE OVERHANG
E6.20	GLASS GUARDRAIL

OCEAN HOUSE

216 OCEAN STREET SOLANA BEACH, CA 92075

Stephen Dalton Architects

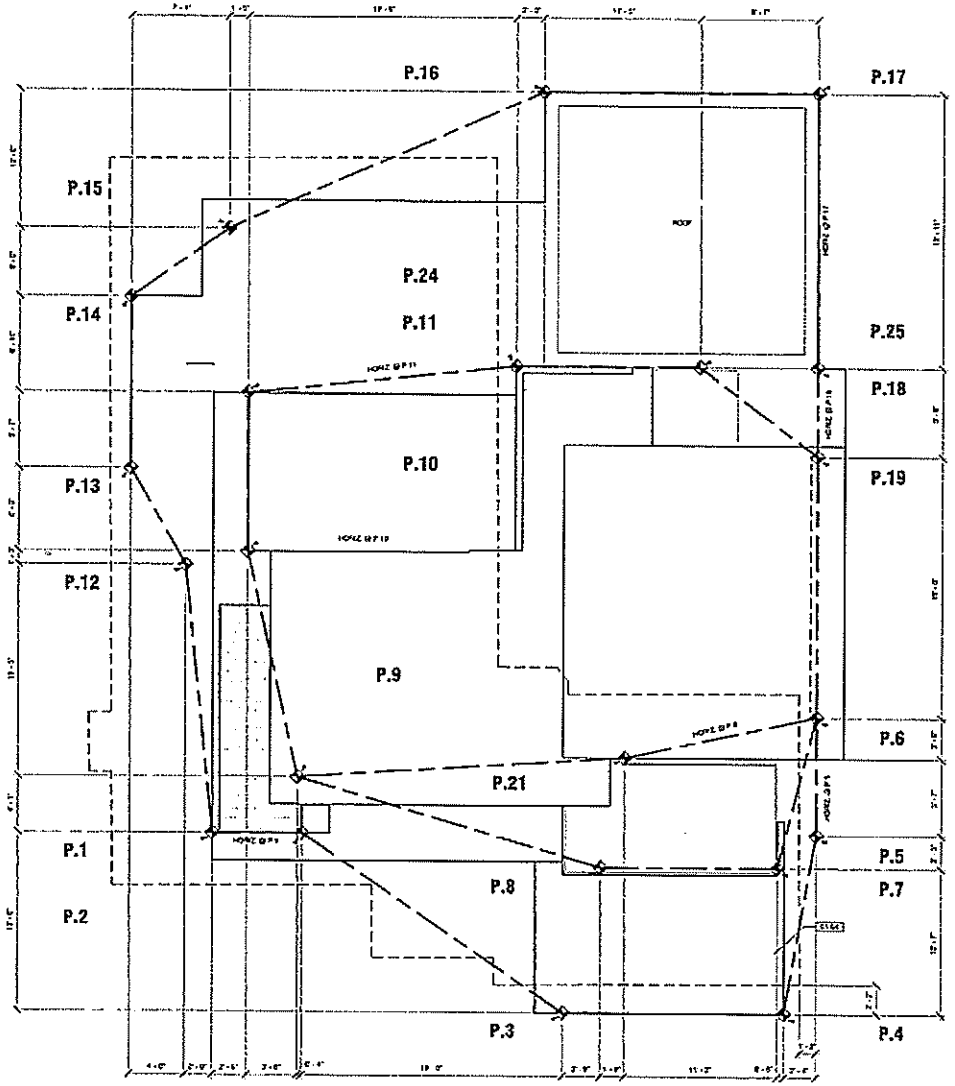
445 S. CEDROS, STUDIO 190
SOLANA BEACH, CA 92075
T: 858.792.2006 / F: 858.792.8514

SECOND/ ROOF FLOOR PLAN

1526

DATE
04/27/2016
ROOF SUBMITTAL
07/27/16
ROOF SUBMITTAL 2
09/21/16
ROOF SUBMITTAL 3
10/27/16
ROOF SUBMITTAL 4
12/2/17
MISC REVISIONS
12/2/17
MISC REVISIONS

A2-2



1 **STORY POLE PLAN (REVISED)**

KEYNOTES

216 OCEAN ST- STORY POLES

POLE NUMBER	POLE ELEV	EX GRADE	TOP CHORD	POLE LENGTH	TOP POLE LOWEST POINT
1	97.00	93.36	84.33	3.64	17.97
2	96.49	95.65	84.33	2.05	12.34
3	93.99	83.95	84.33	11.64	17.64
4	97.97	86.19	84.33	13.53	13.53
5	94.43	82.72	84.33	11.54	11.64
6	106.51	81.76	84.33	22.76	27.74
7	96.43	91.73	84.33	3.71	11.54
8	98.43	94.43	84.33	4.00	11.54
9	105.51	95.58	84.33	8.85	21.47
10	105.51	96.79	84.33	9.14	21.47
11	105.51	96.79	84.33	9.84	21.47
12	99.51	94.58	84.33	3.19	11.53
13	99.51	93.53	84.33	4.58	11.53
14	98.97	93.53	84.33	4.50	11.97
15	99.01	95.93	84.33	2.15	13.97
16	95.33	83.35	84.33	10.96	11.95
17	99.93	87.6	84.33	10.23	11.71
18	99.45	84.62	84.33	15.43	15.43
19	106.51	83.78	84.33	12.73	22.75
20				-	-
21	106.51	91.56	84.33	12.51	22.42
22				-	-
23				-	-
24	106.51	93.95	84.33	12.18	22.42
25	106.51	93.93	84.33	12.99	22.26

* SHADED POLE ELEVATIONS ARE LOWERED FROM PREVIOUS DESIGN

OCEAN HOUSE

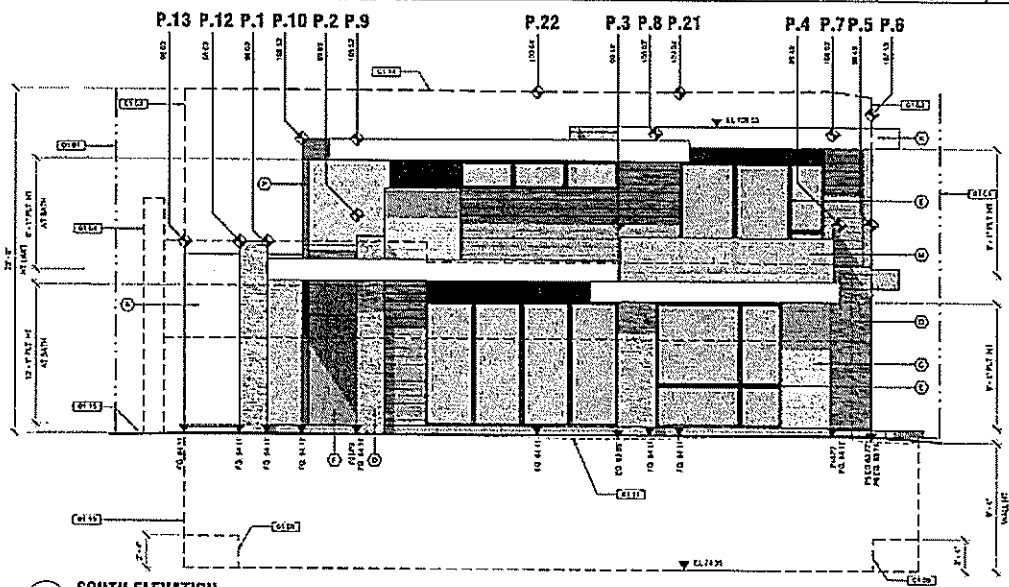
216 OCEAN STREET SOLANA BEACH, CA 92075

STORY POLE PLAN

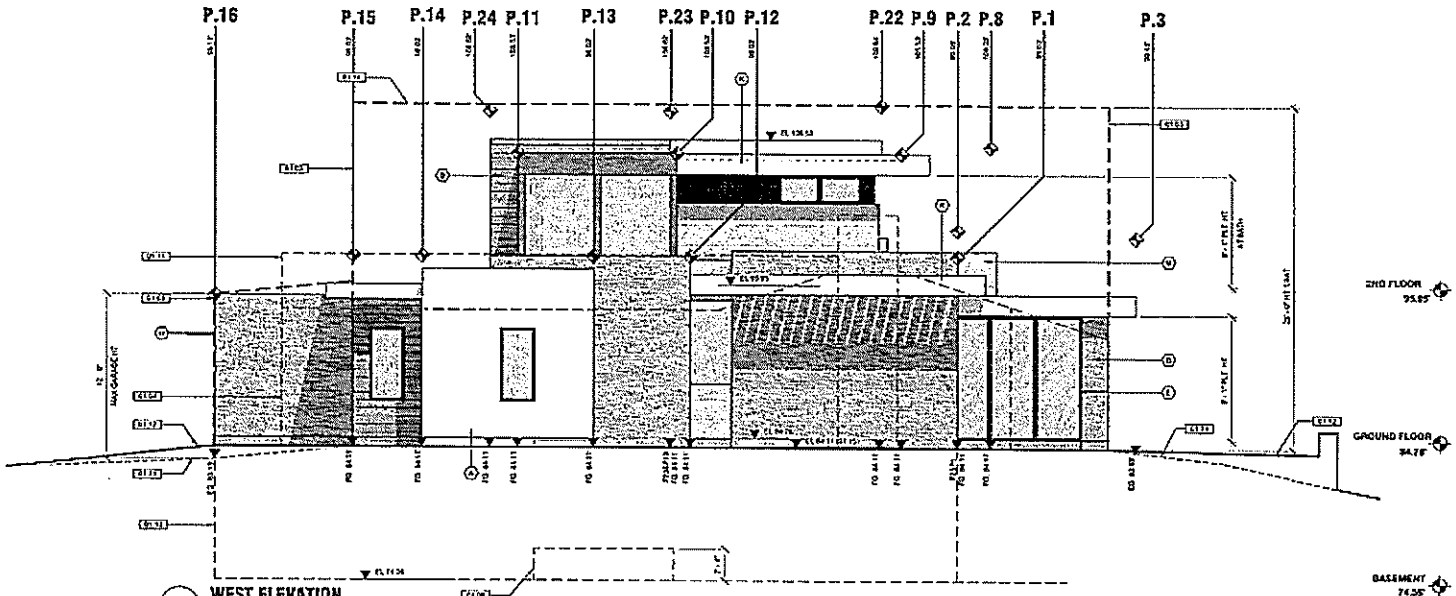
Stephen Dalton Architects, Inc.
444 S. CEDROS, STUDIO 330
SOLANA BEACH, CA 92075
T: 858.792.9606 / F: 858.792.9218

1526

A2-3



1 SOUTH ELEVATION



2 WEST ELEVATION

KEYNOTES

01 01	CONCRETE FOOTING
01 02	CMU BLOCK
01 04	TOP OF EXISTING RETAINING WALL TO BE MAINTAINED
01 05	LIGHTWELL / AREA WAY BELOW FINISH FLOOR OF BASEMENT TO BE COVERED WITH HARDSCAPE GRATE
01 11	CONCRETE SLAB
01 12	CONCRETE GRADE
01 13	CONCRETE RETAINING WALL
01 15	TOP OF WALL HEIGHT
01 16	CMU FIRE OFFICE, TO REMAIN

FINISH SCHEDULE

MARK	ELEMENT	DESCRIPTION	MANUFACTURER
A	EXTERIOR CEMENT PLASTER	SANTA BARBARA FINISH	COLOR MATCH DUNN EDWARDS
B	EXTERIOR SIDING	WOOD	ECHO SHINGLE
C	WALL TILE	CERAMIC TILE	DENTON ZENITH
D	NATURAL STONE VENEER	LIMESTONE	SANTA BLUE SIENNA
E	WINDOW FRAME	ALUMINUM	
F	ENTRY DOOR	WOOD	ECHO SCHLEMMER
G	EXTERIOR DOORS	FIBERGLASS	
H	METAL SIDING	IMAGE METAL	IMAGE CHARCOAL
J	LOUVERS	WOOD	ECHO SCHLEMMER
K	FASCIA	IMAGE METAL	IMAGE WHITE
L	GARAGE DOOR	ALUMINUM	
M	SKYLIGHT	GLASS	

OCEAN HOUSE

216 OCEAN STREET SOLANA BEACH, CA 92075

EXTERIOR ELEVATIONS

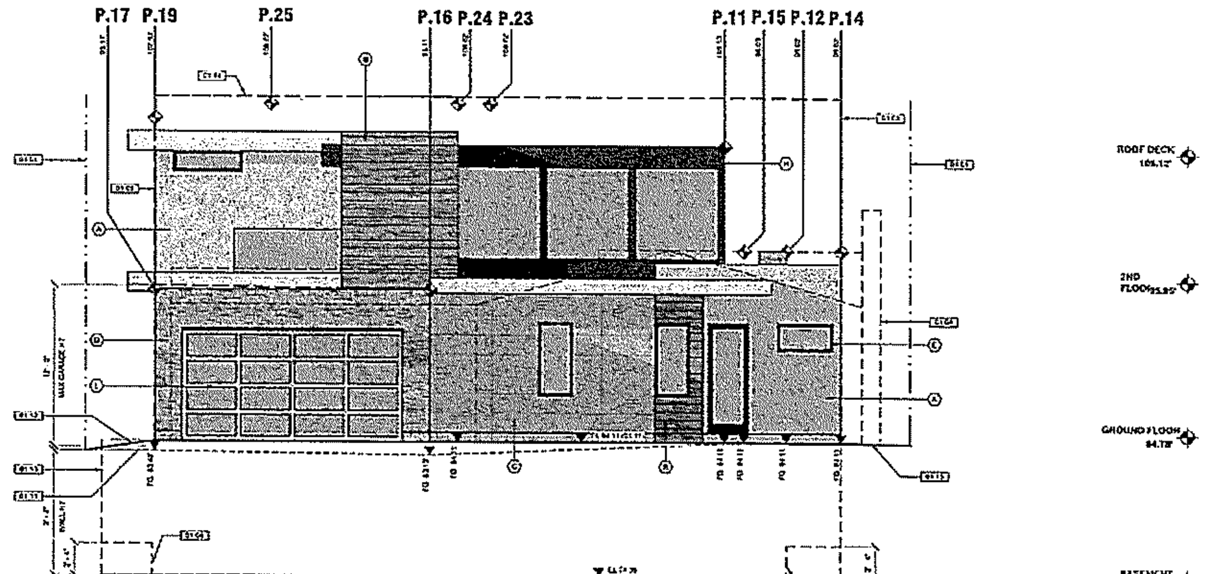
Stephen Dalton Architects
444 S. CEDROS, STUDIO 195
SOLANA BEACH, CA 92075
T 858.792.9664 / F 858.792.0918

JOB NO. 1526

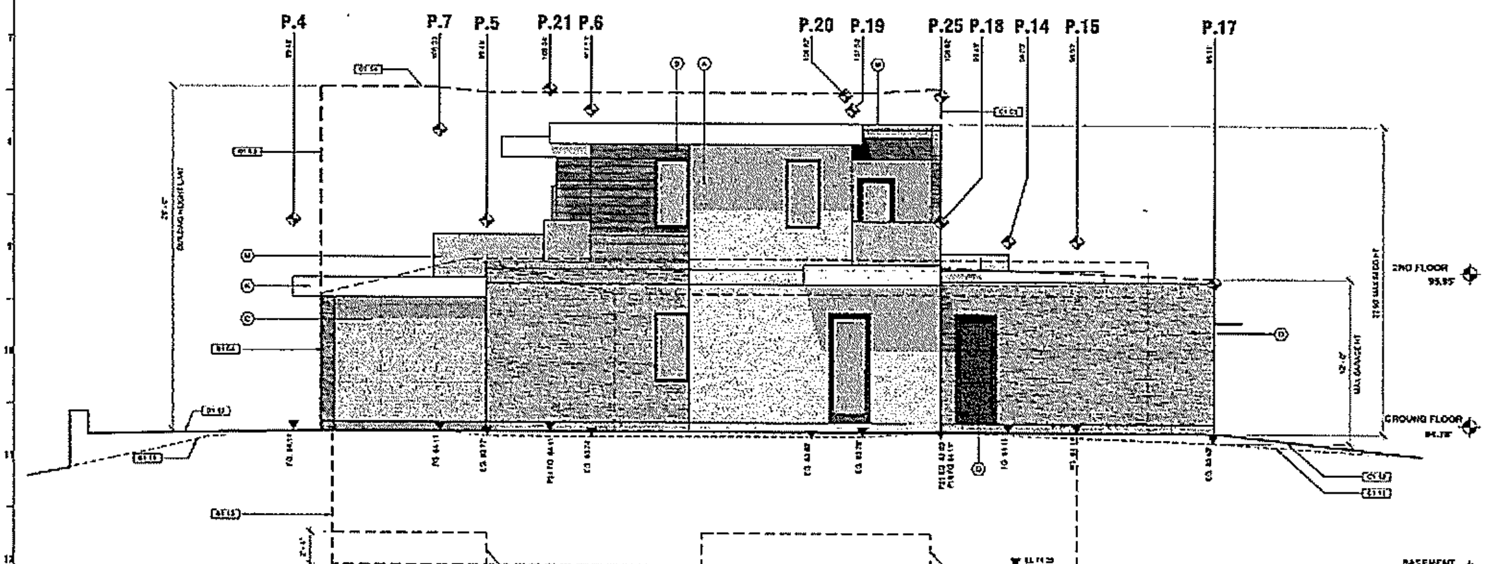
DATE

04.27.2015	
DRB SUBMITTAL	
09.15.15	
DRB SUBMITTAL 2	
12.15.15	
DRB SUBMITTAL 3	
1.25.16	
DRB SUBMITTAL 4	
3.15.17	
DRB REVISIONS	
5.9.17	
DRB SUBMITTAL	

SHEET NO. A3-1



1 NORTH ELEVATION



2 EAST ELEVATION

KEYNOTES

01.01	PROPERTY LINE
01.03	SETBACK
01.04	LINE OF EXISTING RESIDENCE TO BE DEMOLISHED
01.06	[illegible] NO DEEPER THAN 2' [illegible] FLOOR OF BASEMENT TO BE COVERED WITH [illegible] GRANITE
[illegible]	EXISTING GRADE
[illegible]	PROPOSED GRADE
[illegible]	[illegible]
[illegible]	[illegible] MAX HEIGHT
[illegible]	EXISTING GRADE TO REMAIN

FINISH SCHEDULE

MARK	ELEMENT	DESCRIPTION	MANU./COLOR
A	EXTERIOR CEMENT PLASTER	SANTA BARBARA FINISH	COLOR MATCH DUNN EDWARDS
B	EXTERIOR SIDING	WOOD	BENTU SEMI PEWTER
C	WALL TILE	CERAMIC [illegible]	[illegible]
D	NATURAL STONE VENEER	LIMESTONE	[illegible] SEPIA
E	WINDOW FINISH	ALUMINUM	
F	ENTRY DOOR	WOOD	BENTU SEMI PEWTER
G	EXTERIOR DOORS	FIBERGLASS	
H	METAL SIDING	BRAKE METAL	[illegible] CHARCOAL
J	LOUVRE	WOOD	BENTU SEMI PEWTER
K	FASCIA	BRAKE METAL	[illegible] WHITE
L	GARAGE DOOR	ALUMINUM	
M	GUARDRAIL	GLASS	

OCEAN HOUSE

218 OCEAN STREET SOLANA BEACH, CA 92075

EXTERIOR ELEVATIONS

Stephen Dalton Architects
444 S. CEDROS, STUDIO 190
SOLANA BEACH, CA 92075
t: 858.792.5464 / f: 858.792.5816

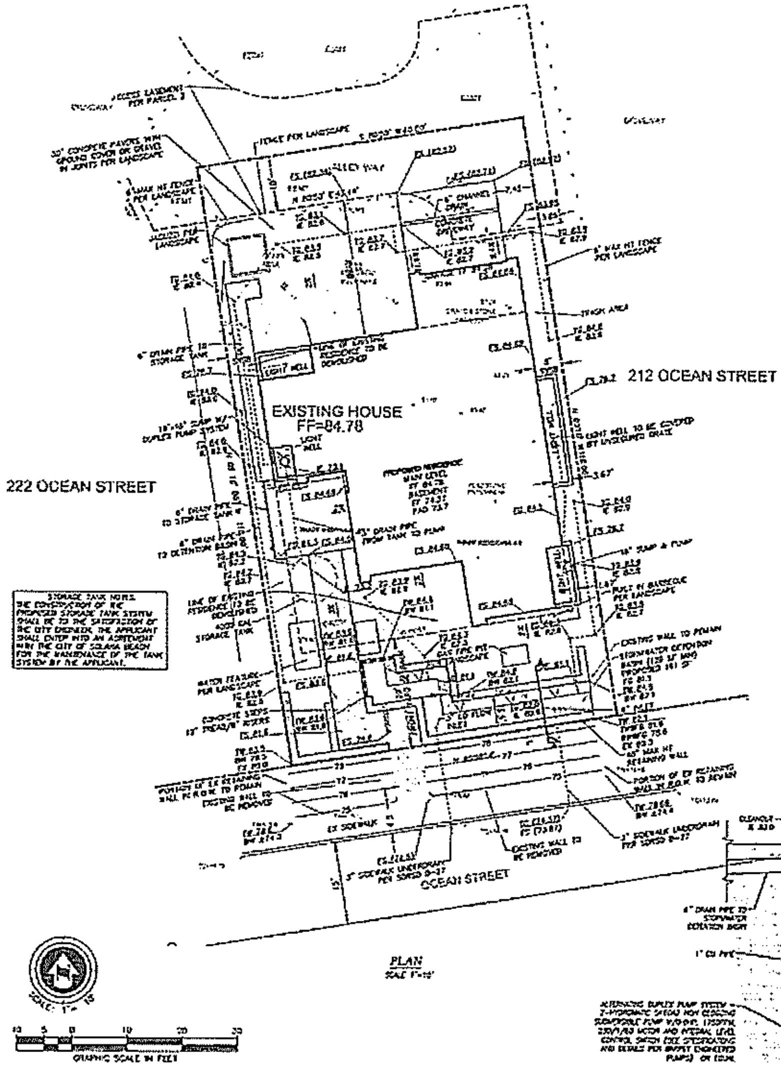
job no. 1526

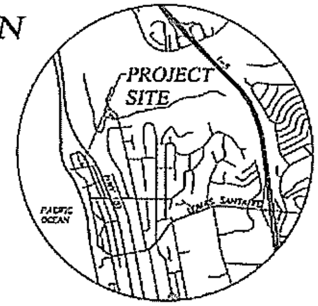
sheet A3-2

PRELIMINARY GRADING PLAN

GENERAL NOTES

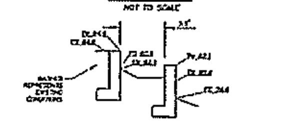
EROSION CONTROL NOTES



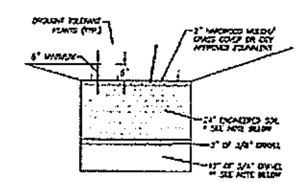


VICINITY MAP

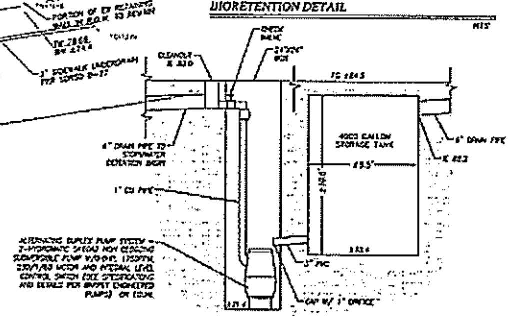
NOT TO SCALE



CROSS SECTION A



BIORETENTION DETAIL



STORMWATER STORAGE TANK SYSTEM DETAIL

LEGAL DESCRIPTION

A.P.N.:

SITE ADDRESS:

OWNER/PERMITTEE:

TOPOGRAPHIC SURVEY:

WORK TO BE DONE

STANDARD SPECIFICATIONS

STANDARD DRAWINGS

LEGEND

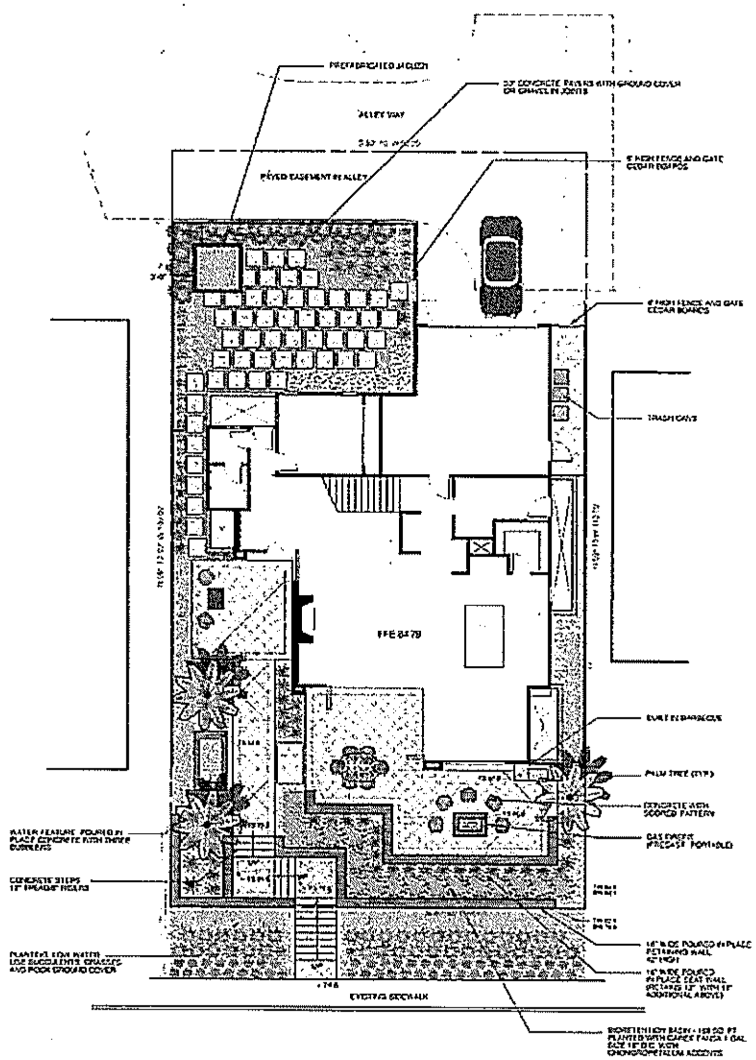
OWNER'S CERTIFICATE

DECLARATION OF RESPONSIBLE CHARGE

EARTHWORK QUANTITIES:

PASCO LARET SUITER & ASSOCIATES

ENGINEER OF WORK	CITY APPROVED CHANGES	APPD	DATE	RECOMMENDED FOR APPROVAL	APPROVED FOR CONSTRUCTION	BENCH MARK	CITY OF SOLANA BEACH	DRAWING NO.
							216 OCEAN STREET	SHEET 1 OF 1



LEGEND

SYMBOL	SPECIES/COMMON NAME	SIZE	QUANTITY	WUCOLS WATER USE	MATURE HEIGHT
	AGAVE 'BLUE GLOW' / BLUE GLOW AGAVE	5 GAL	38	VERY LOW	
	ALOE STRIATA / CORAL ALOE	5 GAL	49	LOW	
	ANIGOZANTHOS SP. / KANGAROO PAW	5 GAL	19	MEDIUM	
	BAMBUSA 'GOLDEN GODDESS' / BAMBOO	5 GAL	14	MEDIUM	6-10' HIGH
	CAREX PANSA / DUNE SEDGE	1 GAL	63	MEDIUM	
	CHONDROPETALUM TECTORUM / CAPE RUSH	5 GAL	15	LOW	
	CRASSULA OVATA / JADE	5 GAL	7	LOW	
	EUPHORBIA / [illegible]	15 GAL	7	LOW	
	MUHLENBERGIA RIGENS / DEER GRASS	5 GAL	18	LOW	
	PITTOSPORUM 'SILVER SHEEN'	5 GAL	18	MEDIUM	12-15'
	PALM SPECIES	8' BTH			
	SYAGRUS ROMANZOFFIANA / QUEEN PALM		3	MEDIUM	45'
	ARCHONTOPHOENIX CUNNINGHAMIANA / KING PALM				60'
	GROUND COVER / DYMONDIA MARGARETAE	FLATS	4" O.C.	LOW	
	BIOSWALE / CAREX PANSA / CALIFORNIA MEADOW SEDGE	1 GAL	18" O.C.	MEDIUM	

NORTH

SCALE: 1/8" = 1'

0 8 16 24 FEET

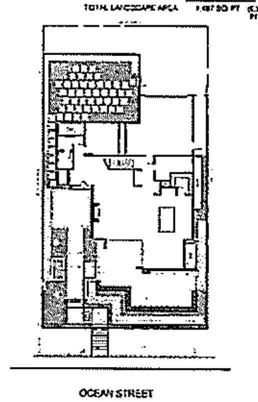
NOTES

1. ALL PLANTER AREAS TO RECEIVE 3" DEPTH ROCK MULCH OVER WEED CONTROL FABRIC, EXCEPT AT AREAS TO RECEIVE DYMONDIA MARGARETAE GROUND COVER.
2. IRRIGATION TO BE DRIP TYPE, AUTOMATED WITH WEATHER BASED CONTROLLER.
3. PALM TREES TO BE ON SEPARATE DRIP SYSTEM.

SITE AREAS

BUILDING AREA	2,206 SQ FT
LIGHT WELLS	209 SQ FT
IMPERVIOUS HARDSCAPE	1,552 SQ FT
PERVIOUS PAVING	370 SQ FT
LANDSCAPE/WATER FEATURES	1,497 SQ FT
TOTAL SITE AREA	5,817 SQ FT (EXCLUDES R.O.W. AND ALLEY EASEMENT)

HYDROZONES



HYDROZONE MAP

ESTIMATED TOTAL WATER USE (ETWU) WORKSHEET

CITY OF SOLANA BEACH ESTIMATED TOTAL WATER USE (ETWU) WORKSHEET

19,650 gallons per year

MAXIMUM APPLIED WATER APPLICATION (MAWA) calculation:

MAWA = 20,790

PRELIMINARY LANDSCAPE PLAN

NOT FOR CONSTRUCTION

IF PLAN IS LESS THAN 24" X 36" IT IS A REDUCED PRINT. REDUCE SCALE ACCORDINGLY.

GMA

GEORGE MERCER RLA 4205
LANDSCAPE ARCHITECTURE
LA MESA, CA

CLIENT
Larry Jackel

PROJECT
JACKEL RESIDENCE
216 Ocean Street,
Solana Beach, CA 92075

CHANGES

PROGRESS PRINT DATE

DESIGN GM
DRAWN GM
CHECKED
SCALE
PROJECT

SHEET L-1 OF 1 SHEET

RESOLUTION NO. 2017-062

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, CONDITIONALLY APPROVING A DEVELOPMENT REVIEW PERMIT AND AN ADMINISTRATIVE STRUCTURE DEVELOPMENT PERMIT FOR THE DEMOLITION OF THE EXISTING SINGLE-FAMILY RESIDENCE AND THE CONSTRUCTION OF A NEW TWO-STORY, SINGLE-FAMILY RESIDENCE WITH A SUBTERRANEAN BASEMENT AND AN ATTACHED TWO-CAR GARAGE, AND ASSOCIATED SITE IMPROVEMENTS ON A PROPERTY LOCATED AT 216 OCEAN STREET, SOLANA BEACH

APPLICANTS: Larry and Audrey Jackel
CASE NO.: 17-16-10 DRP/SDP

WHEREAS, Larry and Audrey Jackel (hereinafter referred to as "Applicants"), have submitted an application for a Development Review Permit (DRP) and Structure Development Permit (SDP) pursuant to Title 17 (Zoning) of the Solana Beach Municipal Code (SBMC); and

WHEREAS, the public hearing was conducted pursuant to the provisions of Solana Beach Municipal Code Section 17.72.030; and

WHEREAS, at the public hearing on May 10, 2017, the City Council received and considered evidence concerning the proposed application; and

WHEREAS, the City Council of the City of Solana Beach found the application request exempt from the California Environmental Quality Act pursuant to Section 15303 of the State CEQA Guidelines; and

WHEREAS, this decision is based upon the evidence presented at the hearing, and any information the City Council gathered by viewing the site and the area as disclosed at the hearing.

NOW THEREFORE, the City Council of the City of Solana Beach, California, does resolves as follows:

1. That the foregoing recitations are true and correct.

2. That the request for a DRP and a SDP to demolish an existing single family residence, construct a new two-story, single-family residence with a subterranean basement and an attached two-car garage, and perform associated site improvements at 216 Ocean Street, is conditionally approved based upon the following Findings and subject to the following Conditions:

3. FINDINGS

A. In accordance with Section 17.63.040 (Structure Development Permit) of the Solana Beach Municipal Code, the City Council finds the following:

The proposed residence exceeds 16 feet in height above the existing grade, therefore, the project must comply with all of the View Assessment requirements of SBMC Chapter 17.63 and the Applicants were required to complete the SDP process. A final Story Pole Height Certification was issued by a licensed land surveyor on November 2, 2016 which showed the tallest point of the structure illustrated by story pole #20 certified at 25 feet or 108.62 MSL. The highest story pole is illustrated by story pole #21 and has a building height of 24.93 or 109.04 MSL. Notices establishing the 30 day public notice period to apply for View Assessment were mailed to property owners and occupants within 300 feet of the project site. The deadline to file for View Assessment was December 27, 2016. Three applications for View Assessment were received.

On March 21, 2017, the VAC recommended approval with the following Condition:

> Reduce the proposed deck on the southeast corner of the second floor master bedroom so that the southernmost extent of the deck railing would move to the north by three feet and raise the finished floor height of the deck by one foot as shown in the original project design.

The Claimants have requested that the City Council reconsider their View Assessment Claims. Therefore, the Council visited the Claimants' properties and observed their viewing areas and made the following findings:

I. The applicant for the structure development permit has made a reasonable attempt to resolve the view impairment issues with the person(s) requesting view assessment. Written evidence of a good faith voluntary offer to meet and discuss view issues, or of a good faith voluntary offer to submit the matter to mediation, is hereby deemed to be a reasonable attempt to resolve the view impairment issues.

[Finding to be inserted after Council discussion]

II. The proposed structure does not significantly impair a view from public property (parks, major thoroughfares, bike ways, walkways, equestrian trails) which has been identified in the city's general plan, local coastal program, or city designated viewing areas.

[Finding to be inserted after Council discussion]

III. The structure is designed and situated in such a manner as to minimize impairment of views.

[Finding to be inserted after Council discussion]

IV. There is no significant cumulative view impairment caused by granting the application. Cumulative view impairment shall be determined by: (a) Considering the amount of view impairment caused by the proposed structure; and (b) considering the amount of view impairment that would be caused by the construction on other parcels of structures similar to the proposed structure.

[Finding to be inserted after Council discussion]

V. The proposed structure is compatible with the immediate neighborhood character.

[Finding to be inserted after Council discussion]

B. In accordance with Section 17.68.040 (Development Review Permit) of the City of Solana Beach Municipal Code, the City Council finds the following:

I. The proposed project is consistent with the General Plan and all applicable requirements of SBMC Title 17 (Zoning Ordinance), including special regulations, overlay zones and specific plans.

General Plan Consistency: The project, as conditioned, is consistent with the City's General Plan designation of Medium Density Residential, which allows for single-family residential development with a maximum density of 5-7 dwelling units per acre. The development is also consistent with the objectives of the General Plan as it encourages the development and maintenance of healthy residential neighborhoods, the stability of transitional neighborhoods, and the rehabilitation of deteriorated neighborhoods.

Zoning Ordinance Consistency: The project is consistent with all applicable requirements of the Zoning Ordinance (Title 17) (SBMC 17.20.030 and 17.48.040), which delineates maximum allowable Floor Area Ratio (FAR), Permitted Uses and Structures (SBMC Section 17.20.020) which provides for uses of the property for a single-family residence. Further, the project adheres to all property development regulations established for the Medium Residential (MR) Zone and cited by SBMC Section 17.020.030.

The project is consistent with the provisions for minimum yard dimensions (i.e., setbacks) and the maximum allowable Floor Area (FAR), maximum building height, and parking requirements.

II. *The proposed development complies with the following development review criteria set forth in Solana Beach Municipal Code Section 17.68.040.F:*

a. *Relationship with Adjacent Land Uses: The development shall be designed in a manner compatible with and where feasible, complimentary to existing and potential development in the immediate vicinity of the project site. Site planning on the perimeter of the development shall give consideration to the protection of surrounding areas from potential adverse effects, as well as protection of the property from adverse surrounding influences.*

The property is located within the Medium Residential (MR) Zone. Properties surrounding the lot are also located within the MR Zone and are developed with one and two-story, single-family residences. The project site is currently developed with a single-story, single-family residence located in the center of the lot, which would be demolished entirely. The Applicants propose to construct a replacement, two-story residence with a subterranean basement and an attached two-car garage.

The project, as designed, is consistent with the permitted uses for the MR Zone as described in SBMC Sections 17.20.010 and 17.12.020. The property is designated Medium Density Residential in the General Plan and intended for single-family residences developed at a maximum density of five to seven dwelling units per acre. The proposed development is to be consistent with the objectives of the General Plan as it encourages the development and maintenance of healthy residential neighborhoods, the stability of transitional neighborhoods, and the rehabilitation of deteriorated neighborhoods.

The property is not located within any of the City's Specific Plan areas; however, it is located within the boundaries of the Scaled Residential Overlay Zone (SROZ) and within the Coastal Zone. The project has been evaluated, and is found to be in conformance with, the regulations of the SROZ. The Applicants are required to obtain a Coastal Development Permit, Waiver or Exemption from the California Coastal Commission prior to the issuance of a Building Permit.

b. *Building and Structure Placement: Buildings and structures shall be sited and designed in a manner which visually and functionally enhances their intended use.*

The residence, as designed, would be constructed in the center of the property within the same general footprint as the existing residence. The garage would be located toward the northeast corner of the lot and would be accessed from the alley. SBMC 17.20.030(D)(1)(g) indicates that:

On residential lots abutting a public street on one side and an alley on the opposite side, attached garages may be built in the yard adjacent to the alley in accordance with detached accessory structure standards contained in SBMC 17.20.020(C)(3).

According to SBMC 17.20.020(C)(3), detached accessory structures are required to conform to all front and side yard setbacks, however, they may encroach into the required rear yard setback provided that they maintains a 5 foot setback from the rear property line. In addition, the detached accessory structure cannot take up more than 30% of the rear yard area and cannot be more than one third of the lot width. The structure cannot be more than 12 feet in height where located within the rear yard setback. As designed, the proposed 12 foot tall garage would maintain a minimum five foot setback from the northern property line, would be 20 feet in width and would take up 333 square feet of the total 1,500 square foot rear yard area or 22% and is, therefore, in compliance with the specific development regulations of the municipal code.

The remainder of the proposed residence would be located entirely within the buildable area of the lot. The only projection into the required setback at the ground level would be proposed lightwells in order to provide emergency egress to and from the proposed subterranean basement. The lightwells are allowed to encroach into the required setback a maximum of three feet, however, they are required to be covered with a grate that is capable of supporting the weight of a 250lb person that can be opened by someone of minimal strength with no special knowledge, effort or use of key or tool.

Roof eaves along the southern, northern, and eastern sides of the second floor and the eastern side of the second floor roof would encroach a maximum of two feet into the setback areas, pursuant to SBMC Section 17.20.030(D)(4). The residence would be setback 20 feet from the southern (front) property line, 5 feet from the eastern and western side property lines, and 25 feet from the northern (rear) property line. A spa is proposed within the rear yard setback toward the northwest corner of the lot and a water feature and fire pit are proposed on a patio within the front yard setback.

The Applicants are proposing a 1,702 square-foot subterranean basement consisting of three bedrooms, two bathrooms and a den. The 1,714 square foot main floor would consist of the kitchen, living room, dining room, laundry room, one bathroom and one bedroom. The proposed two car garage would be attached to the main floor. The 696 square feet second floor would consist of a master suite with two attached decks, one toward the southeast corner of the master bedroom and one toward the northeast side of the second floor. 225 square feet of the second floor volume is area that is open to the main floor below and has a ceiling height of 15 feet or greater so this area is counted twice towards the calculation of floor area.

The proposed project, as designed, meets the minimum required setbacks and is below the maximum allowable floor area for the property.

c. *Landscaping: The removal of significant native vegetation shall be minimized. Replacement vegetation and landscaping shall be compatible with the vegetation of the surrounding area. Trees and other large plantings shall not obstruct significant views when installed or at maturity.*

The project is subject to the current water efficient landscaping regulations of SBMC Chapter 17.56. A Landscape Documentation Package is required for new development projects with an aggregate landscape equal to or greater than 500 square feet requiring a building permit, plan check or development review. The Applicants provided a conceptual landscape plan that has been reviewed by the City's third-party landscape architect who has recommended approval of the conceptual landscape plan. The Applicants will be required to submit detailed construction landscape drawings that will be reviewed by the City's third-party landscape architect for conformance with the conceptual plan. In addition, the City's third-party landscape architect will perform inspections during the construction phase of the project. A separate condition has been added to require that native or drought-tolerant and non-invasive plant materials and water-conserving irrigation systems are required to be incorporated into the landscaping to the extent feasible.

d. *Roads, Pedestrian Walkways, Parking and Storage Areas: Any development involving more than one building or structure shall provide common access roads and pedestrian walkways. Parking and outside storage areas, where permitted, shall be screened from view, to the extent feasible, by existing*

topography, by the placement of buildings and structures, or by landscaping and plantings.

Because the lot is adjacent to an alley, the attached garage can encroach into the required rear yards setback subject to the specific development regulations of SBMC Section 17.20.020(C)(3). The SBMC and the Off-Street Parking Design Manual (OSPDM) require two (2) parking spaces for a single-family residence. The Applicants are proposing to construct an attached, two-car garage in the southeastern corner of the buildable area that would be accessed by the alley at the northeast corner of the lot. Pedestrian access would be provided by a staircase off of Ocean Street. Any drop from a walkable area of more than 30 inches would require a 42 inch handrail pursuant to the California Building Code. Retaining walls and walking surfaces are proposed in the front yard setback at 30 inches and would not require railings. However, the proposed stairway (more than three steps) in the public right of way would need a railing on one site of the staircase.

SBMC Section 17.08.030 indicates that required parking up to 200 square feet per parking space provided in a garage is exempt from the floor area calculation. The proposed garage will provide the two required parking spaces, therefore, 400 square feet of garage area is exempt from the project's floor area calculation.

e. *Grading: To the extent feasible, natural topography and scenic features of the site shall be retained and incorporated into the proposed development. Any grading or earth-moving operations in connection with the proposed development shall be planned and executed so as to blend with the existing terrain both on and adjacent to the site. Existing exposed or disturbed slopes shall be landscaped with native or naturalized non-native vegetation and existing erosion problems shall be corrected.*

The total grading quantity for the project includes 915 cubic yards of cut, 80 cubic yards of fill and 835 cubic yards of export. A majority of the proposed grading (850 cubic yards of cut and export) is required in order to construct the proposed basement toward the center of the lot. The remaining 65 cubic yards of cut and 80 cubic yards of fill are proposed in order to perform the proposed lot improvements including the retaining walls on the southern property line and the flat patios in the front and rear yards.

f. Lighting: Light fixtures for walkways, parking areas, driveways, and other facilities shall be provided in sufficient number and at proper locations to assure safe and convenient nighttime use. All light fixtures shall be appropriately shielded so that no light or glare is transmitted or reflected in such concentrated quantities or intensities as to be detrimental to the surrounding areas per SBMC 17.60.060 (Exterior Lighting Regulations).

A condition of project approval is that all new exterior lighting fixtures comply with the City-Wide Lighting Regulations of the Zoning Ordinance (SBMC 17.60.060). All light fixtures shall be shielded so that no light or glare is transmitted or reflected in such concentrated quantities or intensities as to be detrimental to the surrounding area.

g. Usable Open Space: Recreational facilities proposed within required usable open space shall be located and designed to maintain essential open space values.

The project consists of the construction of a new single-family residence with an attached garage on a residential lot, therefore, usable open space and recreational facilities are neither proposed nor required according to SBMC Section 17.20.040.

III. All required permits and approvals including variances, conditional use permits, comprehensive sign plans, and coastal development permits have been obtained prior to or concurrently with the development review permit.

All required permits, including a Structure Development Permit, are being processed concurrently with the Development Review Permit.

IV. If the development project also requires a permit or approval to be issued by a state or federal agency, the city council may conditionally approve the development review permit upon the Applicants obtaining the required permit or approval from the other agency.

The Applicants are required to obtain approval from the California Coastal Commission prior to issuance of Building Permits.

4. CONDITIONS

Prior to use or development of the property in reliance on this permit, the Applicants shall provide for and adhere to the following conditions:

A. Community Development Department Conditions:

I. The Applicants shall pay required Public Facilities Fees, as established by SBMC Section 17.72.020 and Resolution 1987-36.

II. Building Permit plans must be in substantial conformance with the architectural plans presented to the City Council on May 10, 2017, and located in the project file with a submittal date of March 9, 2017.

III. Prior to requesting a framing inspection, the Applicants shall submit a height certification, signed by a licensed land surveyor, certifying that the building envelope (which is represented by the story poles) is in conformance with the plans as approved by the City Council on May 10, 2017 and the certified story pole plot plan, and will not exceed 22.90 feet in height from the proposed grade or 106.53 feet above MSL.

IV. Any proposed onsite fences, walls and retaining walls and any proposed railing located on top, or any combination thereof, shall comply with applicable regulations of SBMC Section 17.20.040 and 17.60.070 (Fences and Walls).

V. The Applicants shall obtain required California Coastal Commission (CCC) approval of a Coastal Development Permit, Waiver or Exemption as determined necessary by the CCC, prior to the issuance of a grading or building permit.

VI. The Applicants shall provide a full Landscape Documentation Package in compliance with SBMC Chapter 17.56 prior to building permit issuance, which will be reviewed and inspected by the City's third party landscape professional.

VII. Native or drought tolerant and non-invasive plant materials and water conserving irrigation systems shall be incorporated into any proposed landscaping and compatible with the surrounding area to the extent feasible.

VIII. Any new exterior lighting fixtures shall be in conformance with the City-Wide Lighting Regulations of SBMC 17.60.060.

IX. All light fixtures shall be appropriately shielded so that no light or glare is transmitted or reflected in such concentrated quantities or intensities that render them detrimental to the surrounding area.

B. Fire Department Conditions:

I. OBSTRUCTION OF ROADWAYS DURING CONSTRUCTION: All roadways shall be a minimum of 24 feet in width during construction

and maintained free and clear, including the parking of vehicles, in accordance with the California Fire Code and the Fire Department.

II. ADDRESS NUMBERS: STREET NUMBERS: Approved numbers and/or addresses shall be placed on all new and existing buildings and at appropriate additional locations as to be plainly visible and legible from the street or roadway fronting the property from either direction of approach. Said numbers shall contrast with their background, and shall meet the following minimum standards as to size: 4" high with a ½" inch stroke width for residential buildings, 8" high with a ½" stroke for commercial and multi-family residential buildings, 12" high with a 1" stroke for industrial buildings. Additional numbers shall be required where deemed necessary by the Fire Marshal, such as rear access doors, building corners, and entrances to commercial centers.

III. AUTOMATIC FIRE SPRINKLER SYSTEM: ONE AND TWO FAMILY DWELLINGS: Structures shall be protected by an automatic fire sprinkler system designed and installed to the satisfaction of the Fire Department. Plans for the automatic fire sprinkler system shall be approved by the Fire Department prior to installation.

IV. SMOKE DETECTORS/CARBON MONOXIDE ALARMS/FIRE SPRINKLER SYSTEMS: Smoke detectors/carbon monoxide alarms/fire sprinklers shall be inspected by the Solana Beach Fire Department.

V. CLASS "A" ROOF: All structures shall be provided with a Class "A" Roof covering to the satisfaction of the Solana Beach Fire Department.

VI. BASEMENT: All basements shall be designed and equipped with emergency exit systems consisting of operable windows, window wells or exit doors that lead directly outside via staircase and exit door or exit door at grade.

Window wells/Light wells that intrude into side yard or backyard setbacks of five feet or less, shall require a hinged grating covering the window well/lightwell opening. The grating shall be capable of supporting a weight of 250lb person; yet must be able to be opened by someone of minimal strength with no special knowledge, effort or use of key or tool. Any modification of previously approved plans related to this condition shall be subject to re-submittal and review by City staff (Fire, Building, Planning).

C. Engineering Department Conditions:

I. Obtain an Encroachment Permit in accordance with Chapter 11.20 of the SBMC, prior to the construction of any improvements within the

public right of way including, but not limited to, the demolition and construction of surface improvements. All proposed improvements within the public right of way shall comply with City standards including but not limited to the Off-Street Parking Design Manual. Improvements shall include the demolition and removal of the existing retaining walls and stairs, as well as the construction of the proposed concrete stairs and slope as shown on the preliminary grading plan prepared by Pasco, Laret, Suiter and Associates, dated 6-15-16.

II. All construction demolition materials shall be recycled according to the City's construction and demolition recycling program and an approved Waste Management Plan shall be submitted.

III. All new utility services shall be installed underground.

IV. The Applicants shall record an Encroachment Maintenance Removal Agreement (EMRA) for private improvements in the public right of way such as the concrete stairs, wing walls and landscaped slope form the back of the existing sidewalk to the property line.

V. Obtain a Grading Permit in accordance with Chapter 15.40 of the SBMC. Conditions prior to the issuance of a grading permit shall include, but not be limited to, the following:

a. The Grading Plan shall be prepared by a Registered Civil Engineer and approved by the City Engineer. On-site grading design and construction shall be in accordance with Chapter 15.40 of the SBMC.

b. A Soils Report shall be prepared by a Registered Soils Engineer and approved by the City Engineer. All necessary measures shall be taken and implemented to assure slope stability, erosion control, and soil integrity. The Grading Plan shall incorporate all recommendations contained in the Soils Report.

c. The Grading Plan shall incorporate all recommendations of the Hydrology Report prepared by Pasco, Laret, Suiter, and Associates, dated June 15, 2016, to the satisfaction of the City Engineer.

d. The Hydrology Report includes a 4000 gallon storage tank at the southwest quadrant of the property. An easement shall be recorded for maintenance of the storage tank by the property owner(s) in perpetuity, prior to the occupancy of this project.

e. All retaining walls and drainage structures shall be shown. Retaining walls shown on the grading plan shall conform to the

San Diego Regional Standards or be designed by a licensed civil engineer. Engineering calculations for all designed walls with a surcharge and nonstandard walls shall be submitted at grading plan check. Retaining walls may not exceed the allowable height within the property line setback as determined by the SBMC.

f. The Applicants are responsible to protect the adjacent properties during construction. If any grading or other types of construction are anticipated beyond the property lines, the Applicants shall obtain a written permission from the adjoining property owners for incidental grading or construction that may occur and submit the letter to the City Engineer prior to the anticipated work.

g. Pay grading plan check fee in accordance with the current Engineering Fee Schedule at initial grading plan submittal. Inspection fees shall be paid prior to issuance of the grading permit.

h. Obtain and submit grading security in a form prescribed by the City Engineer.

i. Obtain a haul permit for import/export of soil. The Applicants shall transport all excavated material to a legal disposal site.

j. Submit certification from the Engineer of Record and the Soils Engineer that all public or private drainage facilities and finished grades are functioning and are installed in accordance with the approved plans. This shall be accomplished by the Engineer of Record incorporating as-built conditions on the Mylar Grading plans and obtaining signatures of the Engineer of Record and the Soils Engineer certifying the as-built conditions.

k. An Erosion Prevention and Sediment Control Plan shall be prepared. Best Management Practices shall be developed and implemented to manage storm water and non-storm water discharges from the site at all times during excavation and grading activities. Erosion preventions shall be emphasized as the most important measure for keeping sediment on site during excavation and grading activities. Sediment controls shall be used as a supplement to erosion prevention for keeping sediment on site.

l. Show all proposed on-site private drainage facilities intended to discharge water run-off. Elements of this design shall include a hydrologic and hydraulic analysis verifying the adequacy of the facilities and identify any easements or

structures required to properly convey the drainage. The construction of drainage structures shall comply with the standards set forth by the San Diego Regional Standard Drawings.

m. Post Construction Best Management Practices meeting City and RWQCB Order No. R9-2013-001 requirements shall be implemented in the drainage design.

n. No increased cross lot drainage shall be allowed.

5. ENFORCEMENT

Pursuant to SBMC 17.72.120(B) failure to satisfy any and all of the above-mentioned conditions of approval is subject to the imposition of penalties as set forth in SBMC Chapters 1.1.6 and 1.18 in addition to any applicable revocation proceedings.

6. EXPIRATION

The Development Review Permit and Structure Development Permit for the project will expire 24 months from the date of this Resolution, unless the Applicants have obtained building permits and have commenced construction prior to that date, and diligently pursued construction to completion. An extension of the application may be granted by the City Council according to SBMC 17.72.110.

7. INDEMNIFICATION AGREEMENT

The Applicants shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify the Applicants of any claim, action, or proceeding. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, the Applicants shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Applicants regarding litigation issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Applicants shall not be required to pay or perform any settlement unless such settlement is approved by the Applicants.

NOTICE TO APPLICANTS: Pursuant to Government Code Section 66020, you are

hereby notified that the 90-day period to protest the imposition of the fees, dedications, reservations or other exactions described in this resolution commences on the effective date of this resolution. To protest the imposition of any fee, dedications, reservations or other exactions described in this resolution you must comply with the provisions of Government Code Section 66020. Generally the resolution is effective upon expiration of the tenth day following the date of adoption of this resolution, unless the resolution is appealed or called for review as provided in the Solana Beach Zoning Ordinance.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Solana Beach, California, held on the 10th day of May, 2017, by the following vote:

AYES: Councilmembers –

NOES: Councilmembers –

ABSENT: Councilmembers –

ABSTAIN: Councilmembers –

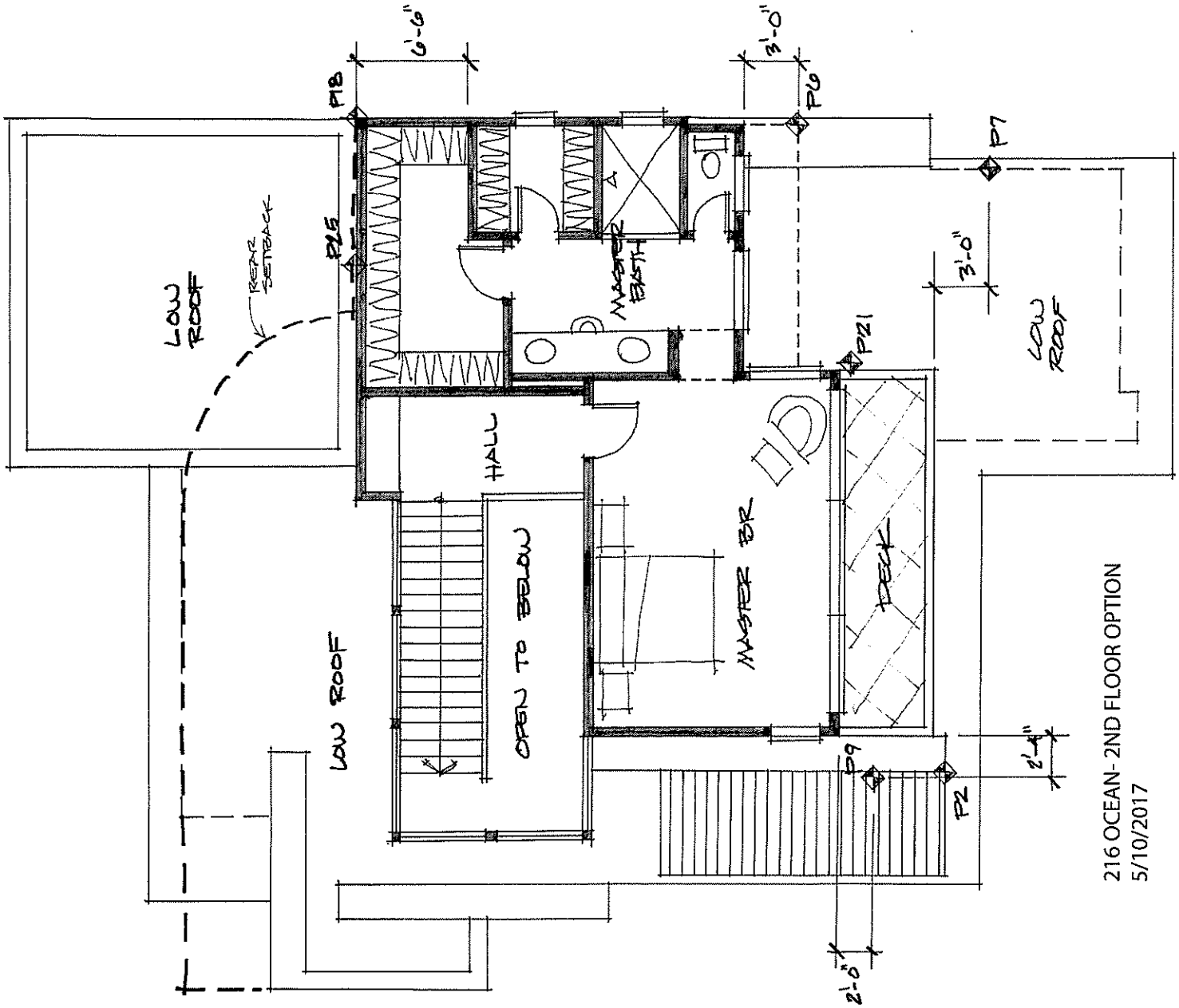
_____
MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

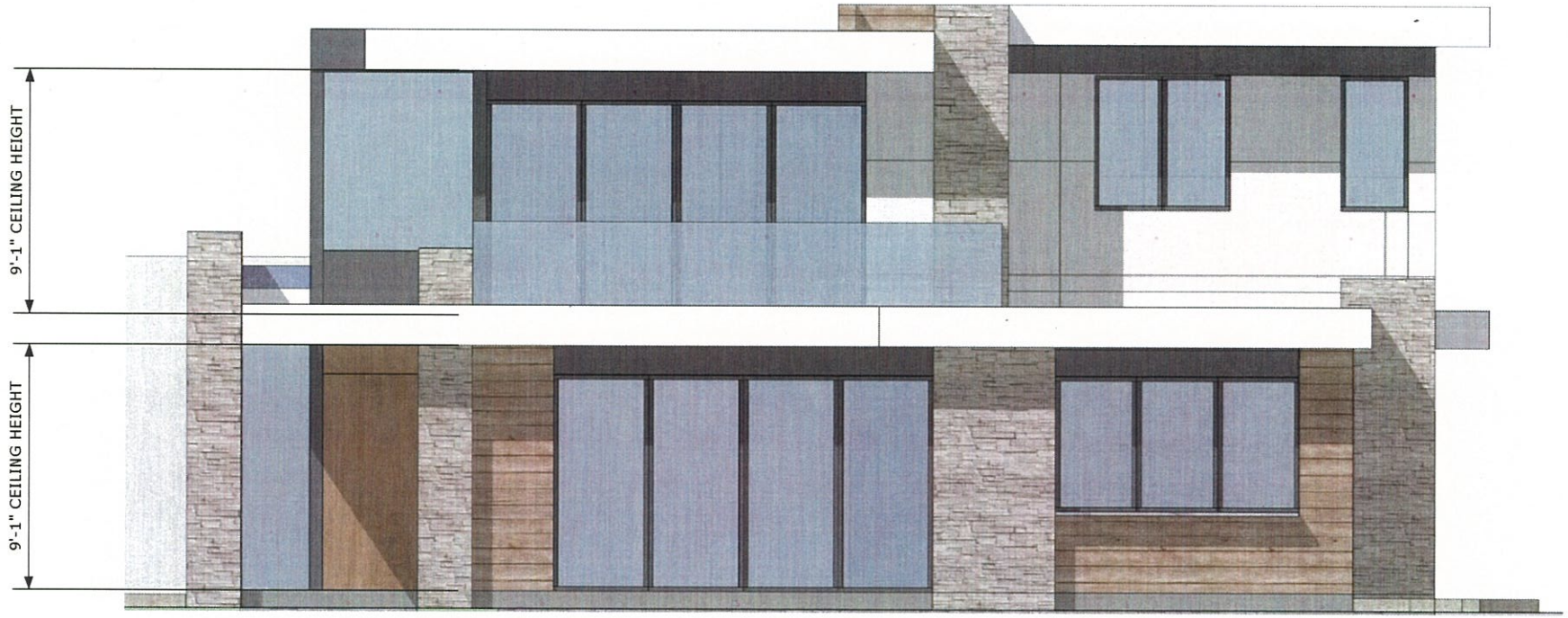
_____
JOHANNA N. CANLAS, City Attorney

ATTEST:

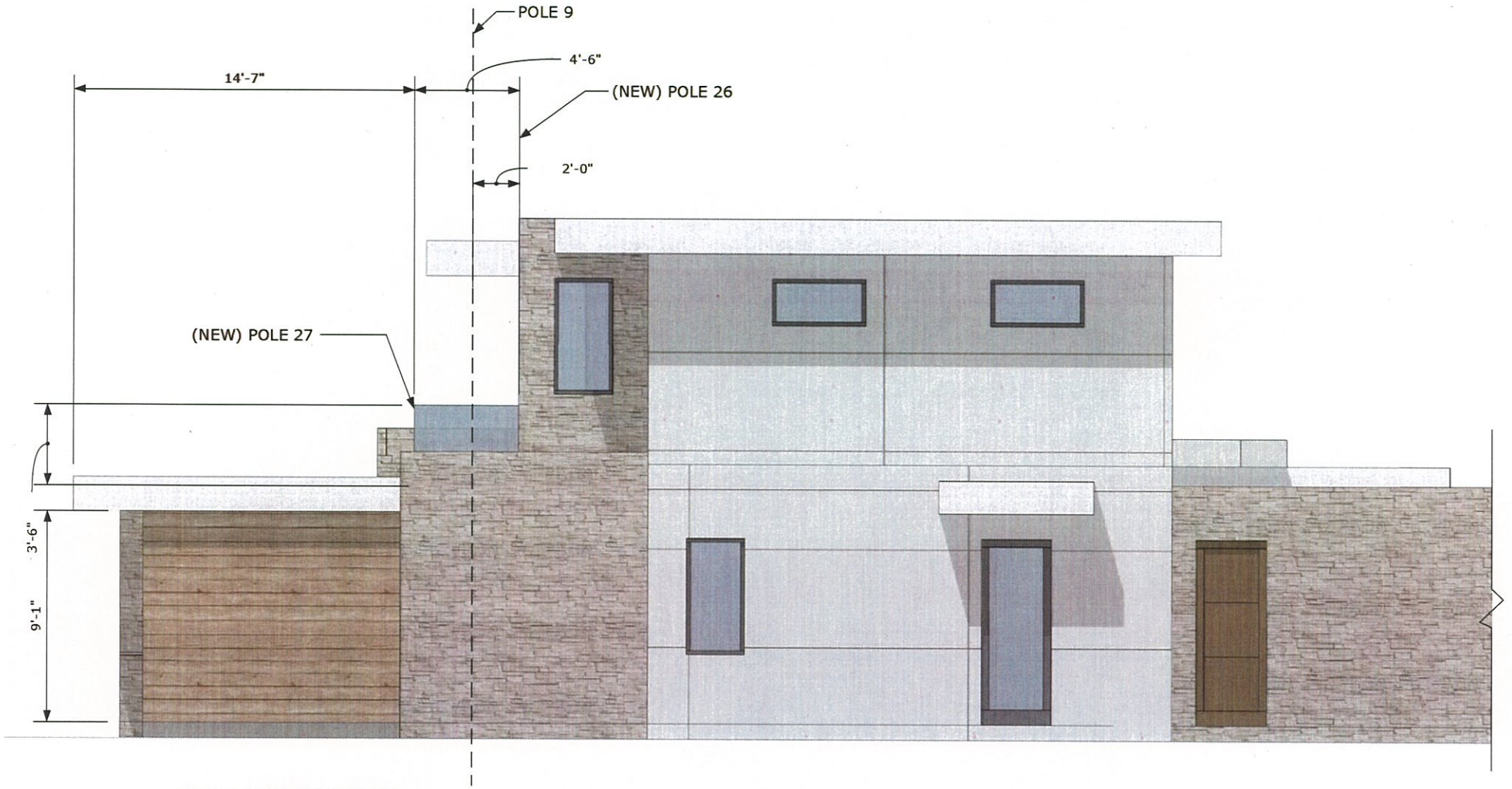
_____
ANGELA IVEY, City Clerk



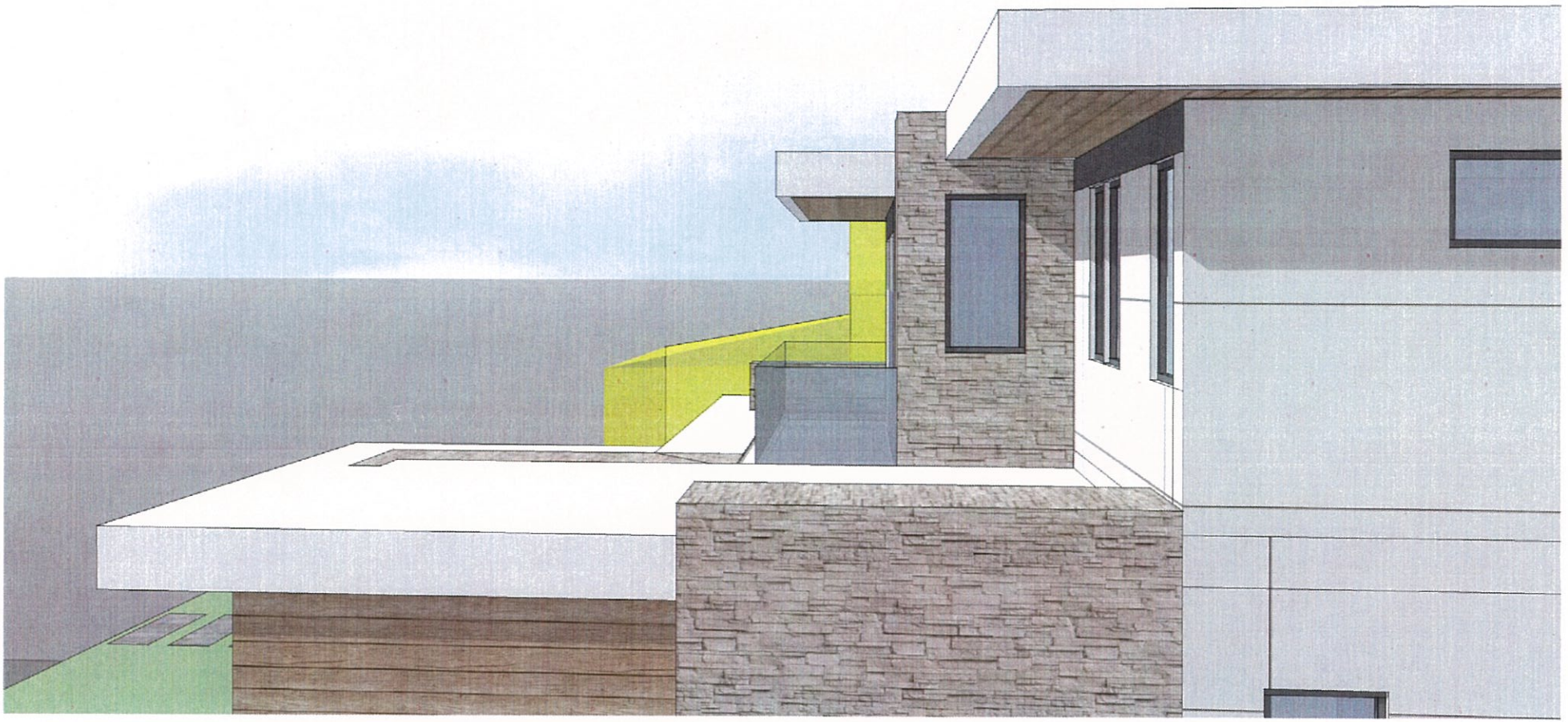
ATTACHMENT 2



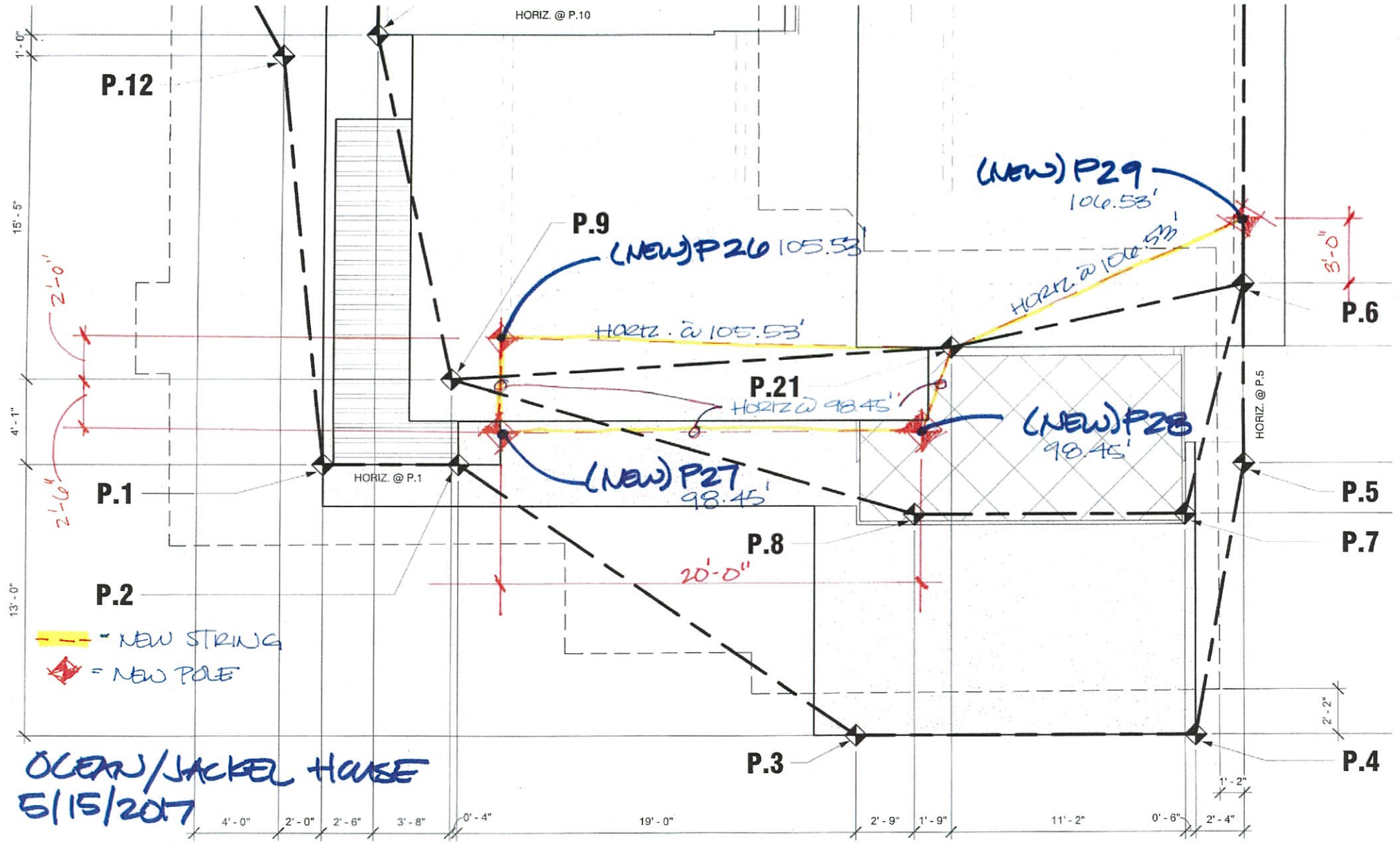
SOUTH ELEVATION



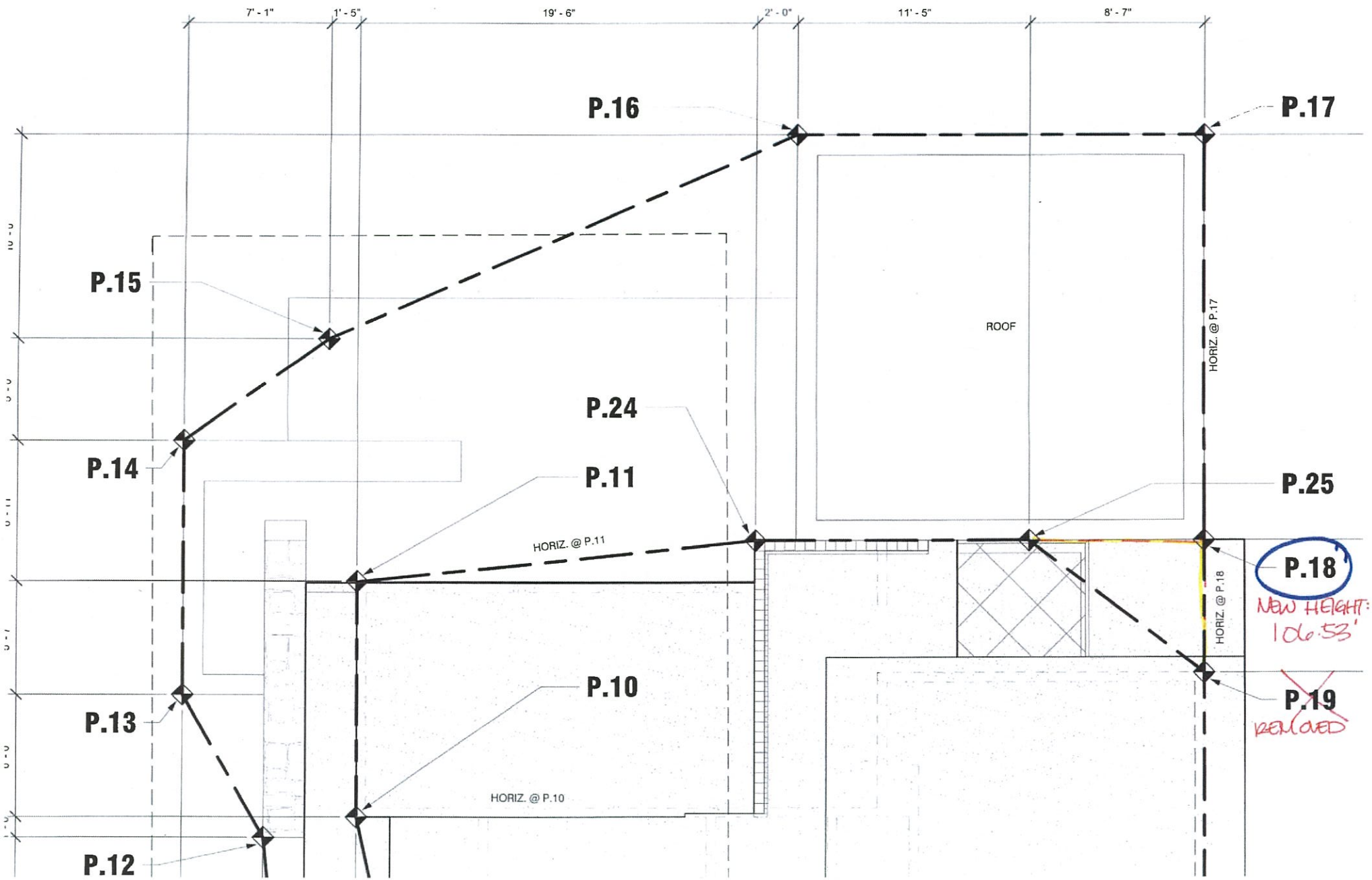
EAST ELEVATION

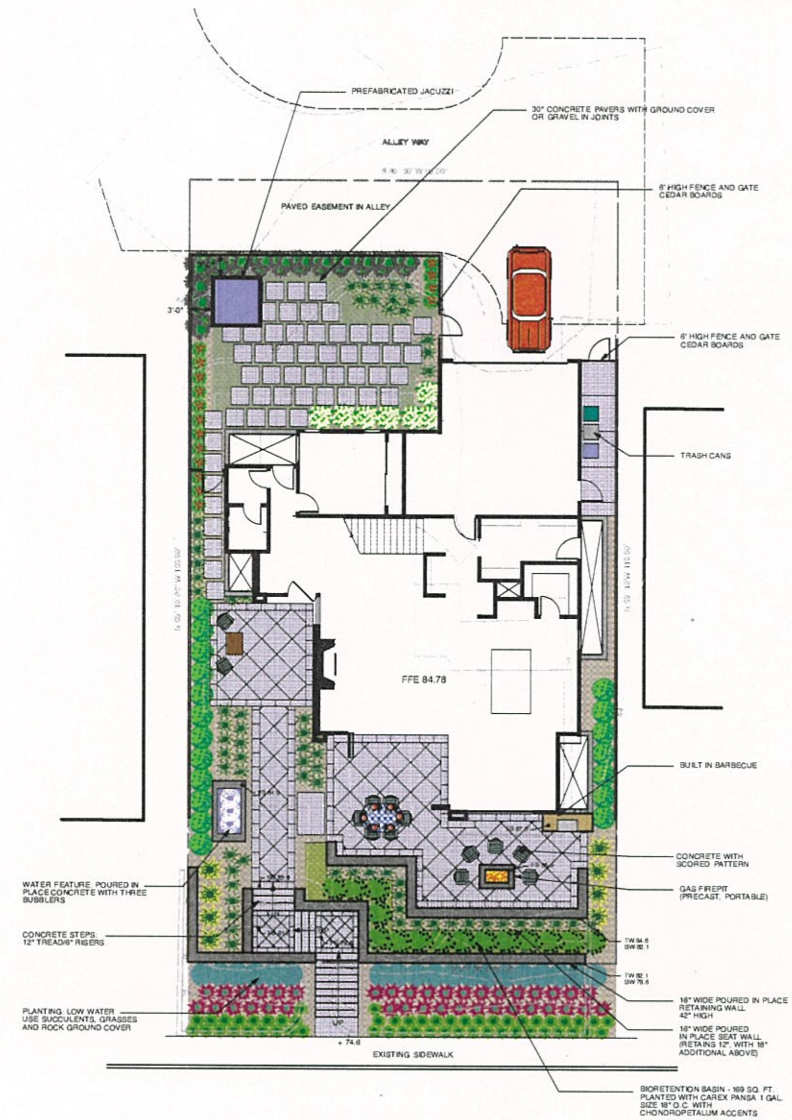


EAST PERSPECTIVE



STORY POLE PLAN (REVISED)


7' - 1"
1' - 5"
19' - 6"
2' - 0"
11' - 5"
8' - 7"
P.16
P.17
P.15
P.24
P.14
P.11
P.25
P.18
NEW HEIGHT:
106.53'
P.19
REMOVED
P.13
P.10
P.12
ROOF
HORIZ. @ P.17
HORIZ. @ P.11
HORIZ. @ P.18
HORIZ. @ P.10



PRELIMINARY LANDSCAPE PLAN

NOT FOR CONSTRUCTION

LEGEND

SYMBOL	SPECIES/COMMON NAME	SIZE	QUANTITY	WUCOLS WATER USE	MATURE HEIGHT
	AGAVE 'BLUE GLOW' / BLUE GLOW AGAVE	5 GAL	38	VERY LOW	
	ALOE STRIATA / GHOST ALOE	5 GAL	49	LOW	
	ANIGOZANTHOS CV / KANGAROO PAW	5 GAL	16	MEDIUM	
	BAMBUSA 'GOLDEN GODDESS' / BAMBOO	5 GAL	14	MEDIUM	6'-10' HIGH
	CAREX TUMLICOLA / SEDGE	1 GAL	53	LOW	
	CHONDROPETALUM TECTORUM / CAPE RUSH	5 GAL	15	LOW	
	CRASSULA OVATA / JADE	5 GAL	7	LOW	
	FURCRAEA MEDIO PICTA / MAURITIUS HEMP	15 GAL	8	LOW	
	MUHLENBERGIA RIGENS / DEER GRASS	5 GAL	19	LOW	
	RHAPHIOLEPIS UMBELLATA 'MINOR' / DWARF YEDDO	5 GAL	19	MEDIUM	4'
	GROUND COVER: DYMONDIA MARGARETAE	FLATS	4" O.C.	LOW	
	BIOSWALE: CAREX PANSA / CALIFORNIA MEADOW SEDGE	1 GAL	18" O.C.	MEDIUM	

NORTH

SCALE: 1/8" = 1'

0 8 16 24 FEET

NOTES:

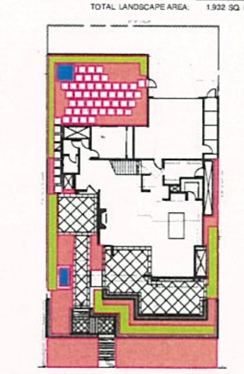
1. ALL PLANTER AREAS TO RECEIVE 3" DEPTH ROCK MULCH OVER WEED CONTROL FABRIC - EXCEPT AT AREAS TO RECEIVE DYMONDIA MARGARETAE GROUND COVER.
2. IRRIGATION TO BE DRIP TYPE, AUTOMATED WITH WEATHER BASED CONTROLLER.
3. PALM TREES TO BE ON SEPARATE DRIP SYSTEM

SITE AREAS

BUILDING AREA	2,208 SQ. FT.
LIGHT WELLS	200 SQ. FT.
IMPERVIOUS HARDSCAPE	1,552 SQ. FT.
PERVIOUS PAVING	370 SQ. FT.
LANDSCAPE/WATER FEATURES	1,487 SQ. FT.
TOTAL SITE AREA	5,817 SQ. FT. (EXCLUDES R.O.W. AND ALLEY EASEMENT)

HYDROZONES

LOW WATER USE	1,356 SQ. FT.
MEDIUM WATER USE	516 SQ. FT.
HIGH WATER USE (WATER FEATURES)	60 SQ. FT.
TOTAL LANDSCAPE AREA	1,932 SQ. FT. (INCLUDES LANDSCAPE IN R.O.W. - 545 SQ. FT.)



HYDROZONE MAP

ESTIMATED TOTAL WATER USE (ETWU) WORKSHEET

The project's Estimated Total Water Use is calculated using the following formula:

$$ETWU = (ETo)(0.62)\left(\frac{PF \times HA}{IE} + SLA\right)$$

ETWU = Estimated total water use per year (gallons per year)
ETo = Evapotranspiration rate (inches per year)
PF = Plant factor from WUCOLS (see Definitions)
HA = Hydro-zone Area (square feet): Define hydro-zones by water use: very low, low, moderate and high
SLA = Special Landscape Area (square feet): Edible plants, irrigated with recycled water, & turf used for active play
0.62 = Conversion Factor (to gallons per square foot)
IE = Irrigation Efficiency

CITY OF SOLANA BEACH ESTIMATED TOTAL WATER USE (ETWU) WORKSHEET

	Line	Hydro-zone Number (1 - 4 Below – use as many tables as necessary to complete all hydrozones)				
		1	2	3	4	SLA
Evapotranspiration Rate (ETo) See "A" below	1	Use 41 (west of I-5) / 47 (east of I-5)				
Conversion Factor - .62	2	0.62				
(Line 1 x Line 2)	3	25.42 (west of I-5) / 29.14 (east of I-5)				
Plant Factor (PF) See "B" below	4	0.3	0.6	1.0		
Hydrozone Area (HA) - in square feet	5	1,356	516	60		0
(Line 4 x Line 5)	6	407	310	60		
Irrigation Efficiency (IE) See "C" below	7	0.81	0.81	1?		
(Line 6 ÷ Line 7)	8	502	383	60		
TOTAL of all Line 8 boxes + SLA	9	945				
Line 3 x Line 9 Estimated Total Water Use - ETWU (gallons per year) Total shall not exceed MAWA below	10	24,022 gallons per year				

A	B	C
ETo – Evapotranspiration rate = 41 (west of I-5), 47 (east of I-5)	PF – Plant Factor – Use WUCOLS values to determine the category for each species used. The highest water use PF must be used when more than one PF is shown in a hydro-zone. 0.1 = VLW - Very Low Water Use Plants; 0.3 = LW - Low Water Use Plants; 0.6 = MW - Moderate Water Use Plants; 1.0 = HW - High Water Use Plants	IE – Irrigation Efficiency: Spray = .55; Rotor = .70; Bubbler = .75; MP rotator = .75; Drip & Micro-spray = .81. A different IE may be used if supported by the installation subject to approval by the City engineer

MAXIMUM APPLIED WATER APPLICATION (MAWA) calculation:

25.42 [(ETAF x 1,932) + (1-ETAF x 0)] = MAWA 27,012

(25.42 or 29.14; 0.55; Total Landscape Area; Total SLA)

Evapotranspiration adjustment factor (ETAF): use .55 residential .45 non-residential

IF PLAN IS LESS THAN 24" X 36" IT IS A REDUCED PRINT. REDUCE SCALE ACCORDINGLY.

GMA
GEORGE MERCER
RLA 4055
LANDSCAPE ARCHITECTURE
4730 PALM AVENUE, STE 213
LA MESA, CA 91941
(619) 463-7876
E-mail: 5mercers@sbcglobal.net

CLIENT: Larry Jackel

PROJECT: JACKEL RESIDENCE, 216 Ocean Street, Solana Beach, CA 92075

CHANGES

3/25/16	8/21/16	3/16/17
3/28/16	10/24/16	
4/25/16	10/25/16	
6/3/16	11/22/16	
6/17/16	12/4/16	
8/16/16	12/16/16	

PROGRESS PRINT DATE

DESIGN	GM
DRAWN	GM
CHECKED	
SCALE	1/8"=1'
PROJECT	16-025

SHEET L-1 OF 1 SHEET

Stephen Dalton Architects
www.sdarchitects.net

May 16, 2017

Corey Andrews
City of Solana Beach, Planning Dept.

Re: Jackel Residence Revisions

Corey,

The following describes the proposed changes to the Jackel family home in response to the feedback from the May 10th City Council meeting.

1. Revise the second floor layout as shown in the attached floor plan sketch and elevations:
    a. Moved master bedroom and deck to the West, away from Eastern neighbor's deck.
    b. Further reduce the deck from 7'-6" to 4'-6" in depth (inclusive of guard rail).
    c. Lower the ceiling height of the entire first floor to 9'-1", and consequently the dining room roof, the finish floor elevation of the master suite and deck guard rail height.
    d. Move the Southeast second floor building wall North 3'.
    e. Move the North wall back 6'-6" to be in line with the stair landing wall, allowing the Southeast wall to move back as noted above. This results in a 736 SF second floor, for a net gain of 64 sf. The gross area is now 4,872 sf, and the net area 2,770 sf. (2,906 sf max allowed per SROZ.) There is no change to phantom floor size.
2. Remove the queen and king palms and silver sheen pittosporum from the landscape plan. Replace with Rhaphiolepis umbellata 'Minor' - Dwarf Yeddo (4-6 ft mature height).
3. Light well grates at exterior door thresholds to be permanently fixed in place. Basement egress ladders to be placed at opposite end of light well with minimum size removable safety grate as required by code. As a result, these two means of emergency exit will not coincide.

Please respond with any questions.

Sincerely,

Briana Ellis, Stephen Dalton Architects

444 S. Cedros Avenue . Studio 190
Solana Beach . California . 92075
T: 858.792.5906 F: 858.792.5916

ATTACHMENT 3

RESOLUTION NO. 2017-062

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, CONDITIONALLY APPROVING A DEVELOPMENT REVIEW PERMIT AND A STRUCTURE DEVELOPMENT PERMIT FOR THE DEMOLITION OF THE EXISTING SINGLE-FAMILY RESIDENCE AND THE CONSTRUCTION OF A NEW TWO-STORY, SINGLE-FAMILY RESIDENCE WITH A SUBTERRANEAN BASEMENT AND AN ATTACHED TWO-CAR GARAGE, AND ASSOCIATED SITE IMPROVEMENTS ON A PROPERTY LOCATED AT 216 OCEAN STREET, SOLANA BEACH

APPLICANTS: Larry and Audrey Jackel
CASE NO.: 17-16-10 DRP/SDP

WHEREAS, Larry and Audrey Jackel (hereinafter referred to as "Applicants"), have submitted an application for a Development Review Permit (DRP) and Structure Development Permit (SDP) pursuant to Title 17 (Zoning) of the Solana Beach Municipal Code (SBMC); and

WHEREAS, the public hearing was conducted pursuant to the provisions of Solana Beach Municipal Code Section 17.72.030; and

WHEREAS, at the public hearing on May 10, 2017, the City Council received and considered evidence concerning the proposed application; and

WHEREAS, the City Council of the City of Solana Beach continued the project to a date certain, May 24, 2017, so that the Applicant could revise the project to address comments made at the May 10, 2017 Council meeting.

WHEREAS, at the public hearing on May 24, 2017, the City Council received and considered evidence concerning the proposed application as revised; and

WHEREAS, the public hearing was conducted pursuant to the provisions of Solana Beach Municipal Code Section 17.72.030; and

WHEREAS, the City Council of the City of Solana Beach found the application request exempt from the California Environmental Quality Act pursuant to Section 15303 of the State CEQA Guidelines; and

WHEREAS, this decision is based upon the evidence presented at the hearing, and any information the City Council gathered by viewing the site and the area as disclosed at the hearing.

NOW THEREFORE, the City Council of the City of Solana Beach, California, does resolves as follows:

1. That the foregoing recitations are true and correct.

2. That the request for a DRP and a SDP to demolish an existing single family residence, construct a new two-story, single-family residence with a subterranean basement and an attached two-car garage, and perform associated site improvements at 216 Ocean Street, is conditionally approved based upon the following Findings and subject to the following Conditions:

3. FINDINGS

A. In accordance with Section 17.63.040 (Structure Development Permit) of the Solana Beach Municipal Code, the City Council finds the following:

The proposed residence exceeds 16 feet in height above the existing grade, therefore, the project must comply with all of the View Assessment requirements of SBMC Chapter 17.63 and the Applicants were required to complete the SDP process. A final Story Pole Height Certification was issued by a licensed land surveyor on November 2, 2016 which showed the tallest point of the structure illustrated by story pole #20 certified at 25 feet or 108.62 MSL. The highest story pole is illustrated by story pole #21 and has a building height of 24.93 or 109.04 MSL. Notices establishing the 30 day public notice period to apply for View Assessment were mailed to property owners and occupants within 300 feet of the project site. The deadline to file for View Assessment was December 27, 2016. Three applications for View Assessment were received.

On March 21, 2017, the VAC recommended approval with the following Condition:

> Reduce the proposed deck on the southeast corner of the second floor master bedroom so that the southernmost extent of the deck railing would move to the north by three feet and raise the finished floor height of the deck by one foot as shown in the original project design.

The Claimants have requested that the City Council reconsider their View Assessment Claims. Therefore, the Council visited the Claimants' properties and observed their viewing areas and made the following findings:

I. The applicant for the structure development permit has made a reasonable attempt to resolve the view impairment issues with the person(s) requesting view assessment. Written evidence of a good faith voluntary offer to meet and discuss view issues, or of a good faith voluntary offer to submit the matter to mediation, is hereby deemed to be a reasonable attempt to resolve the view impairment issues.

[Finding to be inserted after Council discussion]

II. The proposed structure does not significantly impair a view from public property (parks, major thoroughfares, bike ways, walkways, equestrian trails) which has been identified in the city's general plan, local coastal program, or city designated viewing areas.

[Finding to be inserted after Council discussion]

III. The structure is designed and situated in such a manner as to minimize impairment of views.

[Finding to be inserted after Council discussion]

IV. There is no significant cumulative view impairment caused by granting the application. Cumulative view impairment shall be determined by: (a) Considering the amount of view impairment caused by the proposed structure; and (b) considering the amount of view impairment that would be caused by the construction on other parcels of structures similar to the proposed structure.

[Finding to be inserted after Council discussion]

V. The proposed structure is compatible with the immediate neighborhood character.

[Finding to be inserted after Council discussion]

B. In accordance with Section 17.68.040 (Development Review Permit) of the City of Solana Beach Municipal Code, the City Council finds the following:

I. The proposed project is consistent with the General Plan and all applicable requirements of SBMC Title 17 (Zoning Ordinance), including special regulations, overlay zones and specific plans.

General Plan Consistency: The project, as conditioned, is consistent with the City's General Plan designation of Medium Density Residential, which allows for single-family residential development with a maximum density of 5-7 dwelling units per acre. The development is also consistent with the objectives of the General Plan as it encourages the development and maintenance of healthy residential neighborhoods, the stability of transitional neighborhoods, and the rehabilitation of deteriorated neighborhoods.

Zoning Ordinance Consistency: The project is consistent with all applicable requirements of the Zoning Ordinance (Title 17) (SBMC 17.20.030 and 17.48.040), which delineates maximum allowable Floor Area Ratio (FAR), Permitted Uses and Structures (SBMC Section 17.20.020) which provides for uses of the property for a single-family residence. Further, the project adheres to all property development

regulations established for the Medium Residential (MR) Zone and cited by SBMC Section 17.020.030.

The project is consistent with the provisions for minimum yard dimensions (i.e., setbacks) and the maximum allowable Floor Area (FAR), maximum building height, and parking requirements.

II. *The proposed development complies with the following development review criteria set forth in Solana Beach Municipal Code Section 17.68.040.F:*

a. *Relationship with Adjacent Land Uses: The development shall be designed in a manner compatible with and where feasible, complimentary to existing and potential development in the immediate vicinity of the project site. Site planning on the perimeter of the development shall give consideration to the protection of surrounding areas from potential adverse effects, as well as protection of the property from adverse surrounding influences.*

The property is located within the Medium Residential (MR) Zone. Properties surrounding the lot are also located within the MR Zone and are developed with one and two-story, single-family residences. The project site is currently developed with a single-story, single-family residence located in the center of the lot, which would be demolished entirely. The Applicants propose to construct a replacement, two-story residence with a subterranean basement and an attached two-car garage.

The project, as designed, is consistent with the permitted uses for the MR Zone as described in SBMC Sections 17.20.010 and 17.12.020. The property is designated Medium Density Residential in the General Plan and intended for single-family residences developed at a maximum density of five to seven dwelling units per acre. The proposed development is to be consistent with the objectives of the General Plan as it encourages the development and maintenance of healthy residential neighborhoods, the stability of transitional neighborhoods, and the rehabilitation of deteriorated neighborhoods.

The property is not located within any of the City's Specific Plan areas; however, it is located within the boundaries of the Scaled Residential Overlay Zone (SROZ) and within the Coastal Zone. The project has been evaluated, and is found to be in conformance with, the regulations of the SROZ. The Applicants are required to obtain a Coastal Development

Permit, Waiver or Exemption from the California Coastal Commission prior to the issuance of a Building Permit.

b. *Building and Structure Placement: Buildings and structures shall be sited and designed in a manner which visually and functionally enhances their intended use.*

The residence, as designed, would be constructed in the center of the property within the same general footprint as the existing residence. The garage would be located toward the northeast corner of the lot and would be accessed from the alley. SBMC 17.20.030(D)(1)(g) indicates that:

On residential lots abutting a public street on one side and an alley on the opposite side, attached garages may be built in the yard adjacent to the alley in accordance with detached accessory structure standards contained in SBMC 17.20.020(C)(3).

According to SBMC 17.20.020(C)(3), detached accessory structures are required to conform to all front and side yard setbacks, however, they may encroach into the required rear yard setback provided that they maintains a 5 foot setback from the rear property line. In addition, the detached accessory structure cannot take up more than 30% of the rear yard area and cannot be more than one third of the lot width. The structure cannot be more than 12 feet in height where located within the rear yard setback. As designed, the proposed 12 foot tall garage would maintain a minimum five foot setback from the northern property line, would be 20 feet in width and would take up 333 square feet of the total 1,500 square foot rear yard area or 22% and is, therefore, in compliance with the specific development regulations of the municipal code.

The remainder of the proposed residence would be located entirely within the buildable area of the lot. The only projection into the required setback at the ground level would be proposed lightwells in order to provide emergency egress to and from the proposed subterranean basement. The lightwells are allowed to encroach into the required setback a maximum of three feet, however, they are required to be covered with a grate that is capable of supporting the weight of a 250lb person that can be opened by someone of minimal strength with no special knowledge, effort or use of key or tool.

Roof eaves along the southern, northern, and eastern sides of the second floor and the eastern side of the second floor roof would encroach a maximum of two feet into the setback areas,

pursuant to SBMC Section 17.20.030(D)(4). The residence would be setback 20 feet from the southern (front) property line, 5 feet from the eastern and western side property lines, and 25 feet from the northern (rear) property line. A spa is proposed within the rear yard setback toward the northwest corner of the lot and a water feature and fire pit are proposed on a patio within the front yard setback.

The Applicants are proposing a 1,702 square-foot subterranean basement consisting of three bedrooms, two bathrooms and a den. The 1,714 square foot main floor would consist of the kitchen, living room, dining room, laundry room, one bathroom and one bedroom. The proposed two car garage would be attached to the main floor. The 696 square feet second floor would consist of a master suite with an attached deck toward the southwest corner of the second floor. 225 square feet of the second floor volume is area that is open to the main floor below and has a ceiling height of 15 feet or greater so this area is counted twice towards the calculation of floor area.

The proposed project, as designed, meets the minimum required setbacks and is below the maximum allowable floor area for the property.

c. *Landscaping: The removal of significant native vegetation shall be minimized. Replacement vegetation and landscaping shall be compatible with the vegetation of the surrounding area. Trees and other large plantings shall not obstruct significant views when installed or at maturity.*

The project is subject to the current water efficient landscaping regulations of SBMC Chapter 17.56. A Landscape Documentation Package is required for new development projects with an aggregate landscape equal to or greater than 500 square feet requiring a building permit, plan check or development review. The Applicants provided a conceptual landscape plan that has been reviewed by the City's third-party landscape architect who has recommended approval of the conceptual landscape plan. The Applicants will be required to submit detailed construction landscape drawings that will be reviewed by the City's third-party landscape architect for conformance with the conceptual plan. In addition, the City's third-party landscape architect will perform inspections during the construction phase of the project. A separate condition has been added to require that native or drought-tolerant and non-invasive plant materials and water-conserving irrigation

systems are required to be incorporated into the landscaping to the extent feasible.

d. *Roads, Pedestrian Walkways, Parking and Storage Areas: Any development involving more than one building or structure shall provide common access roads and pedestrian walkways. Parking and outside storage areas, where permitted, shall be screened from view, to the extent feasible, by existing topography, by the placement of buildings and structures, or by landscaping and plantings.*

Because the lot is adjacent to an alley, the attached garage can encroach into the required rear yards setback subject to the specific development regulations of SBMC Section 17.20.020(C)(3). The SBMC and the Off-Street Parking Design Manual (OSPDM) require two (2) parking spaces for a single-family residence. The Applicants are proposing to construct an attached, two-car garage in the southeastern corner of the buildable area that would be accessed by the alley at the northeast corner of the lot. Pedestrian access would be provided by a staircase off of Ocean Street. Any drop from a walkable area of more than 30 inches would require a 42 inch handrail pursuant to the California Building Code. Retaining walls and walking surfaces are proposed in the front yard setback at 30 inches and would not require railings. However, the proposed stairway (more than three steps) in the public right of way would need a railing on one site of the staircase.

SBMC Section 17.08.030 indicates that required parking up to 200 square feet per parking space provided in a garage is exempt from the floor area calculation. The proposed garage will provide the two required parking spaces, therefore, 400 square feet of garage area is exempt from the project's floor area calculation.

e. *Grading: To the extent feasible, natural topography and scenic features of the site shall be retained and incorporated into the proposed development. Any grading or earth-moving operations in connection with the proposed development shall be planned and executed so as to blend with the existing terrain both on and adjacent to the site. Existing exposed or disturbed slopes shall be landscaped with native or naturalized non-native vegetation and existing erosion problems shall be corrected.*

The total grading quantity for the project includes 915 cubic yards of cut, 80 cubic yards of fill and 835 cubic yards of export. A majority of the proposed grading (850 cubic yards of

cut and export) is required in order to construct the proposed basement toward the center of the lot. The remaining 65 cubic yards of cut and 80 cubic yards of fill are proposed in order to perform the proposed lot improvements including the retaining walls on the southern property line and the flat patios in the front and rear yards.

f. *Lighting: Light fixtures for walkways, parking areas, driveways, and other facilities shall be provided in sufficient number and at proper locations to assure safe and convenient nighttime use. All light fixtures shall be appropriately shielded so that no light or glare is transmitted or reflected in such concentrated quantities or intensities as to be detrimental to the surrounding areas per SBMC 17.60.060 (Exterior Lighting Regulations).*

A condition of project approval is that all new exterior lighting fixtures comply with the City-Wide Lighting Regulations of the Zoning Ordinance (SBMC 17.60.060). All light fixtures shall be shielded so that no light or glare is transmitted or reflected in such concentrated quantities or intensities as to be detrimental to the surrounding area.

g. *Usable Open Space: Recreational facilities proposed within required usable open space shall be located and designed to maintain essential open space values.*

The project consists of the construction of a new single-family residence with an attached garage on a residential lot; therefore, usable open space and recreational facilities are neither proposed nor required according to SBMC Section 17.20.040.

III. *All required permits and approvals including variances, conditional use permits, comprehensive sign plans, and coastal development permits have been obtained prior to or concurrently with the development review permit.*

All required permits, including a Structure Development Permit, are being processed concurrently with the Development Review Permit.

IV. *If the development project also requires a permit or approval to be issued by a state or federal agency, the city council may conditionally approve the development review permit upon the Applicants obtaining the required permit or approval from the other agency.*

The Applicants are required to obtain approval from the California Coastal Commission prior to issuance of Building Permits.

4. CONDITIONS

Prior to use or development of the property in reliance on this permit, the Applicants shall provide for and adhere to the following conditions:

A. Community Development Department Conditions:

I. The Applicants shall pay required Public Facilities Fees, as established by SBMC Section 17.72.020 and Resolution 1987-36.

II. Building Permit plans must be in substantial conformance with the architectural plans presented to the City Council on May 10, 2017, and located in the project file with a submittal date of March 9, 2017.

III. Prior to requesting a framing inspection, the Applicants shall submit a height certification, signed by a licensed land surveyor, certifying that the building envelope (which is represented by the story poles) is in conformance with the plans as approved by the City Council on May 10, 2017 and the certified story pole plot plan, and will not exceed 22.90 feet in height from the proposed grade or 106.53 feet above MSL.

IV. Any proposed onsite fences, walls and retaining walls and any proposed railing located on top, or any combination thereof, shall comply with applicable regulations of SBMC Section 17.20.040 and 17.60.070 (Fences and Walls).

V. The Applicants shall obtain required California Coastal Commission (CCC) approval of a Coastal Development Permit, Waiver or Exemption as determined necessary by the CCC, prior to the issuance of a grading or building permit.

VI. The Applicants shall provide a full Landscape Documentation Package in compliance with SBMC Chapter 17.56 prior to building permit issuance, which will be reviewed and inspected by the City's third party landscape professional.

VII. Native or drought tolerant and non-invasive plant materials and water conserving irrigation systems shall be incorporated into any proposed landscaping and compatible with the surrounding area to the extent feasible.

VIII. Any new exterior lighting fixtures shall be in conformance with the City-Wide Lighting Regulations of SBMC 17.60.060.

IX. All light fixtures shall be appropriately shielded so that no light or glare is transmitted or reflected in such concentrated quantities or

intensities that render them detrimental to the surrounding area.

B. Fire Department Conditions:

I. OBSTRUCTION OF ROADWAYS DURING CONSTRUCTION: All roadways shall be a minimum of 24 feet in width during construction and maintained free and clear, including the parking of vehicles, in accordance with the California Fire Code and the Fire Department.

II. ADDRESS NUMBERS: STREET NUMBERS: Approved numbers and/or addresses shall be placed on all new and existing buildings and at appropriate additional locations as to be plainly visible and legible from the street or roadway fronting the property from either direction of approach. Said numbers shall contrast with their background, and shall meet the following minimum standards as to size: 4" high with a ½" inch stroke width for residential buildings, 8" high with a ½" stroke for commercial and multi-family residential buildings, 12" high with a 1" stroke for industrial buildings. Additional numbers shall be required where deemed necessary by the Fire Marshal, such as rear access doors, building corners, and entrances to commercial centers.

III. AUTOMATIC FIRE SPRINKLER SYSTEM: ONE AND TWO FAMILY DWELLINGS: Structures shall be protected by an automatic fire sprinkler system designed and installed to the satisfaction of the Fire Department. Plans for the automatic fire sprinkler system shall be approved by the Fire Department prior to installation.

IV. SMOKE DETECTORS/CARBON MONOXIDE ALARMS/FIRE SPRINKLER SYSTEMS: Smoke detectors/carbon monoxide alarms/fire sprinklers shall be inspected by the Solana Beach Fire Department.

V. CLASS "A" ROOF: All structures shall be provided with a Class "A" Roof covering to the satisfaction of the Solana Beach Fire Department.

VI. BASEMENT: All basements shall be designed and equipped with emergency exit systems consisting of operable windows, window wells or exit doors that lead directly outside via staircase and exit door or exit door at grade.

Window wells/Light wells that intrude into side yard or backyard setbacks of five feet or less, shall require a hinged grating covering the window well/lightwell opening. The grating shall be capable of supporting a weight of 250lb person; yet must be able to be opened by someone of minimal strength with no special knowledge, effort or use of key or tool. Any modification of previously approved plans

related to this condition shall be subject to re-submittal and review by City staff (Fire, Building, Planning).

C. Engineering Department Conditions:

I. Obtain an Encroachment Permit in accordance with Chapter 11.20 of the SBMC, prior to the construction of any improvements within the public right of way including, but not limited to, the demolition and construction of surface improvements. All proposed improvements within the public right of way shall comply with City standards including but not limited to the Off-Street Parking Design Manual. Improvements shall include the demolition and removal of the existing retaining walls and stairs, as well as the construction of the proposed concrete stairs and slope as shown on the preliminary grading plan prepared by Pasco, Laret, Suiter and Associates, dated 6-15-16.

II. All construction demolition materials shall be recycled according to the City's construction and demolition recycling program and an approved Waste Management Plan shall be submitted.

III. All new utility services shall be installed underground.

IV. The Applicants shall record an Encroachment Maintenance Removal Agreement (EMRA) for private improvements in the public right of way such as the concrete stairs, wing walls and landscaped slope form the back of the existing sidewalk to the property line.

V. Obtain a Grading Permit in accordance with Chapter 15.40 of the SBMC. Conditions prior to the issuance of a grading permit shall include, but not be limited to, the following:

a. The Grading Plan shall be prepared by a Registered Civil Engineer and approved by the City Engineer. On-site grading design and construction shall be in accordance with Chapter 15.40 of the SBMC.

b. A Soils Report shall be prepared by a Registered Soils Engineer and approved by the City Engineer. All necessary measures shall be taken and implemented to assure slope stability, erosion control, and soil integrity. The Grading Plan shall incorporate all recommendations contained in the Soils Report.

c. The Grading Plan shall incorporate all recommendations of the Hydrology Report prepared by Pasco, Laret, Suiter, and Associates, dated June 15, 2016, to the satisfaction of the City Engineer.

d. The Hydrology Report includes a 4000 gallon storage tank at the southwest quadrant of the property. An easement shall be recorded for maintenance of the storage tank by the property owner(s) in perpetuity, prior to the occupancy of this project.

e. All retaining walls and drainage structures shall be shown. Retaining walls shown on the grading plan shall conform to the San Diego Regional Standards or be designed by a licensed civil engineer. Engineering calculations for all designed walls with a surcharge and nonstandard walls shall be submitted at grading plan check. Retaining walls may not exceed the allowable height within the property line setback as determined by the SBMC.

f. The Applicants are responsible to protect the adjacent properties during construction. If any grading or other types of construction are anticipated beyond the property lines, the Applicants shall obtain a written permission from the adjoining property owners for incidental grading or construction that may occur and submit the letter to the City Engineer prior to the anticipated work.

g. Pay grading plan check fee in accordance with the current Engineering Fee Schedule at initial grading plan submittal. Inspection fees shall be paid prior to issuance of the grading permit.

h. Obtain and submit grading security in a form prescribed by the City Engineer.

i. Obtain a haul permit for import/export of soil. The Applicants shall transport all excavated material to a legal disposal site.

j. Submit certification from the Engineer of Record and the Soils Engineer that all public or private drainage facilities and finished grades are functioning and are installed in accordance with the approved plans. This shall be accomplished by the Engineer of Record incorporating as-built conditions on the Mylar Grading plans and obtaining signatures of the Engineer of Record and the Soils Engineer certifying the as-built conditions.

k. An Erosion Prevention and Sediment Control Plan shall be prepared. Best Management Practices shall be developed and implemented to manage storm water and non-storm water discharges from the site at all times during excavation and grading activities. Erosion preventions shall be emphasized as the most important measure for keeping sediment on site during excavation and grading activities. Sediment controls

shall be used as a supplement to erosion prevention for keeping sediment on site.

l. Show all proposed on-site private drainage facilities intended to discharge water run-off. Elements of this design shall include a hydrologic and hydraulic analysis verifying the adequacy of the facilities and identify any easements or structures required to properly convey the drainage. The construction of drainage structures shall comply with the standards set forth by the San Diego Regional Standard Drawings.

m. Post Construction Best Management Practices meeting City and RWQCB Order No. R9-2013-001 requirements shall be implemented in the drainage design.

n. No increased cross lot drainage shall be allowed.

5. ENFORCEMENT

Pursuant to SBMC 17.72.120(B) failure to satisfy any and all of the above-mentioned conditions of approval is subject to the imposition of penalties as set forth in SBMC Chapters 1.1.6 and 1.18 in addition to any applicable revocation proceedings.

6. EXPIRATION

The Development Review Permit and Structure Development Permit for the project will expire 24 months from the date of this Resolution, unless the Applicants have obtained building permits and have commenced construction prior to that date, and diligently pursued construction to completion. An extension of the application may be granted by the City Council according to SBMC 17.72.110.

7. INDEMNIFICATION AGREEMENT

The Applicants shall defend, indemnify, and hold harmless the City, its agents, officers, and employees from any and all claims, actions, proceedings, damages, judgments, or costs, including attorney's fees, against the City or its agents, officers, or employees, relating to the issuance of this permit including, but not limited to, any action to attack, set aside, void, challenge, or annul this development approval and any environmental document or decision. The City will promptly notify the Applicants of any claim, action, or proceeding. The City may elect to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to this indemnification. In the event of such election, the Applicants shall pay all of the costs related thereto, including without limitation reasonable attorney's fees and costs. In the event of a disagreement between the City and Applicants regarding litigation

issues, the City shall have the authority to control the litigation and make litigation related decisions, including, but not limited to, settlement or other disposition of the matter. However, the Applicants shall not be required to pay or perform any settlement unless such settlement is approved by the Applicants.

NOTICE TO APPLICANTS: Pursuant to Government Code Section 66020, you are hereby notified that the 90-day period to protest the imposition of the fees, dedications, reservations or other exactions described in this resolution commences on the effective date of this resolution. To protest the imposition of any fee, dedications, reservations or other exactions described in this resolution you must comply with the provisions of Government Code Section 66020. Generally the resolution is effective upon expiration of the tenth day following the date of adoption of this resolution, unless the resolution is appealed or called for review as provided in the Solana Beach Zoning Ordinance.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Solana Beach, California, held on the 24th day of May, 2017, by the following vote:

AYES: Councilmembers –

NOES: Councilmembers –

ABSENT: Councilmembers –

ABSTAIN: Councilmembers –

_____
MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

_____
JOHANNA N. CANLAS, City Attorney

ATTEST:

_____
ANGELA IVEY, City Clerk

INBOX

Read Message

From: fstribling@cox.net
Date: Sunday, May 14, 2017 8:07 PM
To: marco@coastlawgroup.com, steve@architects.net
Cc: ljackel@fenwayproperties.com
Subject: Compromise for DRP
Size: 45 KB
Attachments: DRP REQUESTED ACTION.doc (36.3 KB)

Mr. Gonzalez and Mr. Dalton:

We are writing to you as Mr. Jackel's representatives because we want to avoid the unfortunate misunderstandings that have occurred from our prior communications with Mr. Jackel. We would appreciate communication that focuses on the impacts from the design of the house (because the View Ordinance focuses on whether the house is designed to minimize view impairment), not on personal criticism. We do not have development experience, we are not familiar with the architectural design process, and we are not design professionals. Consequently, it has been difficult for us to make clear and quick decisions. We apologize that our limitations have frustrated Mr. Jackel and you.

We have reviewed the revised 2nd floor plan that was presented by Mr. Dalton at the City Council meeting on May 10th. On Thursday, May 11th we had the opportunity to talk with Mr. Dalton and receive clarifications from him regarding the plan. We now understand the May 10th 2nd floor plan.

One of the fundamental objections we have had to Mr. Jackel's plan has been the unnecessary placement of the southerly 2nd floor deck in our ocean view corridor. Mr. Jackel currently has an ocean view from his first floor. Also, he has a generous ocean view from his existing roof (the proposed 2nd floor). Consequently, there is no need to block our ocean view for Mr. Jackel to get a view.

Mr. Jackel proposes to block part of our ocean view to improve his indisputable existing 2nd floor ocean view. Although Mr. Jackel claims he is only taking a small part of our ocean view, there is no good reason to take any of our ocean view since he already has a generous ocean view. If all of our neighbors were allowed to take a small part of our ocean view, then at some point we would have little or no ocean view remaining. Taking some of our ocean view to improve his view (at our expense) is not consistent with the fundamental principles of the

View Ordinance. We are confident Mr. Jackel would vigorously pursue a view claim if the Helig's proposed to construct a 2nd floor deck in Mr. Jackel's ocean view.

When Mr. Dalton presented the new 2nd floor plan at the Council meeting this past Wednesday, Mr. Dalton told the Council that the new 2nd floor plan has "a four-foot deck" and that the deck has been moved to the southwest corner of the house in conjunction with the realignment of the interior space to move the location of the master bedroom and bathroom. Mr. Dalton represented to the Council that the newly revised 2nd floor deck will only extend four feet south of the second floor building facade.

Although it has been our continuous objection that the 2nd floor deck should not extend south of the second floor building facade, and the 2nd floor building facade must not extend south of the 2nd floor building facade of the Helig property next door, we propose a compromise concerning the width of the deck in response to your May 10th 2nd floor plan. Based on the proposed location of the 2nd floor building facade as shown on the May 10th 2nd floor plan (which we assume generally lines up with the building facade of the Helig property), we will meet you halfway with regard to the width of the 2nd floor deck. As a compromise, we will agree to a two-foot extension of the deck south of the second floor building facade instead of the four-foot extension that you propose.

Nevertheless, if Mr. Jackel desires a four-foot wide deck adjoining his bedroom he can have it by simply moving the north interior wall of the bedroom two feet to the north into the "open space" area of the oversized stairwell shown on the May 10th 2nd floor plan. This enables Mr. Jackel to extend his deck two feet to the north and retain the four-foot wide deck. Consequently, Mr. Jackel can have the same square footage for his bedroom and for his deck that is proposed in your May 10th 2nd floor plan. This solution is the essence of what the View Ordinance means when it requires that the house be designed to minimize view impairment.

Our only purpose in discussing how the design of the 2nd floor plan can be modified is to satisfy the analysis required by the View Ordinance. We do not have any interest in designing Mr. Jackel's house. We merely want to show that a simple modification to the design is feasible which will eliminate the view impairment. There are other ways to accomplish this outcome. Our observation about the design demonstrates that there is a feasible and reasonable solution to eliminate view impairment.

Of course, in order to avoid misunderstandings, in the context of discussions concerning the size of building improvements to be constructed our references to "dimensions" concerning the width of the deck are based on measurements to the outside edges of the deck (e.g., the two feet is measured from the exterior building facade to the southerly outside edge of the deck handrail). This is consistent with Mr. Dalton's representation to the City Council on May 10th that the new 2nd floor plan has "a four-foot deck."

I have attached the handout that we delivered to the Council members at the May 10th City Council meeting. Our handout describes the actions that we requested from the City Council to resolve our objections to Mr. Jackel's project. As you can see, we objected to the extension of the 2nd floor deck and the corresponding south roof overhang beyond the line equal to the south building facade of the Helig house so the deck and four-foot roof overhang would not block our ocean view. We assume that the southerly roof overhang above the 2nd floor deck applicable to your May 10th 2nd floor plan will line up with and match the southerly outside edge of the 2nd floor deck and if the width of the deck is reduced, then the roof overhang will be adjusted to line up with the southerly outside edge of the deck. If this approach will be the case with regard to our proposed compromise concerning the width of the deck, then we will certainly withdraw our objection concerning the roof overhang.

It was clear at the May 10th Council meeting that Council members Nichols, Edson, and Hegenauer are firmly committed that no 2nd floor deck or the second floor building facade should extend or be located south of a line that is lined up with the 2nd floor facade of the Helig property. Based on the statements by these Council members at the Council Meeting, each of them reached this decision based on their evaluation of our view claim and based their determination of the "neighborhood character" under the Development Review Permit.

We would like to be able to work out a resolution of all outstanding issues concerning Mr. Jackel's project so that we can go to the next Council meeting and support a final revised plan. Hopefully our compromise proposal of a 50/50 split on Mr. Dalton's proposed four-foot wide 2nd floor deck will resolve the deck issue. (Again, Mr. Jackel can still have a four-foot wide deck simply by making an adjustment to the north interior wall of the master bedroom.) It is our sincere desire that Mr. Jackel accept our compromise proposal concerning the 2nd floor deck.

If we can resolve this fundamental issue, we are hopeful that any remaining issues can be amicably concluded. Please let us know if Mr. Jackel will accept our compromise proposal concerning the 2nd floor deck. Thank you.

Sincerely,

Frank and Michele Stribling

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REQUESTED ACTION: Approve this project subject to the following conditions:

(1) 2ND Floor Deck and Roof Overhang.

(a) Reduce the size of the proposed 2nd floor deck (on the south side of the house) by 7 ft. so that there is no deck south of the 2nd floor building façade.

(b) Eliminate the southerly 2nd floor roof overhang south of the 2nd floor building facade.

(c) Allow the 2nd floor building envelope to be moved to the north by up to 10 feet.

(2) Do Not Change the Height of Roof Above the One-Story Part of House.

The maximum finished height of the roof over the one-story part of the house (on the south side of the house) will remain at 95 MSL as story poled.

(3) Condition Approval to Prohibit Conversion of the Roof for Use as a Deck.

Prohibit the conversion of any part of the flat roof over the southerly one-story portion of the house to become or be used as a deck or to be used to place personal property or anything on the roof such as potted plants.

(This is the same procedure the Council uses to prohibit the future enclosure of a deck, balcony, or porch area that has walls on three sides.)

(4) Landscape Plan - Eliminate View Killing Vegetation.

Revise the Landscape Plan to eliminate the palm trees (3 total) and Pittosporum "Silver Sheen" shrubs south of the 2nd floor building facade (the southerly 7 on the east side and 8 on the west side).

Replace the palm trees and Silver Sheen shrubs with shrubs that will not be taller than 6 feet at maturity.

STAFF REPORT
CITY OF SOLANA BEACH

TO:	Honorable Mayor and City Councilmembers
FROM:	Gregory Wade, City Manager
MEETING DATE:	May 24, 2017
ORIGINATING DEPT:	Community Development/City Attorney
SUBJECT:	**Introduce (1st Reading) Ordinance No. 478 to Prohibit the Establishment and Operation of all Commercial Marijuana Activities, Including Marijuana Cultivation, Processing, Delivery, and Dispensary Activities, in the City of Solana Beach**

BACKGROUND:

In 1996, California voters adopted Proposition 215, which is known as the Compassionate Use Act ("CUA") and which is codified as Health & Safety Code Section 11362.5 to allow for the use of medical marijuana for medicinal purposes. The CUA exempts qualified patients and their primary caregivers from criminal liability under state law for the possession and cultivation of marijuana for personal medical use. A qualified patient is an individual who has received a physician's recommendation for the use of marijuana for a medical purpose, and the primary caregiver is someone who has consistently assumed responsibility for the housing, health, or safety of a patient.

In 2003, the Legislature adopted the Medical Marijuana Program ("MMP") in Health & Safety Code Section 11362.7 et seq. to clarify lawful medical marijuana practices such as who may possess marijuana and how much of the plant can be cultivated, and to establish a voluntary identification card program. The MMP has been amended to provide that local agencies may regulate the location, operation, or establishment of a medical marijuana cooperative or collective. The MMP provides that a qualified patient or primary caregiver may grow or keep no more than 6 mature or 12 immature marijuana plants, or 8 ounces of dried marijuana (per qualified patient), and that local agencies may set higher limits for the amount of plants or dried marijuana that a qualified patient or primary caregiver may grow or keep.

On October 9, 2015, Governor Brown approved the Medical Marijuana Regulation and Safety Act ("The MMRS Act"), which establishes comprehensive, statewide licensure and regulations for commercial medical marijuana activity that respects local control,

CITY COUNCIL ACTION:

protects patients, promotes public safety, and preserves the environment. The MMRS Act is comprised of three separate bills: Senate Bill 643 (McGuire), Assembly Bill 243 (Wood), and Assembly Bill 266 (Bonta, Cooley, Lackey and Jones-Sawyer). Only AB 243 and AB 266 affect local regulations. In general, AB 243 relates to medical marijuana cultivation, and AB 266 relates to licensing of cultivation, deliveries, and mobile dispensaries.

In response to the MMRS Act, the City Council adopted Ordinance No. 468, which enacted Section 17.60.190 of the Solana Beach Municipal Code ("SBMC") to prohibit the cultivation, processing, and delivery of marijuana as well as to prohibit all other commercial cannabis activities in the form of dispensaries or collectives. All of these prohibitions apply to any form of marijuana, except for the ban on delivery, which is limited to prohibiting the delivery of medical marijuana.

On November 8, 2016, the majority of voters statewide approved Proposition 64 ("Prop 64") to allow for the use and regulation of recreational marijuana. Per the official summary by the Attorney General, the new law:

- Legalizes marijuana under state law, for use by adults 21 years of age or older;
- Designates state agencies to license and regulate the marijuana industry;
- Imposes state excise tax of 15% on retail sales of marijuana, and state cultivation taxes on marijuana of $9.25 per ounce of flowers and $2.75 per ounce of leaves;
- Exempts medical marijuana from some taxation;
- Establishes packaging, labeling, advertising, and marketing standards and restrictions for marijuana products;
- Prohibits marketing and advertising marijuana directly to minors;
- Allows local regulation and taxation of marijuana;
- Prohibits smoking marijuana in places where smoking tobacco is prohibited; and
- Authorizes resentencing and destruction of records for prior marijuana convictions.

While currently twenty-eight states and the District of Columbia have laws legalizing marijuana in some form, marijuana cultivation and possession remains a federal crime. However, under former President Barack Obama, the U.S. Government did not prosecute in jurisdictions where marijuana laws exist and are complied with. It is unknown how the current administration will affect federal policy towards the states where either recreational or medical marijuana is permitted.

Staff recommends that the City Council introduce Ordinance 478 to remove any ambiguity that its marijuana ban applies to all commercial or recreational marijuana related activities, not just the cultivation, production or delivery of medical marijuana.

DISCUSSION:

Prop 64 allows local government to regulate the cultivation and use of marijuana for non-medical purposes, including prohibiting such uses. SBMC Section 17.60.190

already prohibits the cultivation, use, delivery, and sale of marijuana. Upon review of Section 17.60.190, the ordinance, on its face, appears to ban all marijuana despite its title for the prohibition of medical marijuana activities. Except for the definition of "delivery," this Section of the SBMC does not incorporate the definitions from the Business and Professions Code as established by the MMRS Act, which would have limited the scope of this ordinance to medical marijuana because the new sections in the Business and Professions Code and Health & Safety Code added by Prop 64 are entirely separate from those state regulations on medical marijuana activities as set forth in the MMRS Act. The City's definitions of "marijuana," "marijuana cultivation," "marijuana processing," "marijuana dispensaries" are not specific to medical marijuana. The City's definition of "marijuana collectives" is also specific to medical marijuana, though the definition is not tied to the MMRS Act, and there is no specific prohibition against medical marijuana collectives apart from the prohibition against marijuana dispensaries in general.

Additionally, the SBMC does not list any type of medical marijuana uses, such as dispensaries, cultivation, manufacturing, processing, distribution, and delivery, as a permitted or conditional use in Zoning Ordinance SBMC Title 17. Thus, medical marijuana uses (or any other marijuana use) have always been prohibited in the City of Solana Beach. Only new uses that are similar to existing uses shall be permitted, permitted with limitations, or conditionally permitted. Because marijuana commercial activities are not similar to any permitted, permitted with limitations, or conditionally permitted use, recreational marijuana activities remain prohibited in the City. In other words, the City's Land Use Code is a "permissive zoning" code. Accordingly, no one can apply for a business permit or establish a business for the commercial cultivation or for the retail sale of recreational marijuana, such as by the establishment of a marijuana collective or dispensary, in the City. Therefore, the cultivation and the processing of marijuana and the establishment of dispensaries in the City are prohibited regardless of the type or purpose for the marijuana.

Recently, proposed regulations have been issued by three California state agencies—the Department of Public Health's Office of Manufactured Cannabis Safety ("CDPH"), the Bureau of Cannabis Control ("Bureau"), and the Department of Food & Agriculture ("CDFA"). These regulations would establish specific application requirements and licensing fees for state licenses, institute a track and trace system for medical cannabis, and establish operational requirements for medical cannabis businesses under the MMRS Act. Information from these state agencies suggests that unless a city has a specific ordinance against recreational or commercial marijuana activities, the State will accept and issue licenses for commercial marijuana activities in that jurisdiction, regardless of whether that jurisdiction has permissive zoning.

In April, the Governor introduced a budget trailer bill with proposed legislation to reconcile the MMRS Act and Prop 64 without making any substantive changes to Prop 64 that would require a vote of the people. Most of the changes, therefore, affect the medical marijuana laws. Nonetheless, one provision of the trailer bill requires local jurisdictions to provide the State with copies of ordinances related to commercial

cannabis activity and local contact information. More importantly, the following provisions from the MMRS Act do not conflict with Prop 64, but are not included in the trailer bill that, by their absence, would affect the City's ability to enforce its marijuana ban.

- A provision expressly empowering local governments to conduct enforcement of state health and safety and other standards if they request and are granted that authority from the relevant state agency;
- A provision expressly empowering local governments to inspect the books of cannabis businesses and conduct audits — vital with any all-cash business; and
- A provision requiring a business' ability to operate to be suspended upon revocation of a local permit, subsequent to the issuance of a state license (consistent with Prop. 64 provision providing that state licenses cannot be issued if they are in violation of local ordinances).

It is clearly the intent of the State to promote and facilitate the marijuana industry as much as possible. Consequently, Staff recommends that the City Council update SBMC Section 17.60.190 to remove any ambiguity that its marijuana ban applies to all commercial or recreational marijuana related activities, not just the cultivation, production or delivery of medical marijuana. An unambiguous ordinance will assist enforcement efforts as they arise.

The proposed marijuana ban does have a few limitations because Prop 64 preempts local regulation of certain activities. Prop 64 provides that local governments can reasonably regulate, but cannot ban, personal indoor cultivation of up to six living marijuana plants within the person's private residence. Indoor cultivation includes cultivation in a greenhouse on the same property as the residence that is not physically part of the home, as long as it is fully enclosed, secure and not visible from a public space. Prop 64, however, continues to allow local governments to regulate, and to ban, personal outdoor cultivation. Prop 64 also prohibits local agencies from preventing the transportation of marijuana through their jurisdiction if the transportation complies with state law and licensing requirements. Similarly, Prop 64 prohibits local agencies from preventing the delivery of marijuana provided the delivery service is in compliance with state and local laws and licensing requirements. Accordingly, the proposed ordinance recognizes that the City's ban on marijuana extends only so far as it is not preempted by state or federal laws.

Finally, it should be noted that Prop 64 bans the smoking of marijuana products in any location that where smoking a tobacco product is prohibited. Consequently, the City's smoking ordinance (SBMC Chapter 6.16) does not need to be updated to prohibit the smoking of marijuana in public.

CEQA COMPLIANCE STATEMENT:

This is not a project as defined by CEQA because there is no development or physical change that would result from the adoption of Ordinance No. 478.

FISCAL IMPACT:

There is no direct impact to the General Fund. Ordinance No. 478 expressly prohibits all commercial marijuana activities, including the delivery, cultivation and dispensing of all marijuana. Only incidental indirect costs would be incurred on law enforcement related to marijuana violations.

WORK PLAN:

N/A

OPTIONS:

- Approve Staff recommendation and introduce Ordinance No. 478.
- Approve Staff recommendation with alternative amendments/modifications.
- Deny Staff recommendation - If no action is taken and despite the current prohibitions on the deliveries and cultivation of marijuana within the City limits, there is a risk that the state would license commercial marijuana activities in the City.

DEPARTMENT RECOMMENDATION:

Staff recommends that the City Council:

1. Conduct the Public Hearing: Open the public hearing, Report Council disclosures, Receive public testimony, Close the public hearing.
2. Introduce Ordinance No. 478 prohibiting the delivery, cultivation and dispensing of all marijuana.

CITY MANAGER'S RECOMMENDATION:

Approve Department Recommendation.

Gregory Wade, City Manager

Attachments:

1. Ordinance No. 478
2. SBMC § 17.60.190 (redline)

ORDINANCE NO. 478

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, ADDING SECTION 17.60.190 TO THE SOLANA BEACH MUNICIPAL CODE THAT EXPRESSLY PROHIBITS THE ESTABLISHMENT AND OPERATION OF ALL COMMERCIAL MARIJUANA ACTIVITIES, INCLUDING MARIJUANA CULTIVATION, PROCESSING, DELIVERY, AND DISPENSARY ACTIVITIES, IN THE CITY OF SOLANA BEACH

WHEREAS, in 1996, California voters adopted Proposition 215, which is known as the Compassionate Use Act ("CUA") and which is codified as Health & Safety Code Section 11362.5 to allow for the use of medical marijuana for medicinal purposes. The CUA exempts qualified patients and their primary caregivers from criminal liability under state law for the possession and cultivation of marijuana for personal medical use. A qualified patient is an individual who has received a physician's recommendation for the use of marijuana for a medical purpose, and the primary caregiver is someone who has consistently assumed responsibility for the housing, health, or safety of a patient; and

WHEREAS, in 2003, the Legislature adopted the Medical Marijuana Program ("MMP") in Health & Safety Code Section 11362.7 et seq. to clarify lawful medical marijuana practices such as who may possess marijuana and how much of the plant can be cultivated, and to establish a voluntary identification card program. The MMP has been amended to provide that local agencies may regulate the location, operation, or establishment of a medical marijuana cooperative or collective. The MMP provides that a qualified patient or primary caregiver may grow or keep no more than 6 mature or 12 immature marijuana plants, or 8 ounces of dried marijuana (per qualified patient), and that local agencies may set higher limits for the amount of plants or dried marijuana that a qualified patient or primary caregiver may grow or keep; and

WHEREAS, on October 9, 2015, Governor Brown approved the Medical Marijuana Regulation and Safety Act ("The MMRS Act"), which establishes comprehensive, statewide licensure and regulations for commercial medical marijuana activity that respects local control, protects patients, promotes public safety, and preserves the environment. The MMRS Act is comprised of three separate bills: Senate Bill 643 (McGuire), Assembly Bill 243 (Wood), and Assembly Bill 266 (Bonta, Cooley, Lackey and Jones-Sawyer). Only AB 243 and AB 266 affect local regulations. In general, AB 243 relates to medical marijuana cultivation, and AB 266 relates to licensing of cultivation, deliveries, and mobile dispensaries; and

WHEREAS, in response to the MMRS Act, the City Council adopted Ordinance No. 468, which enacted Section 17.60.190 of the Solana Beach Municipal Code ("SBMC") to prohibit the cultivation, processing, and delivery of marijuana as well as to prohibit all other commercial cannabis activities in the form of dispensaries or

collectives. All of these prohibitions apply to any form of marijuana, except for the ban on delivery, which is limited to prohibiting the delivery of medical marijuana; and

WHEREAS, on November 8, 2016, the majority of voters statewide approved Proposition 64 ("Prop 64") to allow for the use and regulation of recreational marijuana. Per the official summary by the Attorney General, the new law:

- Legalizes marijuana under state law, for use by adults 21 or older;
- Designates state agencies to license and regulate marijuana industry;
- Imposes state excise tax of 15% on retail sales of marijuana, and state cultivation taxes on marijuana of $9.25 per ounce of flowers and $2.75 per ounce of leaves;
- Exempts medical marijuana from some taxation;
- Establishes packaging, labeling, advertising, and marketing standards and restrictions for marijuana products;
- Prohibits marketing and advertising marijuana directly to minors;
- Allows local regulation and taxation of marijuana;
- Prohibits smoking marijuana in places where smoking tobacco is prohibited; and
- Authorizes resentencing and destruction of records for prior marijuana convictions.

WHEREAS, recently, proposed regulations have been issued by three California state agencies—the Department of Public Health's Office of Manufactured Cannabis Safety ("CDPH"), the Bureau of Cannabis Control ("Bureau"), and the Department of Food & Agriculture ("CDFA"). These regulations would establish specific application requirements and licensing fees for state licenses, institute a track and trace system for medical cannabis, and establish operational requirements for medical cannabis businesses under the MMRS Act. Information from these state agencies suggests that unless a city has a specific ordinance against recreational or commercial marijuana activities, the State will accept and issue licenses for commercial marijuana activities in that jurisdiction, regardless of whether that jurisdiction has permissive zoning; and

WHEREAS, in April, the Governor introduced a budget trailer bill with proposed legislation to reconcile the MMRS Act and Prop 64 without making any substantive changes to Prop 64 that would require a vote of the people. Most of the changes, therefore, affect the medical marijuana laws. Nonetheless, one provision of the trailer bill requires local jurisdictions to provide the State with copies of ordinances related to commercial cannabis activity and local contact information. More importantly, the following provisions from the MMRS Act do not conflict with Prop 64, but are not included in the trailer bill that, by their absence, would affect the City's ability to enforce its marijuana ban:

- A provision expressly empowering local governments to conduct enforcement of state health and safety and other standards if they request and are granted that authority from the relevant state agency;

- A provision expressly empowering local governments to inspect the books of cannabis businesses and conduct audits — vital with any all-cash business; and
- A provision requiring a business' ability to operate to be suspended upon revocation of a local permit, subsequent to the issuance of a state license (consistent with Prop. 64 provision providing that state licenses cannot be issued if they are in violation of local ordinances).

WHEREAS, while currently twenty-eight states and the District of Columbia have laws legalizing marijuana in some form, marijuana cultivation and possession remains a federal crime;

WHEREAS, under former President Barack Obama, the U.S. Government did not prosecute in jurisdictions where marijuana laws exist and are complied with. It is unknown how the current administration will affect federal policy towards the states where either recreational or medical marijuana is permitted; and

WHEREAS, the City is concerned that the reported negative impacts of medical marijuana cultivation, processing and distribution activities will substantially increase for recreational or commercial marijuana, including offensive odors, illegal sales and distribution of marijuana, trespassing, theft, violent robberies and robbery attempts, fire hazards, and problems associated with mold, fungus, and pests; and

WHEREAS, the City is concerned that the recreational use of marijuana in the City and the commercial availability of marijuana in the City will attract greater felony behavior, increase crime in the City, and lead to the exploitation of children; and

WHEREAS, the City is highly concerned of the likelihood of a severe increase in fatal crashes or incidents involving drivers who recently used marijuana should marijuana be commercially available in the City; and

WHEREAS, the City is concerned for the health and safety of its residents should marijuana be commercially available in the City; and

WHEREAS, based on the experiences of other cities and states where recreational marijuana is allowed, these negative effects on the public health, safety, and welfare are likely to occur, and continue to occur, in the City due to the establishment and operation of commercial marijuana activities; and

WHEREAS, based on the findings above, the potential establishment of commercial marijuana activities in the City without an express ban on such activities poses a current and immediate threat to the public health, safety, and welfare in the City due to the negative impacts of such activities as described above; and

WHEREAS, the issuance or approval of business licenses, subdivisions, use permits, variances, building permits, or any other applicable entitlement for commercial

marijuana activities, including marijuana cultivation, processing, delivery, and/or distribution, will result in the aforementioned threat to public health, safety, and welfare; and

WHEREAS, it is in the interest of the City, its residents, and its lawfully permitted businesses that the City adopt this ordinance to expressly prohibit the establishment and operation of all marijuana commercial activities, including marijuana cultivation, processing, delivery, and dispensary activities as well as the issuance of any use permit, variance, building permit, or any other entitlement, license, or permit for any such activity, except where the City is preempted by federal or state law from enacting a prohibition on any such activity or a prohibition on the issuance of any use permit, variance, building permit, or any other entitlement, license, or permit for any such activity.

NOW THEREFORE, the City Council of the City of Solana Beach does ordain as follows:

Section 1. All of the above statements are true; and

Section 2. Section 17.60.190 of the Solana Beach Municipal Code is hereby amended to read as follows:

17.60.190 Prohibited Marijuana Activities

A. Legislative Findings and Statement of Purpose:

1. The city council finds that prohibitions on commercial marijuana activities, marijuana cultivation, marijuana processing, marijuana delivery, and marijuana dispensaries are necessary for the preservation and protection of the public health, safety, and welfare for the city and its community and is consistent with federal law that makes the manufacture, possession or use of marijuana to be a crime. The city council's prohibition of such activities is within the authority conferred upon the city council by federal and state law.

2. On October 9, 2015, the Governor signed the "Medical Marijuana Regulation and Safety Act" (the "MMRS Act") into law. The MMRS Act becomes effective January 1, 2016, and contains new statutory provisions that allow local agencies to regulate or ban the cultivation, storage, manufacture, transport, delivery, provision, or other related activities pertaining to medical marijuana.

3. The City Council finds that the State is not authorized to issue a license for the cultivation of medical marijuana within the City because Health & Safety Code Section 11362.777(b)(3) provides that the Department of Food and Agriculture may not issue a State license to cultivate medical marijuana within a city that prohibits cultivation.

4. The City Council further finds that state licensed dispensaries shall not deliver medical marijuana within the City because Business & Professions Code Section 19340(a) expressly prohibits the delivery of marijuana in a local jurisdiction that has explicitly prohibited the delivery by ordinance.

5. On November 8, 2016, the state voters approved the Adult Use of Marijuana Act, also identified as Proposition 64 ("Prop 64"). Prop 64 legalized adult non-medical use of marijuana and established a state licensing scheme for non-medical marijuana facilities largely patterned on the MMRS Act, and generally: (1) allows adults 21 years and older to possess up to one ounce of marijuana and cultivate up to six plants for personal use; (2) regulates and taxes the production, manufacture, and sale of marijuana for adult use; (3) allows local regulation and taxation of marijuana; (4) prohibits smoking marijuana in places where smoking tobacco is prohibited and (5) rewrites criminal penalties so as to reduce the most common marijuana felonies to misdemeanors and allow prior offenders to petition for reduced charges. Prop 64, similar to the MMRS Act, allows cities and counties to prohibit the establishment of non-medical facilities and licenses that are provided under Prop 64, providing for minimal personal use exceptions.

6. The city council finds that the state is not authorized to issue licenses for commercial marijuana activities within the city because Business & Professions Code Section 26055(e) provides that the state may not issue a state license for any commercial marijuana activities within a city that prohibits such activities.

B. Definitions. For purposes of this Section, the following definitions shall apply:

1. "Commercial marijuana activity" includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, distribution, delivery, or sale of marijuana and marijuana products.

2. "Delivery" means the commercial transfer of marijuana or marijuana products to a customer, qualified patient or primary caregiver. "Delivery" also includes the use by a marijuana dispensary or retailer of any technology platform owned and controlled by a marijuana dispensary or retailer that enables customers, qualified patients, or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary or retailer of marijuana or marijuana products.

3. "Marijuana" means any or all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin or separated resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin, including marijuana infused in foodstuff or any other ingestible or consumable product containing marijuana. The term "marijuana" shall also include "medical marijuana" as such phrase is used in the August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, as may be amended from time to time, that was issued by the office of the Attorney General for the state of

California or subject to the provisions of California Health and Safety Code Section 11362.5 (Compassionate Use Act of 1996) or California Health and Safety Code Sections 11362.7 to 11362.83 (Medical Marijuana Program Act).

4. "Marijuana Cultivation" means growing, planting, harvesting, drying, curing, grading, trimming, or processing of marijuana.

5. "Marijuana Processing" means any method used to prepare marijuana or its byproducts for commercial retail and/or wholesale, including but not limited to: drying, cleaning, curing, packaging, and extraction of active ingredients to create marijuana related products and concentrates.

6. "Marijuana Dispensary" or "Marijuana Dispensaries" means any business, office, store, facility, location, retail storefront or wholesale component of any establishment, cooperative or collective that delivers whether mobile or otherwise, dispenses, distributes, exchanges, transmits, transports, sells or provides marijuana to any person for any reason, including members of any medical marijuana cooperative or collective consistent with the August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, as may be amended from time to time, that was issued by the office of the Attorney General for the state of California, or for the purposes set forth in California Health and Safety Code Section 11362.5 (Compassionate Use Act of 1996) or California Health and Safety Code Sections 11362.7 to 11362.83 (Medical Marijuana Program Act).

7. "Medical marijuana collective" or "cooperative or collective" means any group that is collectively or cooperatively cultivating and distributing marijuana for medical purposes that is organized in the manner set forth in the August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, as may be amended from time to time, that was issued by the office of the Attorney General for the state of California or subject to the provisions of California Health and Safety Code Section 11362.5 (Compassionate Use Act of 1996) or California Health and Safety Code Sections 11362.7 to 11362.83 (Medical Marijuana Program Act).

C. Prohibited Activities. Commercial marijuana activities, marijuana cultivation, marijuana processing, marijuana delivery, and marijuana dispensaries shall be prohibited activities in the City, except where the City is preempted by federal or state law from enacting a prohibition on any such activity. No use permit, variance, building permit, or any other entitlement, license, or permit, whether administrative or discretionary, shall be approved or issued for commercial marijuana activities, marijuana cultivation, marijuana processing, marijuana delivery, or the establishment or operation of a marijuana dispensary or medical marijuana collective in the City, and no person shall otherwise establish or conduct such activities in the City, except where the City is preempted by federal or state law from enacting a prohibition on any such activity for which the use permit, variance, building permit, or any other entitlement, license, or permit is sought.

D. Public Nuisance. Any violation of this chapter is hereby declared to be a public nuisance.

E. Violations. To the extent not preempted by state law, any person or business that violates any provision of this section shall be subject to the enforcement provisions of Chapters 1.16 and 1.18 of this Code.

Section 3. The City Council finds that this Ordinance is exempt from the provisions of the California Environmental Quality Act ("CEQA") pursuant to Section 15061(b)(3) because there is no possibility that the activity in question may have a significant effect on the environment.

Section 4. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Chapter, or its application to any other person or circumstance. The City Council declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

EFFECTIVE DATE: This Ordinance shall be effective thirty (30) days after its adoption. Within fifteen (15) days after its adoption, the City Clerk of the City of Solana Beach shall cause this Ordinance to be published pursuant to the provisions of Government Code Section 36933.

INTRODUCED AND FIRST READ at a regular meeting of the City Council of the City of Solana Beach, California, on the 24th day of May, 2017; and

THEREAFTER ADOPTED at a regular meeting of the City Council of the City of Solana Beach, California, on the 14th day of June, 2017, by the following vote:

AYES: Councilmembers –
NOES: Councilmembers –
ABSTAIN: Councilmembers –
ABSENT: Councilmembers –

_____
MIKE NICHOLS, Mayor

APPROVED AS TO FORM: ATTEST:

JOHANNA N. CANLAS, City Attorney

ANGELA IVEY, City Clerk

17.60.190 Prohibited ~~medical~~ marijuana activities.

A. Legislative Findings and Statement of Purpose.

1. The city council finds that ~~the~~ prohibitions on commercial marijuana activities, marijuana cultivation, marijuana processing, marijuana delivery, and marijuana dispensaries are necessary for the preservation and protection of the public health, safety, and welfare for the city and its community and is consistent with federal law that makes the manufacture, possession or use of marijuana to be a crime. The city council's prohibition of such activities is within the authority conferred upon the city council ~~in its charter and~~by federal and state law.

2. On October 9, 2015, the Governor signed the "Medical Marijuana Regulation and Safety Act" ("~~Act~~MMRSA") into law. The ~~Act~~MMRSA becomes effective January 1, 2016, and contains new statutory provisions that allow local agencies to regulate or ban the cultivation, storage, manufacture, transport, delivery, provision, or other related activities pertaining to medical marijuana.

3. The city council finds that the state is not authorized to issue a license for the cultivation of medical marijuana within the city because Health and Safety Code Section 11362.777(b)(3) provides that the Department of Food and Agriculture may not issue a state license to cultivate medical marijuana within a city that prohibits cultivation.

4. The city council further finds that state licensed dispensaries shall not deliver medical marijuana within the city because Business and Professions Code Section 19340(a) expressly prohibits the delivery of marijuana in a local jurisdiction that has explicitly prohibited the delivery by ordinance.

5. On November 8, 2016, the state voters approved the Adult Use of Marijuana Act, also identified as Proposition 64 ("Prop 64"). Prop 64 legalized adult non-medical use of marijuana and established a state licensing scheme for non-medical marijuana facilities largely patterned on the MMRS Act, and generally: (1) allows adults 21 years and older to possess up to one ounce of marijuana and cultivate up to six plants for personal use; (2) regulates and taxes the production, manufacture, and sale of marijuana for adult use; (3) allows local regulation and taxation of marijuana; (4) prohibits smoking marijuana in places where smoking tobacco is prohibited and (5) rewrites criminal penalties so as to reduce the most common marijuana felonies to misdemeanors and allow prior offenders to petition for reduced charges. Prop 64, similar to the MMRS Act, allows cities and counties to prohibit the establishment of non-medical facilities and licenses that are provided under Prop 64, providing for minimal personal use exceptions.

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1. "Commercial marijuana activity" includes the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, labeling, transportation, distribution, delivery, or sale of marijuana and marijuana products.

2~~1~~. "Delivery" ~~shall have the same meaning as set forth in Business and Professions Code Section 19300.5(m) as the same may be amended from time to time~~means the commercial transfer of marijuana or marijuana products to a customer, qualified patient or primary caregiver. "Delivery" also includes the use by a marijuana dispensary or retailer of any technology platform owned and controlled by a marijuana dispensary or retailer that enables customers, qualified patients, or primary caregivers to arrange for or facilitate the commercial transfer by a licensed dispensary or retailer of marijuana or marijuana products.

2~~3~~. "Marijuana" means any or all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin or separated resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin, including marijuana infused in foodstuff or any other ingestible or consumable product containing marijuana. The term "marijuana" shall also include "medical marijuana" as such phrase is used in the August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, as may be amended from time to time, that was issued by the office of the Attorney General for the state of California or subject to the provisions of California Health and Safety Code Section 11362.5 (Compassionate Use Act of 1996) or California Health and Safety Code Sections 11362.7 to 11362.83 (Medical Marijuana Program Act).

3~~4~~. "Marijuana cultivation" means growing, planting, harvesting, drying, curing, grading, trimming, or processing of marijuana.

4~~5~~. "Marijuana processing" means any method used to prepare marijuana or its byproducts for commercial retail and/or wholesale, including but not limited to: drying, cleaning, curing, packaging, and extraction of active ingredients to create marijuana related products and concentrates.

5~~6~~. "Marijuana dispensary" or "marijuana dispensaries" means any business, office, store, facility, location, retail storefront or wholesale component of any establishment, cooperative or collective that delivers ~~(as defined in Business and Professions Code Section 19300.5(m) or any successor statute thereto)~~ whether mobile or otherwise, dispenses, distributes, exchanges, transmits, transports, sells or provides marijuana to any person for any reason, including members of any medical marijuana cooperative or collective consistent with the August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, as may be amended from time to time, that was issued by the office of the Attorney General for the state of California, or for the purposes set forth in California Health and Safety Code Section 11362.5 (Compassionate Use Act of 1996) or California Health and Safety Code Sections 11362.7 to 11362.83 (Medical Marijuana Program Act).

~~6~~7. "Medical marijuana collective" or "cooperative or collective" means any group that is collectively or cooperatively cultivating and distributing marijuana for medical purposes that is organized in the manner set forth in the August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, as may be amended from time to time, that was issued by the office of the Attorney General for the state of California or subject to the provisions of California Health and Safety Code Section 11362.5 (Compassionate Use Act of 1996) or California Health and Safety Code Sections 11362.7 to 11362.83 (Medical Marijuana Program Act).

C. Prohibited Activities. Commercial marijuana activities, ~~M~~marijuana cultivation, marijuana processing, marijuana delivery, and marijuana dispensaries shall be prohibited activities in the city, except where the city is preempted by federal or state law from enacting a prohibition on any such activity. No use permit, variance, building permit, or any other entitlement, license, or permit, whether administrative or discretionary, shall be approved or issued for ~~the~~ commercial marijuana activities, ~~of~~ marijuana cultivation, marijuana processing, marijuana delivery, or the establishment or operation of a marijuana dispensary or medical marijuana collective in the city, and no person shall otherwise establish or conduct such activities in the city, except where the city is preempted by federal or state law from enacting a prohibition on any such activity for which the use permit, variance, building permit, or any other entitlement, license, or permit is sought.

D. Public Nuisance. Any violation of this chapter is hereby declared to be a public nuisance.

E. Violations. To the extent not preempted by state law, any person or business that violates any provision of this section shall be subject to the enforcement provisions of Chapters 1.16 and 1.18 SBMC.

STAFF REPORT
CITY OF SOLANA BEACH

TO: Honorable Mayor and City Councilmembers
FROM: Gregory Wade, City Manager
MEETING DATE: May 24, 2017
ORIGINATING DEPT: City Manager's Department
SUBJECT: **Consideration of Resolutions 2017-043 and 2017-044 Authorizing Execution of Task Order Contracts with The Energy Authority (TEA) and Calpine for Community Choice Aggregation (CCA) Consultant Services**

BACKGROUND:

Community Choice Aggregation (CCA), authorized by Assembly Bill 117, is a state law that allows cities, counties and other authorized entities to aggregate electricity demand within their jurisdictions in order to purchase and/or generate alternative energy supplies for residents and businesses within their jurisdiction while maintaining the existing electricity provider for transmission and distribution services. The goal of a CCA is to provide a higher percentage of renewable energy electricity at competitive and potentially cheaper rates than existing Investor Owned Utilities (IOUs), while giving consumers local choices and promoting the development of renewable power sources and local job growth. Since 2011, City Staff has been tasked by the City Council to research and analyze the possibility of developing a viable CCA for Solana Beach.

The City Council first placed researching CCA in the Council Work Plan in Fiscal Year 2012/2013 as an "Unprioritized Environmental Sustainability Issue". The following year, Council elevated the item to a "Priority Issue" and directed Staff to more closely monitor the progress of the San Diego Energy District, a local group studying the viability of the regional formation of a CCA in San Diego County.

On January 14, 2015, the City Council passed a Resolution of Support to continue studying the feasibility of the formation of a CCA and to demonstrate to the region that the City is committed to developing and implementing a local CCA. Soon after, the City was approached by a company, California Clean Power (CCP), who proposed preparing a feasibility/technical analysis report, at no cost to the City, to study the

CITY COUNCIL ACTION:

potential of a CCA in Solana Beach. This is the first necessary step in the process of developing a CCA.

On May 11, 2016, the City Council received the final Technical Study that demonstrated that a CCA, either through a public/private partnership or through a regional Joint Powers Authority (JPA), would be feasible for Solana Beach (a copy of the Technical Study is at http://solana-beach.hdso.net/docs/CCA/CCA_TechnicalAnalysis.pdf). During the meeting, the City Council directed Staff to prepare a request for proposals to seek comprehensive consultant services to further assess, finance, develop, implement and operate a CCA on behalf of the City. Council also directed Staff to continue meeting with neighboring cities including Del Mar, Encinitas, Carlsbad and Oceanside to discuss the possibility of partnering in a JPA or other regional CCA in the future. Staff then began working on developing a Request for Qualifications/Proposals (RFQ/P) to seek qualified consultants to assist with the development and ongoing administration of a local CCA.

On June 22, 2016, the City Council unanimously authorized the release of the RFQ/P to solicit proposals for the development and ongoing administration of a local CCA program. Staff came back to the City Council on September 14, 2016 with the results of the RFQ/P. The City received three (3) proposals and evaluated the RFQ/P submittals with assistance from outside expert consultants.

On November 16, 2016, the City Council authorized and directed the City Manager to negotiate a professional services agreement with The Energy Authority (TEA) and Calpine (formerly Noble Energy Services) to develop, finance, implement and manage a local CCA program. Collectively, TEA and Calpine have more than 36 years of experience in energy procurement, including operations, risk management and regulatory compliance and over 8 years of direct experience with CCA formation and operations and are currently providing services to seven of the active CCA's in California.

This item is before the City Council to consider adopting Resolution 2017-043 (Attachment 1) and Resolution 2017-044 (Attachment 2) authorizing the execution of professional services agreements and all other necessary contracts negotiated by City with TEA and Calpine and entering into Phase 1 of CCA outreach, development and implementation efforts.

DISCUSSION:

Community Choice Aggregation (CCA) is not a new phenomenon and several CCA's are currently operating successfully in California and in other states. To date, there are eight (8) fully operational CCA programs in California:

- Marin Clean Energy
- Sonoma Clean Power
- Lancaster Choice Energy

- CleanPowerSF
- Peninsula Clean Energy
- Redwood Coast Energy Authority
- Silicon Valley Clean Energy
- Apple Valley Choice Energy

There are another six (6) emerging CCA programs actively being developed:

- Central Coast Power
- East Bay Community Energy
- Monterey Bay Community Power
- San Jose Clean Energy
- South Bay Clean Power
- Western Riverside Association of Governments (WRCOG), Coachella Valley Association of Governments (CVAG) and San Bernardino Association of Governments (SANBAG) Cooperative
- Pico Rivera Innovative Municipal Energy
- San Jacinto Power

Until recently, most customers in the San Diego region had no choice in purchasing higher percentages of renewable energy. Aside from some high energy users who engage in Direct Access purchase of their energy, most customers must buy their energy from San Diego Gas and Electric (SDG&E), which has essentially enjoyed a monopoly of the energy market in San Diego County. A CCA, however, provides local choices to residents and businesses and also allows customers to remain with SDG&E if they choose to do so. Additionally, a CCA provides a local, transparent rate-setting process controlled by the local agency (in this case the City Council) with input from the community. A CCA also provides the ability to procure a much higher percentage of renewable energy, which is essential in order for the City to meet its state-mandated greenhouse gas reduction targets and climate action goals.

CCA Technical Study

Existing CCA programs have demonstrated the substantial benefits for residents and businesses, the environment, and the economy. The City's Technical Study completed in May 2016 demonstrated the feasibility of a City CCA and how the City could develop and administer a local CCA program that provides the benefits of this growing public power movement for its residents and businesses. The City acknowledges that the Technical Study was conducted by a consultant that may have had interest in pursuing administration of a future City CCA program. However, it was also imperative to have this technical analysis conducted by experienced consultants in order to determine if the energy load of the community would be sufficient to implement a successful CCA program. This was a vital and necessary initial step to assess the feasibility of a CCA. Given that the results of the Technical Study demonstrated that a CCA is feasible, the

City Council was unanimous in moving into the next stage of the process – the development and release of the RFQ/P.

It is important to note, however, that the RFQ/P specifically included a provision that the proposing entities should not rely solely on the conclusions reached in the Technical Study and, therefore, should consider the development of their own technical analysis to independently determine the viability of a successful CCA program for Solana Beach. Since the proposing entities would be responsible for providing all of the upfront costs of establishing the program, including credit support necessary to establish the CCA program, it was expected that the responding consultant teams would include their own analysis of the City's energy loads as part of the services provided. Staff has discussed this with TEA and they have confirmed that this would be part of their analysis during Phase 1 of the CCA development process. This will be explained in further detail later in this Staff Report.

RFQ/P Key Components

As a reminder, Staff modeled the RFQ/P on a similar RFP in Humboldt County (Redwood Coast Energy Authority). The following are some of the key components of the services requested in the RFQ/P:

- All necessary funding for the establishment, implementation and ongoing administration of the CCA must be provided. This includes procuring the energy and securing any necessary bonds and insurance. City funds will not be impacted or at risk at any point of the CCA formation (i.e., for Phase 1 services as discussed later in this report) and during ongoing CCA operations and administration if the City launches a CCA.
- A robust community outreach and engagement strategy would be developed and implemented prior to any CCA launch and, if launched, continue as needed throughout the life of the CCA.
- All necessary legal and regulatory function support including, but not limited to, submittal of all required filings with the California Public Utility Commission (CPUC).
- Negotiating/securing all energy procurement agreements.
- All necessary data management (back of the house) services required to ensure that the data sharing and billing practices are seamless and timely between the CCA and SDG&E would be provided.
- All ongoing energy procurement services to implement the program would be provided.
- Customer service functions including a dedicated call center for CCA customers would be provided.
- Outline of a detailed process for potential expansion of the program to include neighboring jurisdictions and how this might be implemented in the future would be provided.

- A Risk Analysis to analyze potential risks associated with the CCA program would be provided along with an outline of risk-mitigation measures.

Third-Party Peer Review of Technical Study

Given that the Technical Study was carried out by a consultant group once interested in providing potential CCA services to the City, Staff felt it was important have the Technical Study separately evaluated by an independent third party. Therefore, in an abundance of caution and to ensure the integrity of the process, the City retained the services of EES Consulting Inc., a respected third-party consultant that has no professional relationship with the author of the Technical Study, California Clean Power, or any other party of interest related to the RFQ/P, to conduct a peer review of the City's Technical Study (Attachment 3). The peer review concluded that "Overall, the CCA Study provided an adequate level of analysis for decision-making given the early stage of consideration by the City. In the opinion of EES, the CCA Study is a good basis for making policy decisions about proceeding with the CCA for the City." More specifically, EES made the following observations:

- The cost of renewables and the escalation rate appear to be too high.
- The PCIA (Power Charge Indifference Adjustment) levels are expected to be higher in 2017 and beyond.
- The SDG&E rate is too simplistic.

EES concluded that the three items listed above would more than likely cancel each other out in terms of overall cost impact, but that would be determined with certainty after the analysis was updated in Phase 1 of the CCA development. The peer review report also identified a few key areas that would need further updating and assessment as the City moves forward in the process. These include evaluation of the risks associated with different levels of PCIA, the level of rates for SDG&E, the regulatory risks related to CCAs, the availability and price of renewable resources and the financial risks to the CCA related to financing or credit. These risks are common to all CCAs and have been successfully mitigated by the current operating CCAs in California. The City is aware that the Technical Study is over a year old now and has always anticipated that the rates/assumptions would have to be updated; therefore, further analysis was specifically requested in responses to the RFQ/P. These analyses would be included in Phase 1 of the CCA development at no additional cost to the City. After review of the results of the updated analysis, the City (or CCA consultant team) may elect not to move forward into the next phase of CCA development and there would be no cost impact to the City.

CCA Expert Consultants

Staff retained services from two (2) outside CCA experts to assist with all phases of CCA program evaluation, including contract negotiations and possible CCA development. These experts have extensive experience with actual CCA development, implementation and operation as well as experience with complex energy power

purchase agreement negotiations. The first expert is Barbara Boswell, who successfully developed and administered the City of Lancaster's "Lancaster Choice Energy (LCE)" CCA program, which was the first single-city CCA in California. Ms. Boswell was involved from the very beginning of the development of LCE, which gives her the unique skill set to understand the complex and specialized knowledge required to develop and implement a successful CCA. The City also retained the services of Stephen Hall, an attorney with Troutman Sanders LLP, who specializes in the energy industry and has worked with many of the successful CCA's in California. Mr. Hall has an extensive energy regulatory background and specializes in structuring and negotiating complex energy transactions representing independent power producers, renewable energy developers, investment banks, power marketers and major utilities. These two consultants bring an extremely high level of expertise to the City in their analysis of the proposals along with real world experience with CCA negotiations, operations and knowledge of what is necessary to ensure the evaluation, formation and operation of a successful CCA program.

Ms. Boswell and Mr. Hall (Consultants) assisted Staff with reviewing the submitted proposals, interviewing the top firms, selecting the highest ranked consultant team and negotiating the two contracts being presented to the City Council for their consideration. The Consultants' experience and knowledge was invaluable throughout the process and instrumental in ensuring the contracts contained the necessary language and structure to develop the type of CCA program that was envisioned by the City and as directed by the City Council. These contracts contain the necessary legal and financial protections to ensure that the City itself will not be legally or financially at risk at any time should the City decide to move forward with implementation of a local CCA. One of the key elements of the contract that eliminates risk to the City's General Fund, is the concept of a "lock-box" into which all CCA proceeds would be placed and which would provide the sole credit support and security for CCA operations while protecting the City itself from any and all liability. This process was first instituted by Lancaster Choice Energy under the guidance of the Consultants assisting the City and is also being followed by many new CCA programs currently operating and under development.

The Energy Authority (TEA) and Calpine (formerly Noble Energy Solutions)

As directed by the City Council, the City has been in negotiations with TEA and Calpine to develop, finance and administer a local CCA program for Solana Beach. Staff (including our Consultants), TEA and Calpine have been in negotiations since December and have come to terms on the contracts and/or proposed task orders being presented to the City Council for consideration. The City has determined that separate contracts with TEA and Calpine would be the most efficient and effective approach for the long term continuity and success of a CCA program should the City Council ultimately elect to launch a CCA. Separate contracts would also give the City maximum flexibility if, should a CCA be launched, the City chooses to modify the structure of the CCA in the future (train and hire additional staff to administer the program, form a JPA, etc.).

CCA Development Phasing

As previously mentioned the City developed the RFQ/P in a way that would require no upfront funding or credit support from the City and would place that obligation on the selected consultant team. As proposed by TEA and Calpine, the CCA development was separated into three (3) phases with a goal for program launch within the first year followed by provision of two to five years of power supply and all CCA operational services. The phases are broken up as follows:

Phase 1	Phase 2	Phase 3
Program Development	**Program Launch**	**Operations**
0-6 Months	6-12 Months	Years 2-5
• Technical study completed • Community and local government outreach • Implementation Plan drafted • Operations, budget, and staffing plan developed	• Implementation Plan certified • Data management, accounting, and back office functions established • Utility service agreement, regulatory registrations, bond posting • Power procurement and contracting • Rate design/rate setting • Public outreach and marketing campaign • Customer notifications/enrollment period	• Ongoing power supply services (scheduling, etc.) • Customer account management • Community outreach and marketing • Regulatory and legislative affairs • Net energy metering and feed-in tariff • Enrollment of additional communities

TEA Agreement

As negotiated by the City and TEA, the above phases of work have been outlined out in a Resource Management Agreement which includes two Task Orders (Task Orders 1 and 2) that specify the terms of the contract and the manner in which the services would be provided (see Attachment 5). The Council is being asked to consider authorizing the execution of the Resource Management Agreement (RMA) as well as Task Order 1 and Task Order 2 which are included as attachments to the agreement.

Resource Management Agreement (RMA)

The RMA sets forth the general terms of the contract including the scope of work, the term of agreement, termination authorities and other general rights and responsibilities of both the City and TEA (the "Parties"). The initial term of the RMA is for five (5) years with allowable automatic one-year extensions thereafter. Pursuant to the RMA, both Task Orders 1 and 2 would be executed by the Parties and become effective concurrently with the RMA. However, the City would still have the ability to terminate the RMA as well as each Task Order as provided for in the agreements and as described below.

Task Order 1 (Phases 1 and 2)

Pursuant to the RMA and Task Order 1, Phase 1 services would be completed with no upfront costs or credit backing required from the City. As noted in the chart above, Phase 1 will consist of completing the technical review (updating the technical analysis as recommended by the third-party peer review), conducting the community outreach and engagement program, drafting the Implementation Plan and developing the operations, budget and staffing plan. This phase will include public discussions of all aspects of the CCA development including the renewable energy content levels, customer rate structure and CCA revenue expectations needed to satisfy specified reserve requirements and, ultimately, to be used for renewable energy programs/projects for the benefit of the City.

During Phase 1, TEA will record the hours expended on a time and materials basis for all activities associated with this phase and have agreed to defer the payment of all Phase 1 fees until Phase 3, should the City elect to move forward. After completion of the Phase 1 services, the City can, however, choose not to proceed and terminate the RMA prior to initiating Phase 2. Should the City decide at that point to terminate the RMA and provides notice to TEA within 30 days, the City would owe nothing for the Phase 1 services. If, at the conclusion Phase 1, the Parties decide to move forward into Phase 2, costs will again be tracked and recorded by TEA for these services but would also be deferred for payment during Phase 3. If the City elects to terminate the RMA at any time after initiation of Phase 2, the costs incurred by TEA prior to termination would be due and payable to TEA for services rendered to that point.

Task Order 2 (Phase 3)

Task Order 2 sets out the required services of Phase 3 as outlined above. As with the Phase 2 services, these services would only occur after an affirmative decision by the City Council to launch the CCA. During Phase 3, TEA would provide program operation services including power purchase, program administration and compliance, would complete the required Integrated Resource Plan and would provide other support services. TEA would also continue to provide community outreach throughout this phase of services and would also continue provide ongoing risk analysis and management.

Another key component of Phases 2 and 3 under Task Order 2 is the proposed Credit Solution that would both establish the CCA as an independent entity separate from the City and, as directed by Council, would protect the City from any financial risk or exposure. During these phases, and assuming a CCA is launched, TEA would use its existing credit facilities to provide credit support for transactions made by TEA on behalf of the CCA. This will include the initial cost of obtaining electricity and related attributes, providing required security for participation in CAISO (California Independent System Operator), the deferral of fees as noted above, and satisfying requests for credit support from counterparties with respect to transactions made by TEA as principal in those transactions on behalf of the CCA.

Lock Box Pledge Account & Reserve Account

As previously mentioned, a primary component of providing credit support and financial backing for both TEA and the CCA itself, is the establishment of a Lock Box Account. The Lock Box would be the account into which all customer payments would be placed. Under the terms of the agreements and Task Order 2, the CCA would grant to TEA a first priority security interest in and lien upon the funds and payments made by the CCA customers to SDG&E (the "Customer Payments"), which would subsequently be deposited by SDG&E into the Lock Box Account. These funds would provide operational security as well as funding for ongoing energy purchases made by TEA on behalf of the CCA. The Lock Box Account would be held at a commercial bank regulated by the Federal Deposit Insurance Corporation ("FDIC") and would be required to meet specified ratings and security requirements including the ability to issue standby letters of credit.

In order to provide TEA with the necessary credit support, the Customer Payments deposited into the Lock Box Account would be distributed according to a specified order of priority or "waterfall" provisions outlined in Task Order 2. The first priorities for payment would be to pay TEA for billed power purchases and charges related to CAISO transactions, then to pay for billed power purchase for monthly transactions and next to pay for operational fees and any deferred fees owed for Phase 1 and Phase 2 services. After those payments, funds would then be retained within the Lock Box to build and maintain a balance of $200,000 to provide Operating Funding, after which administrative overhead costs would be paid for operation of the CCA. The next priority would be to set aside funds in a Reserve Account to provide additional credit support and CCA stabilization. During the first twelve (12) months of power procurement by TEA, customer payments would be deposited from the Lock Box into a Reserve Account until the balance is equal to the "Reserve Requirement," the initial amount of which would be $550,000, which is targeted to be achieved by the end of the first twelve months of power deliveries. After this Reserve Requirement is met, funds would then be available for use by the CCA. After the first 12 months, the Reserve Requirement is subject to adjustment by TEA based upon TEA's credit exposure to the CCA.

The Operating Funding of $200,000 would be maintained during the Initial Term of the agreement and thereafter as long as TEA continues to provide all credit support. The Parties would further agree that the Operating Funding would be provided solely from the Customer Payments and that the CCA would not be obligated to deposit any funds to establish, maintain or restore the Operating Funding amount from any other City or taxpayer source.

TEA Compensation

For the operational services required to be performed by TEA after launch of the CCA, Task Order 2 would provide for a monthly payment of $17,583, in addition to any deferred fees from Phases 1 and 2, which would be $6,700 per month paid over forty-six (46) months. Compensation would also be provided for additional credit support in

the form of a "Credit Solution Fee" paid monthly on a per megawatt hour ("MWh") basis. This Credit Solution Fee would be paid at either $1.00 per MWh (if TEA is acting as the principal for power procurement transactions) or at $0.25 per MWh (if TEA is acting as an agent, rather than principal, in those transactions). Based upon the most recent load data of the City, this would equate to approximately $80,350 per year at the $1.00 per MWh rate.

Calpine Agreement

Under the proposed Master Professional Services Agreement (MPSA), Calpine would provide Data Management (DM) Services to the CCA, if launched (see Attachment 6). Calpine has also agreed to participate in the initial outreach efforts prior to any CCA launch at no cost for these services. The services to be provided by Calpine are covered in the "Addendum for Data Management Services" included as part of the MPSA. The DM Services to be provided would include start-up support services (including coordination with SDG&E), electronic data exchange with SDG&E, maintaining a customer information system database, providing a customer call center, billing administration, Settlement Quality Meter Data (SQMD) services, Qualified Reporting Entity (QRE) services, and other required reporting services. Calpine would also assist the CCA, as needed, in compiling various customer sales and usage statistics that may be necessary to facilitate the CCA's completion of required external reporting activities. Such statistics will likely include annual retail sales statistics for CCA customers, including year-end customer counts and retail electricity sales (expressed in kilowatt hours) for each retail service option offered by the CCA.

The initial term of the MPSA would be for five (5) years and would be extended automatically for successive two-year terms thereafter.

Calpine Compensation

Pursuant to the proposed contract, if the CCA launches, Calpine would be paid a monthly fee of $1.35 for each customer meter enrolled in the CCA. Given that there are approximately 7,800 customers in Solana Beach, this would equate to approximately $10,530 per month. Beginning on the first month of the first term extension, the service fee would escalate annually at the Consumer Price Index for the San Diego region.

CEQA COMPLIANCE STATEMENT:

Not a project as defined by CEQA

FISCAL IMPACT:

As mentioned previously, if the Council approves and authorizes the City to enter into the contracts for additional evaluation and development of the CCA, all actions and associated costs in Phase 1 will be borne by the consultant team. Thereafter, if the Council elects to proceed with the CCA, costs will then be incurred but would be paid for

by the CCA. Additionally, the City has incurred Staff costs as well as consultant services costs to provide assistance to the City in the review of proposals and negotiation of the proposed contracts to ensure the CCA is structured in a manner that protects the City's General Fund while providing the necessary legal protections as directed by the Council.

WORK PLAN:

Environmental Sustainability – "Policy Development" – Priority Item 2) Develop and Implement a Community Choice Aggregation (CCA) Program

OPTIONS:

- Approve Staff recommendation and authorize the City Manager to execute the two consultant contracts with TEA and Calpine.
- Do not approve Staff recommendation.
- Provide further direction to Staff.

DEPARTMENT RECOMMENDATION:

Staff recommends the City Council adopt Resolution 2017-043 and Resolution 2017-044 authorizing the City Manager to execute all contracts with TEA and Calpine to provide CCA services to the City.

CITY MANAGER RECOMMENDATION:

Approve Department Recommendation

Gregory Wade, City Manager

Attachments:

1. Resolution 2017-043 – CCA contract with TEA
2. Resolution 2017-044 – CCA contract with Calpine
3. EES Peer Review of Community Choice Aggregation Study
4. TEA Resource Management Agreement and Task Orders 1 & 2
5. Calpine Master Professional Services Agreement and Addendum

RESOLUTION NO. 2017-043

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, TO AUTHORIZE THE CITY TO ENTER INTO A CONTRACT WITH THE ENERGY AUTHORITY TO DEVELOP AND ADMINISTER THE CITY'S COMMUNITY CHOICE AGGREGATION PROGRAM

WHEREAS, Community Choice Aggregation, or CCA, is a program available within the service areas of investor-owned utilities, such as San Diego Gas & Electric (SDG&E), which allows cities and counties to purchase and/or generate electricity for their residents and businesses; and

WHEREAS, CCA is a mechanism by which local governments assume responsibility for providing electrical power for residential and commercial customers in their jurisdiction in partnership with SDG&E; and

WHEREAS, the City Council has been supportive of the research and possible development of a viable CCA program since 2011; and

WHEREAS, the City Council directed Staff to prepare and release a request for proposals to seek comprehensive consultant services to further assess, finance, develop, implement and operate a CCA on behalf of the City; and

WHEREAS, on November 16, 2016, the City Council authorized and directed the City Manager to negotiate a professional services agreement with The Energy Authority (TEA) and Calpine (formerly Noble Energy Services) to develop, finance, implement and manage a local CCA program; and

WHEREAS, Staff and TEA have completed negotiations on the Resource Management Agreement and Task Orders 1 and 2 to initiate the development and administration of the City's CCA program.

NOW THEREFORE BE IT RESOLVED by the City Council of Solana Beach that:

1. That the foregoing recitations are true and correct.

2. The City Council authorizes the execution of the TEA Resource Management Agreement and Task Orders 1 and 2 to initiate the development and administration of the City's CCA program.

3. The City Manager is authorized to execute all needed documents to effectuate the agreement with TEA for the City's CCA program.

PASSED AND ADOPTED this 24th day of May, 2017, at a regularly scheduled meeting of the City Council of the City of Solana Beach, California by the following:

AYES: Councilmembers –
NOES: Councilmembers –
ABSENT: Councilmembers –
ABSTAIN: Councilmembers –

MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

JOHANNA N. CANLAS, City Attorney

ATTEST:

ANGELA IVEY, City Clerk

RESOLUTION NO. 2017-044

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SOLANA BEACH, CALIFORNIA, TO AUTHORIZE THE CITY TO ENTER INTO A CONTRACT WITH CALPINE TO ADMINISTER THE DATA MANAGEMENT SERVICES FOR THE CITY'S COMMUNITY CHOICE AGGREGATION PROGRAM

WHEREAS, Community Choice Aggregation, or CCA, is a program available within the service areas of investor-owned utilities, such as San Diego Gas & Electric (SDG&E), which allows cities and counties to purchase and/or generate electricity for their residents and businesses; and

WHEREAS, CCA is a mechanism by which local governments assume responsibility for providing electrical power for residential and commercial customers in their jurisdiction in partnership with SDG&E; and

WHEREAS, the City Council has been supportive of the research and possible development of a viable CCA program since 2011; and

WHEREAS, the City Council directed Staff to prepare and release a request for proposals to seek comprehensive consultant services to further assess, finance, develop, implement and operate a CCA on behalf of the City; and

WHEREAS, on November 16, 2016, the City Council authorized and directed the City Manager to negotiate a professional services agreement with The Energy Authority (TEA) and Calpine (formerly Noble Energy Services) to develop, finance, implement and manage a local CCA program; and

WHEREAS, Staff and Calpine have completed negotiations on the Master Professional Services Agreement and Addendum to enable Calpine to implement the Data Management Services for the City's CCA program.

NOW THEREFORE BE IT RESOLVED by the City Council of Solana Beach that:

1. That the foregoing recitations are true and correct.

2. The City Council authorizes the execution of the Calpine Master Professional Services Agreement and Addendum to implement the Date Management Services for the City's CCA program.

3. The City Manager is authorized to execute all needed documents to effectuate the agreement with Calpine for the City's CCA program.

ATTACHMENT 2

PASSED AND ADOPTED this 24th day of May, 2017, at a regularly scheduled meeting of the City Council of the City of Solana Beach, California by the following:

AYES: Councilmembers –
NOES: Councilmembers –
ABSENT: Councilmembers –
ABSTAIN: Councilmembers –

MIKE NICHOLS, Mayor

APPROVED AS TO FORM:

JOHANNA N. CANLAS, City Attorney

ATTEST:

ANGELA IVEY, City Clerk

City of Solana Beach

City of Solana Beach
Peer Review of Community Choice Aggregation Study
DRAFT
March 8, 2017

Prepared by:

EES Consulting, Inc.

570 Kirkland Way, Suite 100
Kirkland, Washington 98033

A registered professional engineering and management consulting corporation with offices in Kirkland, WA and Portland, OR

Telephone: (425) 889-2700 www.eesconsulting.com

ATTACHMENT 3

DRAFT

EES Consulting

March 8, 2017

Mr. Greg Wade
Mr. Dan King
City of Solana Beach
635 S. Highway 101
Solana Beach, CA 92075

SUBJECT: Peer Review of City's Customer Choice Aggregation Study

Gentlemen:

Please find enclosed EES Consulting, Inc.'s (EES) peer review of the City of Solana Beach's (City) Community Choice Aggregation (CCA) Technical Analysis dated April 22, 2016.

EES appreciates this opportunity to assist the City in its evaluation of the CCA options. Please feel free to contact us if we may be of further assistance on this interesting option.

Very truly yours,

Gary Saleba
President

570 Kirkland Way, Suite 100
Kirkland, Washington 98033

Telephone: 425 889-2700 Facsimile: 425 889-2725

A registered professional engineering corporation with offices in
Kirkland, WA and Portland, OR

Contents

Executive Summary

Introduction

EES Consulting, Inc. (EES) was retained by the City of Solana Beach (the City) to provide a peer review of the Community Choice Aggregation Technical Analysis (CCA Study) dated April 22, 2016. EES is well qualified to provide this peer review based on our extensive work over the past 40 years in the areas of power supply planning and procurement, rates and regulatory analysis, utility formation and merger studies, and more recently with emerging CCA programs in California. EES is currently doing the technical consulting for CCAs in San Bernardino, Riverside, Los Angeles, Alameda and Butte Counties and the City of San Jose.

Our review of the City's CCA Study is focused on examining four factors, which include the following:

1. Whether all of the necessary steps of forming a CCA have been considered;
2. Whether the technical analysis of load data, rate projections, cost comparisons and economic impacts appear to be done correctly;
3. Whether power supply alternatives are appropriate; and
4. Whether environmental and economic development considerations have been adequately considered.

The CCA Study provided a good background on the history and issues regarding the formation of CCAs. However, the CCA Study economic analysis was fairly generic and is almost a year old. Given that the CCA Study was provided very early in the consideration of a CCA, the level of analysis is appropriate.

Below each key component of the CCA study will be critiqued. This critique will be followed by the EES recommendation of how to proceed.

Load Forecast and Power Supply Costs

The CCA Study provided a reasonable estimate of CCA loads using data provided by SDG&E as well as growth rates provided by the California Energy Commission (CEC). The approach used is consistent with other CCAs and appropriate at this stage of analysis.

In terms of power supply costs, the CCA Study used the forward price projections for the Southern California region as provided by the SP Forward Curve Prices from Bloomberg (1-21-16). The CCA Study analysis then added a $25 per MWh adder for renewable projects. While this is a reasonable approach at this stage of evaluation, it is rather generic. The resulting rate is $32.25 for market power and $57.25 for renewable power in 2017.

Prices for renewables used in the CCA Study appear to be based on prices seen in other states as published in 2015. Based on EES's more recent analysis for other southern California CCA projects, we found that municipal utilities in California have purchased output from large-scale solar projects for a range of $37 to $40 per MWh. We have seen wind projects in the range of $50 per MWh. Therefore, EES believes the $57.25 used for full renewable projects (using a $25 per MWh premium) is too high for renewable projects. In addition, we do not believe the price for renewables will have escalation factors as high as for regular market prices. For the most part, the other fees in the CCA Study related to power costs appear reasonable.

Additionally, the City may wish to consider initially, a stepped power supply procurement approach where power contracts of different terms are obtained. After this initial start-up period, power contracts with longer terms should be considered and meet State power procurement requirements.

EES recommends that the renewable and market prices used for the CCA Study be updated to reflect more recent pricing experience.

CCA Costs and Rate Comparisons

While power supply costs are the biggest factor in total CCA costs, it is necessary to include all other costs associated with the CCA and compare the total to the continued costs of bundled service from SDG&E. The CCA Study makes that comparison for a five-year period. EES believes that the City needs to look beyond 5 years.

EES recommends that the economic analysis be updated to include a 10-year period.

In the CCA Study, it was assumed that the administration of the CCA would be outsourced for a charge of $5.75 per MWh. In the EES review of existing CCAs, we found that the administrative costs ranged from roughly $3 to $7 per MWh. For our own CCA Business Plans, we estimated administrative costs to be in the range of $3 to $4 per MWh. Note that these cases reflect the inclusion of metering and billing charges. It is difficult to provide an accurate comparison as we do not always know if all of the same costs in each case are included, and there is a wide range in the size of the existing and proposed CCA organizations. It appears that the rate of $5.75 per MWh plus another $3.00 per MWh for meter and billing charges appears to be on the high side when compared to larger CCA groups currently in the formation process. We note, however, that a CCA for the City on a stand-alone basis would require outsourcing of the administrative function due to its small size. The administration proposed would need to include a premium for the risk that would be taken by the provider. Given these circumstances, we believe the assumed rates for CCA administration are appropriate.

The CCA Study assumes a 2.5% escalation in SDG&E bundled rates. This is a rather simplistic assumption and a more detailed analysis needs to be considered in forecasting the separate delivery and power supply charges from SDG&E when the City updates the CCA Study.

A key factor in the analysis is the PCIA that is added by SDG&E to all CCA bills to recover the lost net revenues associated with departing CCA loads. The PCIA used in the CCA Study is the actual 2016 number, which was appropriate at the time of the CCA Study. It does not appear that the CCA Study incorporated increases in the PCIA rate. For 2017, the PCIA estimate increased by 61% to 84% and is likely to increase further. This is an issue to the CCA.

EES recommends that an updated analysis include more recent PCIA estimates for 2017 and beyond.

Based on the CCA Study, savings associated with a CCA for the City are expected to result in savings of 3 percent for customers plus an additional $6.8 million in retained revenue over the initial 5 years for the CCA in the baseline case. In the highest renewable scenario, the savings to customers would be 1% and the retained revenue for the CCA would be $2.3 million.

Based on the review of the assumptions in the CCA Study, EES makes the following observations:

- The cost of renewables and the escalation rate appear to be too high
- The PCIA levels are expected to be higher in 2017 than forecast in the CCA study and beyond
- The SDG&E rate forecast is too simplistic

Because these key factors could impact the final results of the CCA Study, EES recommends that the economic analysis be updated to reflect more recent and in-depth projections of these factors and that the analysis be extended to a 10-year period. This financial update should occur before the City's governing body's formal consideration of forming the CCA.

Finally, the CCA Study provided a limited sensitivity analysis of risks associated with forming a CCA. EES recommends that when the economic analysis is updated, it should include a sensitivity or risk analysis. This analysis would include sensitivities associated with different levels of the PCIA, the level of rates for SDG&E, the regulatory issues related to CCAs, the availability and price of renewable resources, and the issues for a CCA related to financing or credit.

Macroeconomics and Environmental Impacts

The CCA Study discussed macroeconomic benefits associated with the retained revenue for the CCA, which is appropriate. It did not discuss the added benefits associated with the 3% rate reduction to customers that would provide disposable funds that could be spent on other goods and services in the region.

Carbon reductions were estimated for each of the scenarios provided in the CCA Study. Given our experience, the greenhouse gas (GHG) savings appear to be too high. On the other hand, the CCA Study has not quantified any environmental benefits associated with the retained revenues that may be spent on energy efficiency or distributed energy resources. Because these two factors have offsetting impacts, we would expect to see overall environmental benefits associated with a CCA in keeping with the CCA Study's initial findings.

Conclusions

EES concludes that the CCA Study provided a reasonable, yet generic, approach to looking at the feasibility of forming and operating a CCA for the City. The assumptions related to the load forecast, participation rates and operating costs appear to be in the appropriate range. The cost of renewable power appears to be too high while the forecast PCIA level appears to be too low. These two variables tend to counter-balance each other. As such, the initial findings in the CCA Study are likely sufficiently accurate for the City to proceed with the next step of forming a CCA.

In the next step of CCA development, EES suggests the City update and refine as noted below:

- Narrow and prioritize the objectives of the CCAs to include:
  - Maximize the savings to customers
  - Deliver local renewable energy development and energy efficiency programs at or above current budget levels
  - Reduce GHG emissions
- Ensure City is protected from financial risk at lowest cost
  - The City is planning on minimizing risks by outsourcing major tasks and requiring vendors to provide financing.
  - As the City proceeds with the CCA, it will be important to maintain their competitive advantage by pursuing overhead and administrative costs.
- Determine the level of internal vs. external staffing support
  - Most operating CCAs have started with minimal internal staffing with the remainder of the requirements supported by consultants at early operations, and then transition to additional in-house staff while retaining some consultant support.
  - The City will have to decide when (or if) it will assume operation of the CCA with increasing internal staff.

Overall, the CCA Study provided an adequate level of analysis for decision-making given the early stage of consideration by the City. In the opinion of EES, the CCA Study is a good basis for making policy decisions about proceeding with a CCA for the City. Should the City decide to pursue the formation of a CCA, the aforementioned updates to the financial proformas should be undertaken.

Introduction and Overview

Introduction

EES Consulting, Inc. (EES) was retained by the City of Solana Beach (the City) to provide a peer review of the Community Choice Aggregation Technical Analysis (CCA Study) dated April 22, 2016. EES is well qualified to provide this peer review based on our extensive work over the past 40 years in the areas of electric utility power supply planning and procurement, rates and regulatory analysis, utility formation and merger studies, and more recently with emerging CCA programs in California. EES is a registered professional engineering and management consulting firm that has been serving the utility industry since 1978. We currently have over 500 utility clients all across North America with our primary focus within the WECC reliability area. We are currently doing the CCA Business Plans for the County of Los Angeles, San Bernardino Associated Governments, Coachella Valley Association of Governments, West Riverside Council of Governments, the City of San Jose, the County of Butte and the County of Alameda. We also performed a similar peer review for Alameda County's East Bay Clean Energy. As such, we are well-versed in utility operations globally and CCA-related issues in California.

Scope of Services for EES

Our review of the City's CCA Study is focused on examining whether all of the necessary steps of forming a CCA have been considered, whether the technical analysis of load data, rate projections, cost comparisons and economic impacts appear to be done correctly, whether power supply alternatives are appropriate, and whether environmental and economic development considerations have been adequately considered. The EES analysis did not duplicate the technical analysis performed to ensure accuracy but it did include a critique of the analysis provided in the CCA Study and accompanying Technical Appendices. Note that the EES review included the CCA Study, the Study's Appendices, and the spreadsheet analysis provided in conjunction with the CCA analysis.

Conflict of Interest

EES has no professional relationship with the author of the CCA Study or any party of interest. Our opinions expressed below are independent, and based upon EES's past and present work for California CCAs and our knowledge of the electric utility industry in California. EES has also not done any prior work for the City or its employees.

Background on CCAs

The CCA Study provided a good background of the history and issues regarding the formation of CCAs. Since the CCA Study was provided in April of 2016, additional CCAs have become

operational, including CleanPowerSF (serving the City and County of San Francisco) and Peninsula Clean Energy (serving San Mateo County). Other local municipalities and Counties nearby the City are looking at CCAs, including the City of San Diego, San Diego County, and the City of Encinitas. Many Cities and Counties in the SCE and PG&E service areas are also at various points of CCA exploration and formation.

Policy Issues

The CCA Study talked about options for using electric bill savings from the CCA and provides a good discussion of options. However, in our experience it is important to establish the City goals at the onset so that the CCA programs can be structured appropriately. Given the preliminary nature of the CCA Study, this level of policy discussion is appropriate. Going forward, the City will need to develop clear objectives related to forming a CCA. Lower rates for customers, lower GHG emissions and greater economic development in the City are all potential benefits of a CCA. It is not clear if these three benefits are all equally important to the City or if one is the primary objective. By making the objectives clearer upfront, it is possible to better tailor the alternatives to meet the objectives of the City. This will be important in making decisions if the City decides to proceed with a CCA.

The following are some of the policy issues that need to be considered or addressed if the City proceeds with a CCA:

- Narrow the objectives of the resource portfolio
  - Maximize the savings to customers
  - Deliver local renewable energy development and energy-efficiency programs at or above current budget levels
  - Reduce GHG emissions
- Determine the split between savings passed on to customers through lower rates and revenues retained by the City for local projects
- Ensure City is protected from financial risk at lowest cost

Summary of EES Review

In summary, the EES peer review shows that the City has done a good job of looking at the CCA options and EES agrees that the results of the CCA Study can be relied upon in making a choice on whether or not to proceed with the formation of a CCA. We do, however, have some specific areas where we recommend the CCA financial analysis be updated to reflect more recent estimates, particularly related to the SDG&E retail rates, renewable and market prices, and the SDG&E PCIA. This analysis will help to confirm the results of the CCA Study and provide some additional risk analysis for the City to consider. The following sections provide EES's detailed comments related to the various sections of the CCA Study.

Load Forecast and Power Supply Costs

Load Forecast

One of the first steps in evaluating a CCA is the forecast of the electric loads for the City. The CCA Study prepared the load forecast using load data provided by SDG&E by rate class. While EES did not review the actual data provided by SDG&E, the approach used in the CCA Study is appropriate and consistent with studies completed by other jurisdictions. The City loads were forecast to increase at a rate of 1.3 percent per year, which is based on the CEC forecast for the southern California region.

Two items related to the load forecast that require some caution are in the areas of load shape and load growth. Because the City loads are unusually weighted to residential and smaller commercial loads, the power costs may tend to be higher than for some of the larger, more diverse communities forming CCAs. This is due to the fact that the load shape for smaller customers is more differentiated within a day and on a seasonal basis. The other issue with the City's load forecast is the growth rate, which is higher than for some of the other jurisdictions in southern California. Using a percent growth rate is appropriate for a 5-year period. When a longer study period is considered, the City should be cautious in using a consistent percent growth rate as it would lead to unwarranted exponential growth.

Based on the loads, the next step is to determine the participation rate for the CCA. The CCA Study assumes an 80 percent participation rate. While this is an acceptable level for analysis, it should be noted that participation rates for the operating CCAs range from 86 percent for Marin Clean Energy to 95 percent. The average level is 90 percent. Based on this information, the 80 percent assumption contained in the CCA Study is on the conservative side.

Power Supply Costs

Given the amount of load to be served by the CCA, the next step is to forecast the power supply costs for the CCA. The CCA Study uses the forward price projections for the southern California region as provided by the SP Forward Curve Prices from Bloomberg (1-21-16). Bloomberg then adds a $25 per MWh adder for renewable projects. While this is a reasonable approach at this stage of evaluation, it is rather generic. The resulting rates are $32.25 for market power and $57.25 for renewable power in 2017. Another $14 is added to cover load shaping, resource adequacy and other fees. For the baseline case with renewable power costs are $54.50 per MWh in 2017.

Prices for renewables used in the CCA Study appear to be based on prices seen in other States as published in 2015. Based on EES's more recent work with other California CCA projects, we found that municipal utilities in California have purchased the output from utility scale solar projects for a range of $37 to $40 per MWh. We have seen wind projects in the range of $50

per MWh. Therefore, the $57.25 used for full renewable projects (using a $25 per MWh premium) is too high for large-scale renewable projects.

In addition, for the CCA Study the trend in renewable pricing follows the upward trend in market prices. In the EES analysis of other California CCAs, we have found that the price for renewables will remain static in nominal terms to balance the influence of two trends. First, renewable energy capital prices are being driven down by the rapidly declining cost of solar projects. This trend has persisted over the past five years and is expected to continue in the future. However, this trend could be balanced out, in part, by the impact of increasing Statewide demand for renewables as a result of California's Renewable Portfolio Standard (RPS) laws and the potential loss of the investment tax credit (ITC) currently enjoyed by renewable project developers.

Based on what we have seen, the CCA Study assumptions are conservative. EES recommends that the feasibility analysis be updated to reflect both a lower renewable price and a lower escalation factor. A range of prices could be included in further sensitivity analysis associated with the suggested update. While the other power supply fees used in the CCA Study appear reasonable, they have used a cost of $3 per MWh for the Scheduling Coordinator. Based on EES's experience, this cost is closer to the range of $1 to $2 per MWh. However, given the small size of the City, the higher number might be appropriate as there are fixed costs associated with acquiring this service and there may be added risk for the Scheduling Coordinator.

Portfolios

The CCA Study considers three different portfolios with various amounts of renewable resources ranging from SDG&E's RPS requirements to a 100% renewable portfolio. This approach is appropriate at this stage of analysis. Going forward, the City should further refine its goals and objectives to narrow down the amount of renewable resources that are desirable. In many cases, CCAs plan to offer one product that is at or slightly above the incumbent utility's RPS requirements and another product that is 100 percent renewable, with customers having the ability to choose between the two options or "opt-up". The type of portfolio to pursue and whether customers are given more than one option will need to be considered further by the Governing Board if the City proceeds with the formation of a CCA. These decisions would need to be made prior to or at the time the CCA has actual power supply offers to evaluate.

One point made in the CCA Study is that the greater savings associated with a smaller renewable portfolio allows the City to actually enhance the GHG and other benefits by having greater funds to apply towards local renewables and energy efficiency projects. We agree that this is a factor to consider in selecting the appropriate portfolio.

CCA Costs and Comparison to SDG&E Rates

While power supply costs are the biggest factor in total CCA costs, it is necessary to include all other costs associated with the CCA and compare the total to the costs of bundled service from SDG&E. The CCA Study makes that comparison for a five-year period. While a five-year period has greater certainty than a longer time period, it is necessary to look at a longer time frame to determine the full impact of establishing a CCA. EES recommends that the financial feasibility analysis be updated to include a 10-year time period.

In developing costs for the CCA, the CCA Study included the cost of CCA power, the CCA management cost, the SDG&E transmission and distribution charges, the SDG&E meter and billing fees and the SDG&E PCIA charges. These costs were then compared to the bundled SDG&E rates to determine the potential savings or costs associated with a CCA. This is an appropriate approach. Going forward, the City will also need to consider how it wants to use those savings (i.e., whether to further decrease rates for customers, promote energy efficiency for customers, or pay a higher cost to include local renewable projects).

CCA Administration Costs

In the CCA Study, it was assumed that the administration of the CCA will be outsourced to an administrator for a charge of $5.75 per MWh. This reflects annual costs of about $370,000 per year. The CCA Study is not entirely explicit about what is included for this charge but it is the only added charge to power costs and SDG&E charges. Therefore, EES assumes that it includes start-up costs, the cost of day-to-day administration, managing contracts, customer outreach, power resource planning, accounting, customer service, key account representation, regulatory compliance, regulatory intervention in SDG&E charges, budgeting, rate-setting and data management coordination with SDG&E. If any of these functions are not included in the fixed administration charge, then there would be additional costs to the CCA. Note that the CCA Study also includes an additional $3 per MWh for meter and billing fees from SDG&E.

In our review of existing CCAs, EES found that the administrative costs ranged from roughly $3 to $7 per MWh. For the EES CCA evaluations performed over the past year, we estimated administrative costs to be in the range of $3 to $4 per MWh. Note that in both cases, these ranges reflect the inclusion of the incumbent utility's metering and billing charges. It appears that the rate of $5.75 per MWh plus another $3.00 per MWh for meter and billing charges is on the high side when compared to larger CCA groups currently in the formation process. We note, however, that given the size of the City CCA on a stand-alone basis requires outsourcing of the administrative function, which would include a premium for the risk that will be taken by the provider.

One issue not specifically discussed in the CCA Study is cash flow and working capital. There is a lag between the payments associated with paying operating expenses and the revenue associated with customer billing. EES generally expects a 60-day lag in payments. The City must have funds available to provide for this needed working capital on a regular basis. Given that bundled charges at SDG&E rates are nearly $1 million per month, this could be a significant cost to the City. The City has indicated that this will be a requirement from the key consultants.

SDG&E Delivery and PCIA Rates

The CCA Study applied a 2.5% escalation of SDG&E bundled rates. While the spreadsheet provides the SDG&E rates split between the distribution and power supply components for 2016, the spreadsheet does not show the cost comparison for later years so it is unclear how the 2.5% increase was applied. We assumed it was applied equally to both components.

EES recommends that the economic analysis be updated to include a more thorough analysis of SDG&E power supply and PCIA rates. This would include looking at their public financial statements, integrated resource plans, load forecasts and rate filings. With that information, rates can be forecasted separately for the power supply and delivery rate components.

For the delivery charges from SDG&E, the charges will apply to both a CCA and SDG&E's bundled service. Escalation in these rates may be higher than for power supply as energy efficiency and distributed energy resources (i.e., customer-owned solar panels) reduce the sales per customer. The impact will be the same with or without a CCA.

For power costs, it is necessary to look at the utility's resource mix, integrated resource planning in the future, and the impact of RPS requirements on the utility. Market prices for power will have an impact on the power costs to the extent there are market transactions included in the resource mix. The power cost is also linked to the PCIA amounts charged by SDG&E.

According to the official 2015 power label report, SDG&E had 35% renewable, 54% natural gas and 11% market resources. While SDG&E is not actively seeking additional resources, the IOU may have to invest in storage and renewable resources based on CPUC direction. SDG&E's power supply costs consist of costs associated with SDG&E owned resources, generating resources under contract, contracts to meet Resource Adequacy requirements, renewable resource contracts and costs associated with SONGS. The variable costs of these resources are tracked and recorded in the Energy Resource Recovery Account ("ERRA").

In the annual ERRA filing, SDG&E also calculates the PCIA for Direct Access Customers and CCA customers. The PCIA is highly dependent on the assumed market benchmark used in the calculation as well as the assumption about departing load. SDG&E does not have CCA customers at this time, therefore, it is likely that the current PCIA estimate does not include any lost CCA loads. SDG&E has estimated the 2017 PCIA, but it will be updated later in 2017. If any

of the CCAs that have provided their Notice of Intent (NOI) before that time, that should act to impact the PCIA calculations.

For both the PCIA set for 2016 and estimated for 2017, the PCIA continues to increase for later vintages. For example, the PCIA set for the 2015 vintage is lower than the PCIA set for the 2016 vintage. Similarly, the estimated 2017 PCIA is higher than the 2016 vintage. This may be an impact of new resources, implying that SDG&E is continuing to add more expensive contracts to their resource portfolio, or it may be due to the impact of estimated departing load or low market prices.

Comparing the PCIA for 2016 with the estimated PCIA for 2017 shows a significant increase. Table 1 provides this comparison:

Table 1
PCIA Comparison

Customer Class	2016 PCIA	Estimated 2017 PCIA	% Increase
Residential	0.01278	0.02347	84%
Small Commercial	0.01451	0.02438	68%
Med. And Large Commercial	0.01114	0.01983	78%
Agriculture	0.00819	0.01322	61%
Lighting	0	0	0%

In addition, it is important to note that the 2017 PCIA includes almost $75 million in an insurance settlement discount which results in a reduction in the overall PCIA level. The loss of this settlement discount in subsequent years should be considered when evaluating the future level of the PCIA. This settlement was received by SDG&E in conjunction with a one-time insurance settlement associated with the SONGS nuclear plant closure.

The CCA Study used 2016 PCIA charges from SDG&E and those charges are applied to the CCA. This was appropriate as no 2017 PCIA was available at the time of the CCA Study. The estimated 2017 PCIA will be updated later in 2017. There is no specific discussion of trends in the PCIA in the CCA Study and so we assume the CCA Study does not include an increase in the PCIA charges. Based on EES's experience, we expect these charges to increase significantly in the short-term due to reduction in power supply market prices and the ultimate loss of the settlement discount, then decrease as the higher priced contracts expire and market prices increase.

We recommend that the economic analysis be updated to reflect more recent PCIA levels as well as expectations for the 2nd half of 2017 rate increase and beyond.

Results of Cost Comparisons

Based on the CCA Study, savings associated with a CCA for the City are expected to result in savings of 3 percent for customers plus an additional $6.8 million in retained revenue over 5

years for the CCA in the baseline case. In the highest renewable scenario, the savings to customers would be 1 percent and the retained revenue for the CCA would be $2.3 million.

Based on the review of the assumptions in the CCA Study, we make the following observations:

- The cost of renewables and their escalation rates appear to be too high
- Estimated PCIA levels will be higher in 2017 and beyond
- The SDG&E rate forecast is too simplistic

We recommend that these assumptions be updated in a subsequent study. However, on balance, the results of the CCA Study are accurate enough to make policy decisions on whether or not the City should pursue the CCA option further.

Sensitivity Analysis

The CCA Study provided a limited sensitivity analysis of risks associated with forming a CCA. In future analysis, we would suggest that a greater analysis of risk be included.

The first risk mentioned is the participation rate. We do not see this as a great risk given the participation rate of existing CCAs and the conservative estimate contained in the CCA Study.

The second risk is the risk associated with energy price variability. This is a great risk for a CCA but it is also a risk for SDG&E. Higher market and renewable prices will increase costs for both the CCA and SDG&E. But at the same time it would lower the PCIA rate because SDG&E would be able to sell surplus power at a higher rate.

In summary, an updated financial analysis should include:

- *PCIA* – The uncertainty related to the PCIA should be analyzed in detail. The biggest uncertainty is related to the initial PCIA level and the subsequent growth rate. Based on the experience seen in other IOU service areas, the PCIA can jump up to 300% from year to year based on market benchmarks and the level of departing loads.

- *Retail Rate Forecasts* – The CCA Study should include retail rate uncertainty for SDG&E over the study period. This should consider SDG&E's portfolio costs compared to changes in the market and renewable prices. Because SDG&E has existing resources, the impacts of changes in the market may affect SDG&E's rates differently than the CCA's rates.

- *Regulatory Risks* – Unforeseen changes in legislation (California Public Utility Commission, State legislation and Federal legislation) may impact the results of the CCA Study. The CCA Study should provide a discussion of the potential regulatory risks and the impact on SDG&E rates as well as the potential impacts on the CCA.

- *Administrative Cost* – Because the City is planning to outsource administrative and financing costs, a sensitivity should be modeled to determine the sensitivity of CCA feasibility to these overhead costs.

Macroeconomic and Environmental Factors

The CCA Study estimates that 17 to 20 jobs would be created for every $1 million spent locally. This is roughly the annual retained revenues that could be spent on local energy efficiency or distributed energy resources. This is a very simplistic estimate but is reasonable at this stage in the CCA analysis.

Another source for potential macroeconomic benefits is the savings passed on to customers. The 3 percent rate reduction to customers assumed in the CCA Study would provide more disposable income that could be spent on other goods and services in the region.

Carbon reductions were estimated for each of the scenarios provided in the CCA Study and numbers reflect the additional savings beyond the SDG&E renewable portfolio requirements. The assumed carbon savings on a per GWh basis is not explicitly stated but appears to be in the range of 850 tons per GWh. In our experience, the savings are reported to be in the range of 400 to 700 tons per GWh. Therefore, the initial estimate of GHG savings may be too high. On the other hand, the CCA Study has not quantified any environmental benefits associated with the retained revenues that may be spent on energy efficiency or distributed energy resources.

We also agree with the CCA Study's statement that the scenarios with lower renewable percentages may achieve higher environmental benefits overall if energy efficiency and distributed energy resources are accounted for.

Conclusions

EES concludes that the CCA Study provided a reasonable approach to looking at the feasibility of forming and operating a CCA for the City. The CCA Study's assumptions related to the load forecast, participation rates and operating costs appear to be in the appropriate or conservative range. However, the cost of renewable power appears to be too high while the PCIA level appears to be too low.

The CCA Study adequately looked at different portfolios, however, the City will likely need to fine-tune its goals and objectives in order to narrow down the range of options to consider if it moves forward. The CCA Study examined some of the risks of CCA formation but does not provide analysis on other key risk factors.

Overall, the CCA Study provided an adequate level of analysis given the early stage of consideration by the City. In the opinion of EES, the CCA Study is a good basis for making policy decisions about further consideration of a CCA for the City. However, because the CCA Study in nearly a year old and some changes have occurred with renewable costs and the PCIA, we recommend the economic analysis be updated to confirm results at some point in the future before finalizing the CCA formation question. Furthermore, additional sensitivity analysis will provide more information to the City about the potential risks of forming a CCA. We understand that the City is already embarking on this economic update which is appropriate and timely.

RESOURCE MANAGEMENT AGREEMENT
BETWEEN
THE ENERGY AUTHORITY, INC.
AND
THE CITY OF SOLANA BEACH
d/b/a SOLANA BEACH CCA

** *Subject to approval of TEA Boards of Directors and the City of Solana Beach d/b/a Solana Beach CCA*

ATTACHMENT 4

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EXHIBITS, SCHEDULES, and ATTACHMENTS:

This RESOURCE MANAGEMENT AGREEMENT (this "Agreement"), dated this ____ day of _____, 2017, is made and entered into by and between THE ENERGY AUTHORITY, INC., ("TEA"), a Georgia non-profit corporation and The City of Solana Beach, d/b/a Solana Beach CCA, including its successors and assigns ("SBCCA" or the "CCA"). TEA and CCA are sometimes referred to herein individually as a "Party," or collectively as the "Parties."

Recitals

WHEREAS, CCA seeks to develop, finance, implement, and operate a Community Choice Aggregation program for its residents (the "Purpose"); and

WHEREAS, CCA is seeking TEA's assistance in providing certain core services, as more particularly described herein (the "Services"), related to the Purpose; and

WHEREAS, TEA is qualified and has been selected by CCA to provide such Services, subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby mutually agree as follows:

1. **Recitals.** The foregoing Recitals are true and correct.

2. **Scope of Work.**

2.1 Task Orders. Pursuant to the provisions of this Agreement, TEA shall provide the Services to CCA as described in one or more task orders (each a "Task Order") to be executed by the Parties and attached hereto. Each Task Order by this reference is incorporated as part of this Agreement. The services provided pursuant to such Task Orders shall be outlined and descried in an individual "Scope of Services." The first of such Task Orders is attached hereto and incorporated herein as "Task Order 1."

2.2 Phases of Work. The Scope of Services may be divided in three or more separate phases (and sub-phases) with designated services and time periods (each a "Phase"), and proceed in chronological order, as appropriate. Accordingly, Task Order 1 will coincide with the services which are anticipated to be provided by TEA during Phase I (referred to as "Program Development") and Phase II (referred to as "Program Launch").

2.3 Subcontractors or Sub-consultants. For any individual phase, the Parties agree that the services contemplated under this Agreement, may be provided by a subcontractor or sub-consultant of TEA, which services may be described in an individual TEA Task Order. However, for the convenience of the Parties, services not covered by this Agreement or an individual Task Order may be provided through a direct agreement between CCA and the appropriate third party.

3. **Term and Effective Date.**

3.1 This Agreement shall become effective on the date written in the first paragraph of this Agreement (the "Effective Date") and shall remain in effect for a period of five (5) years (the "Initial Term") from the Effective Date, unless terminated as allowable in the Events of Termination Section herein. At the end of the Initial Term, the Agreement shall renew on an annual basis for successive One (1) year terms (each, a "Renewal Term"), unless otherwise agreed to by the Parties or terminated pursuant to the Events of Termination Section. Notwithstanding the aforementioned date, the commencement of services under this Agreement shall not occur prior to the date this Agreement is executed by both Parties.

3.2 Task Order 1 shall be executed by the Parties and become effective on the same Effective Date as this Agreement. The provision of Services pursuant to any additional Task Order shall commence, and terminate, as provided in each respective Task Order.

4. **Events of Termination.**

4.1 By SBCCA. After the commencement of Phase I and before the start of Phase II ("Program Launch"), SBCCA may terminate this Agreement, with or without cause, and without financial liability or payment of any kind, by providing TEA with advance written notice, as follows:

4.1.1 Delivery of notice to TEA within forty-five (45) business days after TEA's completion and delivery to SBCCA of TEA's Phase I Assessment (the "Termination Window").

Notwithstanding the foregoing, if SBCCA provides notice of termination after the Termination Window, SBCCA shall pay to TEA, TEA's charges, determined by multiplying TEA's 2017 hourly billing rate by the time TEA's staff incurred in the provision of Services during Phase I.

By TEA. After the commencement of Phase I and before the start of Phase II, TEA may terminate this Agreement due to an Event of Default (as defined herein) which is not remedied by SBCCA, as provided in Section 25 ("Default") of this Agreement.

4.2 By SBCCA. During the period of time spanning the commencement of Phase II and before the designated start of Phase III, SBCCA may terminate this Agreement, with or without cause, by providing TEA advance written notice, only if the all of following conditions are met by SBCCA:

4.2.1 Delivery of notice to TEA is given at least forty-five (45) days before the Phase III Commencement Date; and

4.2.2 TEA has not executed any agreement or incurred any obligation to procure power, or committed to other financial obligations on behalf of SBCCA.

If SBCCA provides notice of termination to TEA in compliance with Sections 4.2, then SBCCA shall pay to TEA the lesser of (i) TEA's charges, determined by multiplying TEA's 2017 hourly billing rate by the time TEA's staff incurred in the provision of Services during Phase I and Phase II and prior to TEA's receipt of the notice of termination under this Agreement, or (ii) a pre-determined fee to exit the Agreement in the amount of $156,000.00 (the "Termination Fee").

By TEA. During the period of time spanning the commencement of Phase II and before the Phase III Commencement Date, TEA may terminate this Agreement due to an Event of Default (as defined herein) which is not remedied by SBCCA as provided in Section 25 ("Default") of this Agreement.

4.3 Neither Party may terminate this Agreement after the Phase III Commencement Date for the remainder of the Initial Term, unless (i) there is an Event of Default which is not remedied by the Defaulting Party as required by Section 25 ("Default"), or (ii) a Party's performance under this Agreement is prohibited due to a Change in Law (as defined in Section 32 herein). Either Party may elect to not renew this Agreement by providing a minimum of One Hundred Eighty (180) days' advance written notice prior to the end of the Initial Term (or any Renewal Term) to the other Party (the "Termination Notice Period") provided, however, that the termination date provided in a termination notice shall be selected to be the same date as the date that the CAISO makes the change in its official records to remove TEA as SBCCA's Scheduling Coordinator ("SC"). During the Termination Notice Period, the Parties agree to cooperate with each other to terminate TEA's SC relationship with CAISO in an orderly manner and to protect the interests of the Parties consistent with the terms of this Agreement; including but not limited to, preparation and timely filing of notices and any other documents required by CAISO to affect such termination, including the provision of a replacement SC by the SBCCA, if required for termination of TEA's SC representation of SBCCA. To the extent that TEA has executed on behalf of SBCCA forward market transactions that extend beyond the termination date, SBCCA agrees to reimburse TEA for any charges incurred in the reasonable liquidation of such transactions.

4.3.1 During the Termination Notice Period, SBCCA shall continue to make payments to TEA as outlined in the Compensation section of the Task Order(s) in effect for the Services provided consistent with the payment provisions set forth herein. During the Termination Notice Period, TEA shall perform its services in a manner reasonably calculated to effect such termination in an orderly manner and to protect the interests of the Parties consistent with the terms of this Agreement.

4.4 Task Orders for services referred to in Section 2 ("Scope of Work") hereof may have shorter terms and different termination provisions than the Agreement. Termination of this Agreement shall serve to terminate any Task Order hereunder; provided that any such termination shall not relieve a Party from its obligations incurred prior to such termination.

4.5 The Parties' rights to terminate this Agreement provided in this Section 4 are in addition to the Parties' rights to terminate this Agreement as provided in the Default provisions contained herein.

5. Compensation.

5.1 Professional Services.

The basis for and amount of compensation due TEA for the services (the "Compensation") shall be as stated in each Task Order.

5.2 Expenses.

Unless otherwise agreed to in writing in accordance with a Task Order, CCA shall reimburse TEA for reasonable out-of-pocket expenses incurred or accrued by TEA in connection with the provision of Services. Out-of-pocket expenses include, but are not limited to, reasonable travel, business meals or per diem, transportation, lodging, and any other usual and customary business expenses ("Expenses"). Subject to CCA's pre-approval of such expenses, CCA shall also reimburse TEA for special or unusual expenses incurred by TEA in connection with TEA's performance of Services. TEA agrees to manage all Expenses in a prudent manner and will provide CCA with a reasonable accounting for all monthly out-of-pocket Expenses, if any, upon written request.

5.3 Taxes and Fees

Notwithstanding any terms or provisions in this Agreement or the Scope of Work to the contrary, CCA shall be responsible for and shall reimburse TEA for any taxes, including without limitation, sales, use, property, excise, value added and gross receipts levied on the services or Trading Products (as defined herein) provided under this Agreement, except taxes based on TEA's net income.

6. Relationship of the Parties.

6.1 Independent Contractor.

TEA shall perform the Scope of Work as an independent contractor and shall not be treated as an employee of CCA for federal, state, or local tax purposes, workers' compensation purposes, or any other purpose. The Parties acknowledge and agree that nothing contained in this Agreement shall be deemed to create or constitute an employer-employee relationship, a partnership, or a joint venture between the Parties.

6.2 Contract Administrators.

CCA and TEA shall each appoint a contract administrator that will be responsible for administering this Agreement (the "Contract Administrator"). The Contract Administrators for CCA and for TEA shall be identified in exhibits to this Agreement.

Either Party may change its respective Contract Administrator by giving advance written notice to the other Party, consistent with the terms of the Notice Section of this Agreement.

6.3 Cooperation of Parties.

CCA shall cooperate with TEA in effecting the Scope of Services under each Task Order, and shall make authorized personnel of CCA available to TEA on reasonable notice and at reasonable times to assist in accomplishing the Scope of Services.

6.4 Non-Exclusive Relationship.

6.4.1 CCA hereby expressly acknowledges that part of the value of the services to be provided by TEA comes from TEA providing the same or similar services as contemplated under this Agreement to other entities. CCA acknowledges that the expertise and business plan of TEA requires that it be able to represent multiple parties and that the services rendered thereby are and may be beneficial to CCA.

6.4.2 Notwithstanding the nature of the Scope of Work, CCA specifically acknowledges that TEA is not precluded from representing or performing similar or related services for, or being employed by, other persons, companies or organizations.

6.4.3 CCA further acknowledges that TEA, from time-to-time, has established, or may establish, contractual relationships with users of power resources or natural gas, and generators or producers of such power resources or natural gas. Notwithstanding the existence of such contractual relationships, CCA desires the assistance of TEA as provided in this Agreement. CCA specifically represents to TEA that the existence of such contractual relationships does not in and of itself create a conflict of interest unacceptable to CCA.

6.4.4 The Parties specifically recognize and accept that there may be purchases and sales of power, natural gas, and financial instruments between and among TEA clients, including CCA, and that such transactions are the normal course of business in providing the services and that such transactions do not create any conflict of interest for TEA in carrying out its obligations pursuant to this Agreement.

6.4.5 CCA agrees to consult with TEA prior to entering into any transactions for wholesale energy products relating to the services provided hereunder, including but not limited to energy, capacity or transmission service and CAISO services or products.

6.5 Allocation of Trading Products.

6.5.1 CCA recognizes that from time to time the Trading Products (as defined herein) that TEA purchases or sells for CCA and other entities may require allocation of amounts available among all such entities including CCA. Decisions by TEA to transact CCA's Trading Products in the market will be made on a non-discriminatory basis and will be based on the same methods and procedures used to purchase or sell Trading Products on behalf of TEA's other clients that hold agreements similar to this Agreement.

6.6 Provision of Trading Services – TEA as principal in the transaction.

6.6.1 TEA shall provide trading services on behalf of CCA with TEA acting as principal in the transaction utilizing trading agreements between TEA and its counterparties (referred to herein as TEA "trading as principal"), including, but not limited to, transacting as principal in the transaction with third parties for electricity products or with the CAISO. Trading as principal shall include electric power, renewable energy credits, resource adequacy capacity, CAISO services, associated transmission, Transactions (as defined in Section 2 of Task Order 2) and other related or ancillary services (collectively, "Trading Products") between TEA and its counterparties. In performing such trading services, TEA will, on the terms and subject to the conditions set forth in this Agreement, be entitled to enter into matching purchase or sale transactions with CCA and third party transaction counterparties ("Transaction Counterparties") under which TEA may purchase Trading Products from CCA for resale to one or more Transaction Counterparties, or may purchase Trading Products from one or more Transaction Counterparties for resale to CCA (any such transaction with a Transaction Counterparty, a "Matching Transaction").

6.6.2 Unless otherwise mutually agreed to by the Parties, any Trading Products purchase or sale transaction between TEA and CCA under a Matching Transaction shall be on the same terms and conditions (except for billing and payment, which shall be pursuant to this Agreement) as the terms and conditions of the applicable Matching Transaction between TEA and the applicable Transaction Counterparty. In the event that TEA purchases Trading Products on behalf of CCA in a Matching Transaction, TEA shall resell such Trading Products to CCA at the same price as TEA paid for such Trading Products, and CCA shall pay TEA the amount payable by TEA to the Transaction Counterparty and the amounts payable to any third parties related to the purchase of Trading Products, including, but not limited to, transmission service charges, transmission loss payment costs, CAISO fees and assessments, and the like, incurred by TEA. In the event that TEA purchases Trading Products from CCA for purposes of resale to a Transaction Counterparty under a Matching Transaction, TEA shall pay to CCA the amount paid by the Transaction Counterparty to TEA less the amounts payable to any third parties related to the purchase of Trading Products from the CCA and resale to the Transaction Counterparty, including, but not limited to,

transmission service costs, transmission loss payment costs, CAISO fees and assessments, and the like, incurred by TEA.

6.6.3 Notwithstanding any other provision of this Section to the contrary, if the Transaction Counterparty to a Matching Transaction is another TEA client for which TEA is providing trading services, the price of the transaction shall be set at market.

6.6.4 Notwithstanding any terms of this Agreement or the Scope of Work, nothing contained in this Agreement or the Scope of Work hereto shall be construed as requiring TEA to execute any transaction as principal in the transaction where such transaction or traded commodity or instrument is regulated under regulations promulgated pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act").

6.6.5 Unless otherwise agreed by the Parties and provided the CCA is in compliance with the obligations outlined in Task Order 2, TEA will utilize its established credit facilities and trading agreements to support CCA-specific transactions executed by TEA as principal in the transaction, as more particularly described in the Task Order 2.

6.6.6 The CCA may be requested by TEA to provide credit enhancement to support long-term CCA-specific transactions to be executed by TEA as principal in the transaction. The CCA may, in its sole and exclusive discretion, decline to provide credit enhancement, in which case the CCA may enter directly into a contract with the counterparty, and TEA may execute the transactions as CCA's agent, provided the counterparty's credit requirements are met by CCA. In such case, CCA becomes the principal to the transaction with the counterparty and the counterparty relies on CCA's credit.

6.6.7 TEA shall not be liable to CCA for the failure of any counterparty, including but not limited to any Transaction Counterparty (i.e., when TEA is trading as principal in the transaction), to pay or perform on its obligations. In the event of such failure by a Transaction Counterparty, TEA shall pursue any action against such defaulting entity at the direction of CCA, at CCA's sole cost and expense.

6.6.8 Under no circumstances shall TEA be liable to CCA for the failure of CAISO to pay, or for assessments made by the CAISO for any of the CAISO's Scheduling Coordinators' failure to pay or perform, related to transactions with the CAISO performed on CCA's behalf by TEA as principal in the transaction (i.e., TEA acting as Scheduling Coordinator on CCA's behalf), unless such failure to pay or assessments result from TEA's breach of this Agreement, subject in all cases to the limitations contained in Section 8 hereof.

6.6.9 If CCA interrupts a financially firm sale transaction without the contractual right to do so, TEA shall use reasonable efforts to purchase replacement capacity and

energy in the wholesale market place and deliver it. CCA shall receive any resulting gain or be responsible for any resulting loss on the transaction.

6.6.10 Unless otherwise mutually agreed to by the Parties in writing, TEA shall have no obligation to enter into transactions on behalf of CCA utilizing TEA's trading agreements that extend beyond the current termination date of this Agreement, which termination date shall be the last day of the current (i) Initial Term or (ii) if applicable, Renewal Term. If the term of this Agreement is terminated early due to an Event of Default other than bankruptcy, then for existing transactions, TEA and CCA will continue to operate under the terms of this Agreement with regard to such transactions until such time as the individual transactions terminate or are fully settled. Nothing in this Agreement shall prevent TEA and CCA from agreeing to settle any such transaction prior to the previously agreed settlement date of the transaction. Obligations between the Parties to pay for transactions or other Services effected or rendered hereunder shall remain in force notwithstanding the termination of this Agreement.

6.7 Provision of Trading Services – TEA as agent in the transaction.

As mutually agreed to in writing by the Parties, TEA will provide trading services pursuant to this Agreement by trading as agent for CCA utilizing trading agreements between CCA and its counterparties. CCA agrees that effecting a change from TEA trading as principal to TEA trading as agent under transactions made on CCA's behalf, does not release CCA from its obligations to TEA resulting from obligations incurred by TEA under transactions made while trading as principal.

6.8 Conditions Precedent to the Procurement of Power

6.8.1 TEA shall have no obligation to enter into an agreement to purchase (or deliver) power pursuant to the RMA or any individual Task Order, unless and until any Conditions Precedent identified by the Parties in such Task Order have been met.

7. Indemnification.

7.1 Subject to the limitations contained in Section 8 hereof, TEA and CCA, to the extent permitted by applicable law, agree to indemnify, hold harmless and defend the other Party and its respective officers, directors, regents, members, subsidiaries, affiliates, partners, and employees from any and all liabilities, claims, actions, legal proceedings, demands, damages, losses, penalties, forfeitures and suits, and all costs and expenses incident thereto (including, but not limited to, costs of defense, settlements and reasonable attorneys' fees), which the other Party may here after incur, become responsible for, or pay out as a result of the death or bodily injury to any person or the destruction or damage to any tangible property to the extent caused in whole or in part by, and in proportion to, any negligent or wrongful act or omission of the indemnifying Party, its employees, officers, directors, or agents in the performance of this Agreement. Neither Party shall be required to indemnify the other Party for liabilities, claims, suits,

actions, legal proceedings, demands, damages, penalties, forfeitures and suits, and all costs and expenses incident thereto (including, but not limited to, costs of defense, settlements and reasonable attorneys' fees), to the extent caused by the negligence or wrongful act or omission of the other Party.

7.2 Notwithstanding the foregoing provisions of this Section, if either Party is prevented by operation of applicable law from obligating itself in any way described in this Section, then the same limitation shall be made applicable to the other party hereto, all to the end that the obligations of the one to the other with respect to the matters mentioned in this Section shall be identical.

8. **Limitation of Liability.**

8.1 TEA shall not be liable to CCA for errors made in the provision of the Services under each Task Order unless such errors are the result of gross negligence or willful misconduct on the part of TEA.

8.2 The cumulative maximum amount of TEA's liability in any 12-month term, if any, arising from any and all claims, lawsuits, actions, other legal proceedings by CCA or any other person or entity arising out of or in connection with TEA's performance or nonperformance hereunder, whether based upon contract, warranty, tort, strict liability, or any other theory of liability, shall be no more than the Compensation for actual work performed by TEA for Services hereunder (excluding payments made for (i) power supply and related credit support, (ii) electric transmission, and (ii) Expenses) for the preceding three (3) months in which the event leading to the claim occurred; provided, if the amount of Compensation for the subject year is not fully known at the time payment of such claim is due, then the payment will be based upon an estimate of the Compensation for the preceding three (3) months and the payment amount will be trued up to actual Compensation when such Compensation is fully known. If TEA should be liable to CCA pursuant to the provisions of this Section 8, payments shall be effected by offsetting monthly amounts due from CCA to TEA as set forth in the provisions relating to Compensation in the Scope of Services. If TEA terminates this Agreement during the period in which its liability payments to CCA are being offset against monthly amounts due from CCA to TEA, TEA shall be obligated to pay any remaining liability payments upon the effective date of such termination.

8.3 Neither CCA nor TEA shall be liable to the other Party for any indirect, consequential, incidental, special or punitive damages, of any kind or nature whatsoever, including but not limited to lost profits or revenues, lost savings, loss of use of a facility or equipment, or loss by reason of increased cost or expense. The provisions of this Section take precedence over any conflicting provision of this Agreement, any Task Order, or any document incorporated into or referenced by this Agreement or any Task Order.

8.4 TEA expressly agrees that notwithstanding any provision in this Agreement to the contrary, (i) the CCA's obligations to make payments to TEA under this Agreement or any Task Order are to be made solely from CCA specific funds and CCA specific

accounts, including the Lock-Box Account or Reserve Account (as set forth in Task Order 2) (hereinafter, the "CCA Funds") and (ii) other than agreed to by the Parties through written Deposit Account Control Agreements (as set forth in Task Order 2) obligations to make payments hereunder do not constitute any kind of indebtedness of the City of Solana Beach or create any kind of lien on, or security interest in, any property or revenues of the City of Solana Beach or its citizens. This Section shall not exclude TEA from filing a proof of claim or seeking its rights and remedies in a Bankruptcy proceeding involving the CCA.

8.5 TEA makes no warranties whatsoever, express or implied, regarding the services or performance thereof, including but not limited to any warranty of fitness for a particular purpose.

8.6 In providing Services under this Agreement, in no event shall TEA be liable to CCA for losses which CCA may incur by reason of engaging in risk management strategies recommended by TEA, whether or not implemented by CCA, or due to recommendations not made by TEA in the provision of risk management services.

9. **Notices.**

Any notices, requests, demands or other communications required to be given shall be in writing and shall be deemed to have been duly given if (i) delivered by hand, (ii) mailed by registered or certified mail, postage prepaid, or sent by a reputable overnight carrier such as FedEx, or (iii) sent by facsimile equipment providing evidence of successful facsimile transmission, and addressed to the Contract Administrator for the Parties at their addresses included in attachments to this Agreement, or such changed addresses as may be forwarded to the other Party, consistent with the terms of this Section ("Notices") of this Agreement.

10. **Proprietary Interest.**

TEA shall retain sole ownership of any patent, copyright, trade secret, trademark, or service mark that TEA has developed or acquired in providing the services under this Agreement. CCA acknowledges and agrees that TEA shall be the sole owner of any intellectual property rights developed by TEA under this Agreement and except as specifically set forth below in this Section, CCA is not receiving any license to use any of those intellectual property rights. TEA shall have the right to use, license and receive royalties or fees for the use of any of the intellectual property rights developed by TEA under this Agreement. To the extent CCA is required to use any of TEA's intellectual property described above in this Section in connection with the matters described in this Agreement or in any Task Orders or Matching Transactions, then TEA hereby grants to CCA a non-exclusive, non-transferable, fully paid up limited license to use such intellectual property solely for those purposes, which license shall automatically expire on the later of termination of this Agreement, any outstanding Task Orders or Matching Transaction, as applicable. CCA represents and warrants that no state or federal funds or other support is being allocated or expended in connection with its performance under

this Agreement which may provide any federal or state government, agency, or other entity any ownership, rights, licenses or other claims to any intellectual property developed by TEA under this Agreement. CCA expressly waives and disclaims any rights it may obtain to any intellectual property developed by TEA under this Agreement under any applicable federal or state laws, rules, regulations or other enactments.

11. **Billing and Payment.**

11.1 Billing and payment terms shall be as provided in each Task Order. Payments shall be made by electronic transfer as either an Automated Clearing House ("ACH") or wire transfer in United States Dollars. Each Party's banking information is provided in exhibits to this Agreement and a Party's account information may be amended by providing the other Party advance written notice.

11.2 Payments owed pursuant to this Agreement and not received when due shall be considered overdue. Interest will accrue on any unpaid amounts as of the day after the due date at a rate equal to the prime interest rate as established by PNC Bank, N.A. plus 300 basis points (the "Interest Rate").

11.3 In the event that any portion of an invoice related to a Matching Transaction is in dispute, then the dispute shall be governed by the dispute provisions of the market rules or contracts governing the specific transaction with the Transaction Counterparty.

11.4 In the event that any portion of an invoice for TEA's Compensation is in dispute, the undisputed amount shall be paid when due and payment may be withheld on the disputed amount. CCA shall notify TEA immediately of the reason for the dispute and the Parties shall cooperate to resolve the dispute. If either Party, after payment is made, discovers an error that is discernible from the terms of the invoice, the disputing Party has the right to dispute the error within one hundred eighty (180) days from the date of invoice or within one hundred eighty (180) days from termination of this Agreement, whichever comes first. Upon determination of the correct billing amount, if the disputed amount is found owing to the other Party, it shall promptly be paid to the other Party after such determination. For disputed amounts or billing errors that are discovered through the exercise of the audit rights pursuant to this Agreement, the other Party must receive written protest within one hundred eighty (180) days from completion of an audit conducted pursuant to Section 22 herein.

12. **Reserve Account.**

The Parties agree that based on reasonable financial projections for the anticipated purchase and sale of power, CCA shall retain, fund, or otherwise set-aside monies from CCA Revenue into a designated commercial bank account at least equal to the required amount of reserves or capital necessary, as agreed upon by the Parties and described in such Task Order.

13. **Provision of Services by Third Parties.**

Unless expressly provided by the terms and conditions of this Agreement or a Task Order, TEA's business partners or other third parties (collectively, "Third Parties") which have been retained by CCA to provide services to CCA, are independent of TEA and not TEA's agents. The Parties hereby agree that TEA shall not be liable for (i) the performance of any services provided by Third Parties to CCA, or (ii) CCA's obligations to Third Parties.

14. **Standard of Care.**

The standard of care applicable to the provision of the services will be that of "Prudent Utility Practice." Prudent Utility Practice shall mean any of the practices, methods and acts that would be followed by a significant portion of the electric utility industry during the relevant time period, and in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could reasonably have been expected to produce the desired result consistent with good business practices, reliability, safety and expedition. Prudent Utility Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be a range of acceptable practices, methods or acts. Prudent Utility Practice does not exclude the possibility of unintentional errors, mistakes, or other foibles of human nature, for which a Party shall not be liable. Nothing in this Agreement shall be construed to create any duty to or any standard of care with reference to any person not a party to this Agreement.

15. **Successors and Assignment.**

15.1 Unless otherwise provided in the Scope of Services, neither Party shall assign nor delegate performance of its duties under this Agreement to any person or entity without the written consent of the other Party, such consent not to be unreasonably withheld, conditioned, or delayed.

15.2 Subject to the foregoing restrictions in this Section, this Agreement shall be binding upon, inure to the benefit of and be enforceable by the Parties and their respective permitted successors and permitted assigns.

16. **Severability.**

If any provision of this Agreement shall be deemed invalid or unenforceable in any respect for any reason, the validity of any such provision in any other respect and of the remaining provisions of this Agreement shall not be in any way impaired.

17. **No Waiver.**

A provision of this Agreement may be waived only by a written instrument executed by the Party waiving compliance. No waiver of any provision of this Agreement shall constitute a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. Failure to enforce any provision of this Agreement shall not operate as a waiver of such provision or any other provision.

18. **Further Assurances.**

From time to time, each of the Parties shall execute, acknowledge and deliver any instruments or documents necessary to carry out the purposes of this Agreement.

19. **No Third Party Beneficiaries.**

Nothing in this Agreement, express or implied, is intended to confer on any person, other than the Parties, any right or remedy of any nature whatsoever, except for persons entitled to indemnification pursuant to Section 7.

20. **No Legal Services.**

No Provision of Legal Services by TEA. CCA acknowledges that, with respect to the services rendered or to be rendered by TEA under this Agreement: (i) TEA is not authorized to give legal advice and (ii) TEA does not intend to give and has not given CCA legal advice. CCA represents to TEA that CCA (i) has obtained and shall obtain legal advice from CCA's own legal counsel regarding the legal aspects of any advice given or services performed by TEA under this Agreement and (ii) has not relied and shall not rely on TEA for the giving of legal advice. CCA hereby waives and releases any claim that CCA may now or hereafter have that CCA has relied, directly or indirectly, on any advice given by TEA, or to be given by TEA, in connection with this Agreement as being in the nature of legal advice, and further waives and releases any claim for damages resulting therefrom.

21. **Resettlement.**

21.1 From time-to-time transactions that may have otherwise been fully completed and settled may be required to be resettled due to market rules (often in the case of RTO markets) or order of a court, regulatory authority, or other entity with jurisdiction to order such. If such resettlement related to any transaction performed by TEA on behalf of CCA results in a refund to TEA from a third party, TEA shall pay to CCA any such refund received by TEA. If such resettlement related to any transaction performed by TEA on behalf of CCA results in TEA owing an amount to a third party, CCA shall pay to TEA any such amount owed by TEA. This provision shall survive the termination of this Agreement.

22. **Audit Rights.**

During the term of this Agreement, and for one year following the effective date of termination, each Party may audit the other Party's books and records for the most recently past twelve month period for the sole purpose of verifying the calculation of payments made or received, including the calculation of pricing or Compensation due pursuant to this Agreement; provided that neither Party may conduct more than one such audit during any consecutive six-month period; and further provided that the Parties' audit rights under this Section shall not extend the period of any audit rights identified in a Task Order. Furthermore, following termination of this Agreement, neither Party may conduct more than one such audit during the one-year period referred to above. Any such audit shall be conducted at the audited Party's offices during its normal business hours, at the auditing Party's own expense. Copies of audit reports shall be provided to the non-

auditing Party upon such Party's payment of copying and delivery costs. If following such audit, the Parties agree that any billing or payment in the previous year was incorrect, or it is otherwise found that such is the case, the Party owed such amount shall submit an invoice to the owing Party and the owing Party shall make payment of any undisputed amount no later than thirty (30) days after receipt of such invoice. Any such payments shall include applicable interest at the Interest Rate, accrued as of each payment's original due date.

Each Party shall maintain the confidentiality of the other Party's accounting records and supporting documents in compliance with the Confidentiality Section herein and shall use them only for the purpose of confirming the accuracy of billings and payments under this Agreement. In the event such information is required to be disclosed in a legal or regulatory proceeding, or otherwise required to be disclosed by law, the affected Party shall notify the other Party at the time of the request so that the affected Party may seek at its own expense to preserve the confidentiality of the information.

23. **Force Majeure Event.**

23.1 For purposes of this Agreement, "Force Majeure Event" means an event that prevents the claiming Party from performing any of its obligations under or in connection with this Agreement, that is not within the reasonable control of, or the result of the negligence of, the claiming Party, and that by the exercise of due diligence the claiming Party is unable to avoid, cause to be avoided, or overcome. Force Majeure Events may include, but are not restricted to: acts of God; acts of the public enemy, war, blockades, insurrections, civil disturbances and riots; epidemics; landslides, lightning, earthquakes, firestorms, hurricanes, tornadoes, floods, washouts, and extreme weather conditions; fire, explosion, breakage, freezing or accidents to machinery or lines of pipe; strikes, lock-outs or other industrial disturbances or labor disputes; labor or material shortage; sabotage or terrorism; and order or restraint by governmental authority (so long as the claiming Party has not applied for or assisted in the application for, and has opposed where and to the extent reasonable, such order or restraint).

23.2 Except as otherwise provided in this Section, neither Party to this Agreement shall be considered to be in default in performance of any obligation hereunder if failure of performance shall be due to a Force Majeure Event. A Party shall not, however, be relieved of liability for failure of performance if such failure is due to events arising out of removable or remediable events which it fails to remove or remedy with reasonable dispatch. Any Party rendered unable to fulfill any obligation by reason of a Force Majeure Event shall exercise due diligence to remove such inability with all reasonable dispatch. Nothing contained herein, however, shall be construed to require a Party to prevent or settle a strike or labor disagreement against its will. Notwithstanding the provisions of this Section, payment of liquidated damages or penalties due to nonperformance under the terms and conditions of transactions entered into on CCA's behalf shall not be excused because of a Force Majeure Event.

23.3 If the claim of Force Majeure Event is in respect to any Matching Transaction or Trading Product, the Force Majeure provisions of the TEA trading agreement under which such Matching Transaction or Trading Product is provided shall govern such claim.

24. **Recording.**

24.1 Unless a Party expressly objects to a Recording (defined below) at the beginning of a telephone conversation between CCA and TEA, each Party (i) consents to the monitoring of, and creation of a tape or electronic recording ("Recording") by TEA of, all telephone conversations between the Parties to this Agreement, but only related to those individuals conducting CCA Transactions under this Agreement, (ii) agrees that any such Recordings will be owned by TEA, retained in confidence, secured from improper access, and (iii) acknowledges that such Recordings may be submitted in evidence in any proceeding or action relating to this Agreement. Each Party waives any further notice of such monitoring or recording, and agrees to notify its officers, employees, and agents of such monitoring or recording and to obtain any necessary consent of such officers, employees, and agents. The Recording, and the terms and conditions of a transaction discussed by the Parties in such Recording, if admissible, shall be the controlling evidence of the Parties' agreement with respect to a particular transaction between the Parties in the event a confirmation is not fully executed (or deemed accepted) by both Parties. Upon full execution (or deemed acceptance) of a confirmation, such confirmation, absent manifest error, shall control in the event of any conflict with the terms of a Recording.

25. **Default.**

25.1 Each of the following shall constitute an "Event of Default" with respect to a Party (the "Defaulting Party") under this Agreement:

25.1.1 the failure to make, when due, any payment (including Power Payments as defined in Task Order 2) or funding obligation, other than TEA service fees, required (a "Payment Failure") pursuant to this Agreement if such failure is not remedied within four (4) business days ("Cure Period") after written notice of such a Payment Failure. However, the Cure Period shall be reduced to two (2) business days after written notice of such Payment Failure, if the Defaulting Party has triggered a Payment Failure in the prior six (6) months.

25.1.2 any representation or warranty made by such Party herein is false or misleading in any material respect when made or when deemed made or repeated;

25.1.3 the failure to perform any obligations, other than obligations set forth in Section 25.1.1 of this Agreement, if such failure is not remedied within thirty (30) days after written notice of such as breach;

25.1.4 a Party becomes Bankrupt. For purposes of this Agreement, "Bankrupt" means with respect to either Party, the Party (i) files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause of action under any bankruptcy, insolvency, reorganization or similar law, or has any such

petition filed or commenced against it, (ii) makes an assignment or any general arrangement for the benefit of creditors, (iii) otherwise becomes bankrupt or insolvent (however evidenced), (iv) has a liquidator, administrator, receiver, trustee, conservator or similar official appointed with respect to it or any substantial portion of its property or assets, or (v) is generally unable to pay its debts as they fall due.

25.2 If an Event of Default with respect to a Defaulting Party has occurred, and if the Event of Default is not caused by a Force Majeure Event as described in Section 23 hereof, then the non-defaulting Party shall have the right to (i) suspend performance, (ii) designate an early termination date, or (ii) immediately terminate this Agreement subject to any surviving obligations. Both Parties shall continue to make payments then due or becoming due with respect to performance or payment obligations which arose prior to the date of termination.

26. **Dispute Resolution.**

26.1 Except as otherwise provided herein, the Parties shall act in good faith to first seek resolution of any dispute arising hereunder through negotiation between the operating personnel of each Party. If the dispute cannot be settled through such negotiations within a period ending no longer than thirty (30) days of the date on which one Party notifies the other in writing of a dispute, the senior executive officers (or their designees who shall be empowered with the same authority as the senior executive officers to settle such dispute) of each Party will personally and in good faith seek to resolve the dispute through negotiation one with the other for a period ending no longer than ten (10) days after the end of the 30-day period described above before resorting to any other dispute resolution procedure.

26.2 After the expiration of the periods described in Section 26.1, the Parties agree to endeavor to resolve claims or disputes through mediation, prior to litigation. Either Party may request in writing for the Parties to participate in formal mediation (the "Notice of Meditation"). The mediator will be selected by the Parties. The Mediation shall be held within 30 days of selection of a mediator, in San Diego County or at a neutral location to be selected by the Parties. The mediation shall continue until one or both Parties declare an impasse, or a written settlement is executed by the Parties. All communication during the mediation process shall be confidential and treated as settlement negotiations under the applicable rules. Notwithstanding the forgoing, Section 26.1 and 26.2 shall not apply in the event that either Party commences an action under the Bankruptcy Code.

26.3 If mediation is unsuccessful or results in an impasse between the Parties, then either Party may seek any and all remedies available to it at law or in equity, subject to the limitations set forth in this Agreement.

27. **Certain Representations.**

27.1 CCA represents that (i) CCA is authorized to enter into and execute this Agreement in connection with the Purposes stated herein; and (ii) CCA is either not subject to federal income tax or its income is exempt under Section 115 of the Internal Revenue Code.

27.2 Each Party represents and warrants to the other Party that it is and will remain duly organized, validly existing, and in good standing under the laws of the state of its organization throughout the term of this Agreement, and that the execution, delivery and performance of this Agreement are within its express or implied statutory powers, have been duly authorized by all necessary action, and do not violate any of the terms or conditions in its governing documents or applicable laws.

28. **Confidentiality.**

The Parties acknowledge that certain information and materials exchanged during the term of this Agreement, including this Agreement, may contain proprietary and Confidential Information of the disclosing Party. "Confidential Information" means and includes any and all information including, without limitation, trade secrets, analyses, compilations, forecasts, studies, techniques, plans, designs, cost data, pricing data, financial data, customer information and employee information, disclosed by a Party to the other party before, on, or after the Effective Date which relates in any manner, directly or indirectly, to the disclosing Party and/or its business, whether such information is disclosed in writing, verbally, electronically, or otherwise. Confidential Information shall specifically include, but not be limited to (i) any information disclosed in written form and clearly marked "Confidential" and (ii) information which would reasonably be considered proprietary, trade secret, and confidential. The receiving Party agrees that such Confidential Information shall be held confidential, to the extent permitted by law, under the same safeguards as it treats its own confidential information and that it will not use, copy or disclose the Confidential Information other than for the sole purpose of supporting or performing the services in connection with this Agreement. The Confidential Information may be disclosed to officers, directors, employees, agents, representatives or consultants (who shall agree to be bound by the terms of this Section) of the receiving Party on a need to know basis, and shall not be disclosed to any third party without first having obtained the written permission of the disclosing Party. Confidential Information shall specifically exclude any information which the receiving Party can show (i) was known to or was independently developed by the receiving Party without access to or use of the Confidential Information of the disclosing Party; (ii) was disclosed to the receiving Party in good faith by a third party who had the right to make such disclosure; (iii) was made public by the disclosing Party, or was established to be part of the public domain other than as a consequence of a breach of the Agreement by the receiving Party; or (iv) is independently developed by the receiving Party without use of the disclosing Party's Confidential Information as shown by documents and other competent evidence in the receiving Party's possession.

If the receiving Party is requested or required by oral questions, interrogatories, requests for information or documents, subpoena, civil investigative demand, regulatory proceeding or similar legal or regulatory process to disclose any Confidential Information supplied to the receiving Party by the disclosing Party, the receiving Party shall provide the disclosing Party with prompt notice of such request(s) and adequate time for the disclosing Party may seek a protective order or other appropriate remedy and/or waive compliance with the terms of this Agreement. However, disclosure pursuant to a legal order or statutory obligation shall not constitute a breach of this Section. The Parties agree that this Agreement and any Task Orders executed in connection therewith are subject to the requirements of the California Public Records Act (Government Code Section 6250 et seq.).

29. **No Immunity.**

CCA is not entitled to claim immunity on the grounds of sovereignty or other similar grounds with respect to itself or CCA Funds (as described herein) from (i) suit alleging breach of this Agreement, (ii) jurisdiction of any court in California, or (iii) execution or enforcement of any judgment to which TEA might otherwise be entitled in any proceedings nor may there be attributed to CCA any such immunity (whether or not claimed); provided, however, that nothing in this Agreement shall waive the obligations and/or rights set forth in the California Government Claims Act (Government Code Section 810 et seq.).

30. **Entire Agreement.**

This Agreement supersedes any and all prior or contemporaneous agreements, whether written or oral, between the Parties hereto with respect to the subject matter of this Agreement. Each Party to this Agreement acknowledges that no representations, inducements, promises or agreements, oral or otherwise, have been made with respect to the subject matter of this Agreement that are not embodied in this Agreement, including any Task Order or exhibits or schedules attached hereto.

31. **Governing Law and Forum.**

This Agreement shall be subject to and construed under the laws of the State of California without resort to its conflicts of laws principles. Subject to the requirements and conditions precedent of Section 26 (Dispute Resolution), any dispute relating to this Agreement may be brought in any court of competent jurisdiction.

32. **Compliance with Law.**

Notwithstanding any other provision of this Agreement, TEA and CCA shall at all times during the term of this Agreement comply with all applicable laws, regulations, orders and decrees of governmental authorities with jurisdiction If there occurs a material change in any law, order, or regulation (each a "Change in Law") which prohibits performance by a Party (the "Affected Party") under this Agreement beyond the effective

date of such Change in Law, the Affected Party shall give the other Party (the "Non-Affected Party") at least thirty (30) days' prior written notice (the "Notice Period"). During the Notice Period, the Parties shall make a good faith effort to resolve the issue and minimize any such economic impact caused by the Change in Law. If a mutual agreement is not reached, then early termination shall take effect as of the effective date of such Change in Law.

33. **Amendment.**

This Agreement may be amended only by an instrument in writing signed by the authorized representatives of both Parties. Task Orders, exhibits or schedules to this Agreement may be amended as set forth in such Task Order, exhibit or schedule.

34. **Counterparts.**

This Agreement may be executed by the Parties in one or more counterparts, each of which, when executed and delivered shall be an original, but all of which shall constitute one and the same instrument.

35. **Waiver of Jury Trial and Consent to Relief from the Automatic Stay.**

THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT THEY MAY HAVE TO A TRIAL BY JURY IN ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS AGREEMENT AND ANY TASK ORDER CONTEMPLATED TO BE EXECUTED IN CONJUNCTION HEREWITH, OR ANY COURSE OF CONDUCT, COURSE OF DEALING, STATEMENTS, WHETHER VERBAL OR WRITTEN, OR ACTIONS OF EITHER PARTY. CCA FURTHER AGREES AND CONSENTS TO AN IMMEDIATE LIFTING OF THE AUTOMATIC STAY IMPOSED BY SECTION 362 OF THE UNITED STATES BANKRUPTCY CODE IN ANY BANKRUPTCY CASE FILED BY CCA WITH RESPECT TO TEA'S RIGHT TO PURSUE ITS REMEDIES AGAINST ANY COLLATERAL OR LETTER OF CREDIT SECURING THE INDEBTEDNESS FOR THE PROCUREMENT OF POWER. THIS PROVISION IS A MATERIAL INDUCEMENT FOR TEA EXECUTING THIS AGREEMENT.

36. **Task Orders, Exhibits, Schedules, and Controlling Terms.**

All Task Orders, exhibits, schedules and related attachments which are attached to this Agreement are incorporated by reference, as if set out in full herein. The provisions of each Task Order including exhibits, schedules and related attachments are subject to the Terms and Conditions of the RMA between the Parties. If any provisions of any Task Order including any exhibit, schedule or related attachment conflicts with any provisions in the RMA, the provisions of the RMA shall take precedence. If any provisions of Task Order 1 conflict with those of Task Order 2, the provisions of Task Order 2 shall take precedence over the Terms of Task Order 1.

37. **Authorization.**

The Parties hereby warrant that the persons executing this Agreement are authorized to execute and obligate the respective Parties, its successors and assigns, to perform under this Agreement in accordance with its terms. Each Party represents and warrants to the other Party that it is and will remain duly organized, validly existing, and in good standing under the laws of the state of its organization throughout the term of this Agreement, and that the execution, delivery and performance of this Agreement are within its express or implied statutory powers, have been duly authorized by all necessary action, and do not violate any of the terms or conditions in its governing documents or applicable laws.

38. **Acknowledgement of Parties.**

By executing this Agreement, each Party acknowledges having read this Agreement, and that, after a full opportunity to discuss the terms of this Agreement with any representative or counsel of the Party's choice, fully understands the Agreement and voluntarily enters into this Agreement.

[Signature Page to Follow]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their respective names by their respective duly authorized representatives as of the date written in the first paragraph of this Agreement.

THE CITY OF SOLANA BEACH d/b/a SOLANA BEACH CCA	**THE ENERGY AUTHORITY, INC.**
By:_____	By:_____
Name: _____	Name: _____
Its: _____	Its: _____
Date: _____	Date: _____

Task Order 1 for
Phase I and Phase II Core Services

TEA and SBCCA agree that the following terms and conditions constitute Task Order 1 for Phase I and II Core Services ("Task Order 1").

Section 1. Scope of Services for Phase I (Program Development)

During Phase I, TEA shall provide to SBCCA certain technical and analytic services (hereinafter, the "Development Services") on a time and materials basis. For purposes of this Task Order 1, the Development Services offered by TEA are separated into and described in Section 1.1 (Community Engagement Support), Section 1.2 (Technical Analysis), Section 1.3 (Financial Analysis), Section 1.4 (Risk Analysis), Section 1.5 (Support Tasks), Section 1.6 (TEA's Phase I Assessment), and Section 1.7 (SBCCA Implementation Plan).

Section 1.1 Community Engagement Support

The focus of community engagement will be a collaborative effort between TEA, Calpine and City staff to build community awareness and acceptance of the CCA program. This effort will include outreach focused on local community leaders to ensure their understanding of the CCA program.

1.1.1 Communication and Program Strategies

TEA will work with Calpine and City staff to develop communication to inform key stakeholders about the CCA program: how it works and what's being considered in Solana Beach. This task includes the early outreach to inform the community about customer enrollment in Phase 2.

1.1.2 Support the Creation / Design of Program Collateral

TEA anticipates the City will develop brand and key communication pieces—both print and digital—for distribution/education of key stakeholders, the press, and the community at large. TEA will support Calpine and the City to provide the needed information and analysis required to develop effective materials.

1.1.3 Engage City Officials, Community Stakeholders, Key Customer Groups and Press

TEA will work with Calpine and support the City in building concept and program awareness, including educating local advocates to assure participation and accuracy. Key tasks include supporting:

- Working with the City staff on informational workshops and webinars, small group meetings and 1:1 briefings as may be needed;
- Conducting a 'train the trainer' workshop for the City staff and local advocates to ensure dissemination of consistent and accurate information;
- Supporting the City staff and Calpine in drafting Op-Eds and scheduling interviews with key press contacts.

Section 1.2 Technical Analysis

1.2.1 Load Study and Forecast

TEA will develop a load forecast model that forecasts both total energy usage and peak demand by customer load class using a two-step process. The first step will be to incorporate incremental adjustments for known changes to recent historical energy usage. The second step will be to apply an annual growth factor that can be adjusted to account for the effects of variables such as the following: (i) growth in overall energy usage due to population and economic growth; (ii) declines in per person

electricity demand due to increased efficiencies; (iii) growth in electricity demand due to fuel switching towards electric cars and heating; (iv) declines in grid electricity usage due to rooftop solar, distributed battery storage adoption; and (v) changes in the hourly shape of electricity usage due to all of the above. The load forecast will also incorporate transmission and distribution level losses for the California Independent System Operator ("CAISO") and San Diego Gas & Electric Company ("SDG&E"), respectively.

The load forecasting model will output results into an Excel-based template that will be integrated with the Pro Forma Model discussed later in this section. The template will include (i) toggles to adjust for the variables described in the preceding paragraph, (ii) selections to allow the incorporation or exclusion of direct access loads, if applicable, (iii) toggles to adjust opt-out rates and inclusion/exclusion of SBCCA member communities, if applicable, and (iv) charts to visualize the load data.

1.2.2 Rate Analysis

TEA will use the Pro Forma Model, with specific reserve accumulation objectives, to determine overall revenue requirements. Included as part of this task will be an analysis of future SDG&E rates based on the scenarios described in the request for proposal ("RFP"). TEA will then use the SDG&E rate structures, current rates, and projected future rate growth as the basis for constructing a rate structure for SBCCA and determining an expected discount or premium to SDG&E's rates through time. Toggles will be available in the Pro Forma Model to modify supply portfolios and other key variable to determine the rate discount or premium relative to SDG&E under a variety of scenarios. This will help develop SBCCA reserve targets with the goal of maintaining rate stability and rate parity in the future. Finally, there will be the capability to define multiple service levels with different renewable or carbon attributes and different rates, and determine the impact on overall revenue based on assumptions about adoption levels for each service.

1.2.3 Supply Scenarios for CCA

The Pro Forma Model will have the ability to select different resource portfolios. The portfolio selections will determine the percentages of: California qualified renewables; renewables procured locally; renewable supply from each REC category; zero-carbon but non-renewable qualified supply (i.e., large hydro); with the balance being assumed to be system power. TEA will also work with SBCCA staff and local officials during this task to determine the appropriateness of utilizing "bucket 2" and "bucket 3" RECs in meeting renewable portfolio standard ("RPS") and greenhouse gas ("GHG") reduction goals. The ultimate objective is for TEA and SBCCA to establish and model the supply portfolios that best meet the desired cost, environmental attributes, and GHG levels sought by SBCCA to assess the ability of SBCCA to meet its program goals and objectives.

Section 1.3 Financial Analysis

The Pro Forma model will capture base case and alternative scenario results of the significant drivers of SBCCA's financial performance including, but not limited to, the following:

- Load forecasts;
- Wholesale power prices;
- Contracted or owned power supply costs;
- Resource Adequacy charges;
- REC charges;
- Rooftop and community solar penetration and net-metering and feed-in-tariff rates;
- Administrative, start-up and operating costs;

- PCIA charges;
- SDG&E rates under the current and the new California Public Utilities Commission ("CPUC") approved 2-tier rate design;
- GHG emissions for each supply scenario;
- Energy efficiency, net metering and feed-in-tariff programs;
- Opt-out and participation rates by rate class;
- Participating jurisdictions; and
- Reserve accumulation and debt service coverage ratios through time.

Section 1.4 Risk Analysis

TEA will identify and document the primary risks SBCCA will face and the means of managing these risks including:

- Financial Risk - this risk primarily consists of the CCA's ability to maintain adequate cash flow, particularly during the early stages of the program;
- Competitive Rate Risk - this risk primarily consists of whether the CCA can provide power with the desired renewable mix and GHG concentration at rate levels competitive with SDG&E;
- Wholesale Market Risk - this risk primarily consists of (1) a supplier default, which would force the CCA to procure replacement supplies at a higher cost; and (2) balancing the cost certainty of long-term fixed cost supply against the potential risk and rewards of procuring a portion of its supply in shorter-term markets at potentially lower or higher cost;
- Regulatory Risk - this risk primarily consists of the California Public Utilities Commission ("CPUC") ratemaking and policy-making functions that can affect CCA viability including items such as Exit Fees, Cost Allocation, and Rate Design, among other issues; and
- Political Risks - this risk primarily consists of opposition during the CCA's formation at a macro level from the CPUC and California Legislature.

Section 1.5 Additional Phase 1 Support Tasks

TEA will provide additional Phase 1 tasks to support early formation efforts and prepare for Phase 2 launch to include the following:

- Coordinate and refine, with SBCCA and Calpine, a project timeline and detailed project plan for CCA formation and launch. This will include a spreadsheet mapping all of the steps and timing of CCA formation through customer enrollment and into early operations.
- Assist SBCCA and Calpine, as necessary, with drafting written and presentation materials, and other reports related to governance and community outreach; and participate in Solana Beach City Council and other community meetings to discuss CCA.
- Implement weekly calls and/or GoToMeetings with SBCCA and the Calpine, as necessary, to ensure all TEA tasks are assigned and major milestones are being met.

Section 1.6 TEA's Phase I Assessment

1.6.1 Summary

SBCCA has already undertaken a Technical Study and contracted for a peer review of the Technical Study, independent of TEA. Nevertheless, TEA will perform an independent evaluation of overall feasibility of the SBCCA since the financial ProForma Model and analysis required to assess feasibility will be required to determine Phase II and III activities. The analysis performed by TEA will provide a clear assessment for SBCCA of the overall feasibility of its CCA program as it relates to meeting key goals, such as environmental benefits and cost competitiveness. The assessment will show alternative supply scenarios and how they compare to SDG&E in terms of GHG content of the energy mix, an estimation of the percentage of renewable energy content that can be procured from locally-

generated electricity, as well as the potential rate savings (or rate increases) of each scenario compared to SDG&E over the forecast period.

1.6.2 TEA's Phase I Timeline

TEA anticipates that it will take approximately sixty (60) days after receipt of load data to develop its ProForma Model and complete its assessment.

1.6.3 TEA's Phase I Study ("Study") Process and Deliverables

The following deliverables will be provided during the course of compiling the Study:

- Weekly updates with SBCCA staff. TEA will provide a summary level status report, as well as, a standing 30 minute call.
- Verification of completeness of load data request of SDG&E and identify additional follow-up with SDG&E, if needed.
- A final PowerPoint presentation of:
  - The draft assessment results;
  - The final assessment results; and
  - All Excel-based analysis and models developed in completing the Study.

Section 1.7 SBCCA Implementation Plan

The SBCCA Implementation Plan (the "Plan") is a California Public Utilities Commission ("CPUC") requirement that covers the main aspects of the CCA plan of operations. It must be certified by the CPUC (within 90 days of submission) before the CCA can begin serving customers. TEA, in coordination with Calpine and SBCCA staff, will draft the Implementation Plan in accordance with all CPUC requirements and established best practices. The SBCCA Implementation Plan will include a description of the following:

- CCA's organizational structure, including the program's operations and funding;
- CCA's rate setting or pricing strategy, and other costs to participants;
- Disclosure and due process requirements in setting rates and allocating costs among participants;
- General description of CCA service offerings, including default supply product, voluntary green pricing option(s), and others, if applicable;
- Identification of customer programs that will likely be developed, including net metering, feed-in-tariffs, demand response, energy storage, or others;
- Description of CCA organizational structure;
- Methods for entering and terminating agreements with other entities;
- Participant rights and responsibilities;
- Procedure for termination of the program; and
- Description of third parties that will be supplying electricity under the program, including information about financial, technical, and operational capabilities.

Before the City Implementation Plan can be submitted to the CPUC, the following items must be determined and articulated in the Plan:

- Community Participation, as determined by passage of the CCA ordinance

- Program Phasing, if any, by customer class and timing of each
- General description of CCA's rate/pricing strategy
- General description of CCA service offerings: default supply product, voluntary green pricing option(s), and others, if applicable
- Identification of customer programs that will likely be developed, including net metering, feed-in-tariffs, demand response, energy storage, etc.
- Description of CCA organizational structure

Section 2. Scope of Services for Phase II (Program Launch)

During Phase II, TEA shall provide to SBCCA certain implementation services (hereinafter, the "Launch Services") on a time and materials basis. For purposes of this Task Order 1, the Launch Services offered by TEA are separated into and described in Section 2.1 (SBCCA Regulatory Functions), Section 2.2 (CCA Organizational Infrastructure), Section 2.3 (Procurement and Vendor Engagement), and Section 2.5 (Rate Setting and Policies).

Section 2.1 SBCCA Regulatory Functions

The Parties agree that certain regulatory steps must be facilitated during the Phase II and prior to Phase III (Program Operations) of the CCA. Accordingly, TEA will assist SBCCA with the completion of the following:

- Prepare for CAISO market participant requirements, including identifying agreements between SBCCA and CAISO necessary to prepare for Program Operations and posting of required credit facilities;
- Submitting a Statement of Intent with the CPUC;
- Additional registration requirements with the CPUC;
- Execution of CCA Service Agreement with SDG&E;
- Posting of credit collateral with SDG&E;
- Submitting a Binding Notice of Intent with SDG&E;
- Registration with California Air Resources Board (including CITSS registration); and
- Registration with Western Renewable Energy Generation Information System ("WREGIS").

Section 2.2 CCA Organizational Infrastructure

In order to implement an optimal organization that meets SBCCA's requirements, TEA will collaborate with SBCCA staff to ensure that SBCCA is well positioned for Program Launch and operations. This will include the development (or refinement) of a business operations plan, review of operational policies and procedures, committee structures and a staffing plan to ensure that all core functions are in place, either outsourced through the TEA and Calpine services or augmented by existing SBCCA staff and administrative infrastructure.

Section 2.3 Procurement and Vendor Engagement.

2.3.2 Financial Services

SBCCA will require accounting, banking and auditing services for the CCA program in order to maintain separation of duties and fiduciary oversight. TEA, working in cooperation with SBCCA and

Calpine, is able to assist SBCCA in contracting for these services, to the extent such support does not create a conflict of interest.

2.3.2 Negotiation and Contracting Services

TEA will provide assistance with negotiations and contracting with existing or new local generation facilities, which SBCCA may elect to pursue. At the appropriate time, TEA will work with SBCCA to procure the legal services required, if any, to supplement this effort.

2.3.3 Procurement Services

TEA is a power marketer and certified CAISO Scheduling Coordinator. TEA has established credit facilities and contracts in place with an extensive list of market participants in California and Western energy markets that it will utilize in procuring all of the initial power supply needs of SBCCA including energy, resource adequacy and RPS. SBCCA will have full transparency into procurement efforts including the counterparties from whom TEA receives bids on behalf of SBCCA and the ultimate prices paid by TEA for the different components of SBCCA's power supply. The Parties agree that a separate Task Order 2 will need to be executed between the Parties prior to TEA beginning to procure power and negotiate any contracts needed to enable such power procurement.

Section 2.4 *This section is reserved.*

Section 2.5 Rate Setting and Policies

2.5.1 Rate Setting, including policies to encourage distributed generation.

TEA will assist SBCCA with evaluating the factors involved in rate setting and rate policy making. TEA will assist SBCCA with a determination of (i) its overall revenue requirements, (ii) rates based on a method (or methods) of allocating the cost of providing service to support viable rates, (iii) development of the actual rates, and (iv) a verification method that the rates as designed will generate revenues sufficient to satisfy the overall revenue requirement for SBCCA.

2.5.2 Development of Retail Rates

As a first step, TEA will assist SBCCA with evaluating all relevant cost data, including all applicable operating cost, capital cost, loan repayment, credit and reserve requirements. The revenue requirements will be allocated via a cost of service analysis to the appropriate customer classes, which are currently expected to include the following classes (the "Customer Classes"):

- Residential
- Residential CARE
- Small Commercial
- Medium Commercial
- Large Commercial
- Agriculture

Rates will be designed for each of the customer rate schedules that are consistent with the methodology employed by SDG&E so as to be comparable to SDG&E rates. TEA's recommendation is that a constant rate adjustment factor be applied uniformly across all rate classes to derive SBCCA generation rates. Testing will be conducted in order to verify that the rates will generate sufficient revenues to achieve the revenue requirements.

2.5.3 Development of FIT and NEM Rates

As a second step, TEA will assist with developing Net Energy Metering ("NEM") and Feed-in-Tariff ("FIT") rates that will be calculated using power cost data developed by TEA. A 100 percent renewable voluntary "opt-up" option may also be considered. TEA will work with SBCCA to design NEM and FIT rates that align with the goals and objectives of SBCCA and the local community.

Within the second step, renewable rates will be developed for each of the Customer Class rate schedules identified in the initial step. TEA will provide the cost data for the resources used to meet these requirements, as well as estimated sales and load information to facilitate rate development.

Section 3. Term and Termination of Task Order 1.

Section 3.1 Term of Task Order 1.

This Task Order 1 shall become effective and Services pursuant to this Task Order 1 shall commence on the Effective Date of the Agreement, and shall continue until the Power Start Date (as defined in Task Order 2) (hereinafter, the "Task Order 1 End Date"). The expiration or termination of this Task Order 1 shall not affect the term of the RMA.

3.1.1 Term of Phase I.

Phase I shall commence on the Effective Date of the Agreement and continue until the commencement of Phase II.

3.1.2 Term of Phase II.

Phase II shall commence on the date on which the Solana Beach City Council approves the Implementation Plan and authorizes submittal of the Plan to the CPUC, and will continue until the Task Order 1 End Date.

Section 3.2 Termination.

Either Party may terminate this Task Order 1 by either (1) terminating the RMA; or (2) terminating this Task Order 1 pursuant to the terms of RMA Sections 4 ("Events of Termination") or RMA Section 25 ("Default").

Section 4. Compensation for Services Provided in Task Order 1.

Section 4.1 Compensation for Phase I Services.

For the Development Services defined in Section 1 of this Task Order 1, TEA will record the hours expended on a time an materials basis for all activities associated with Section 1 based on TEA's Billing Rates (as provided in Section 8 herein) per hour incurred by TEA staff (the "Phase I Fees"). In consideration for the Development Services performed by TEA hereunder, SBCCA shall pay TEA the amount of Phase I Fees.

Notwithstanding the foregoing, and provided there is no SBCCA Event of Default for either the RMA or this Task Order 1, the Parties agree to defer the amount owed to TEA for the Phase I Fees until Phase III. The amount owed by SBCCA for deferred Phase I Fees shall be calculated and paid in accordance with Task Order 2. Furthermore, the Parties agree that if there is an Event of Termination in compliance with the RMA Section 4.3 during the Termination Window (as described in the RMA), then SBCCA shall not owe for the amount of the Phase I Fees.

Section 4.2 Compensation for Phase II Services.

For the Launch Services defined in Section 2 of this Task Order 1, TEA will record the hours expended on a time an materials basis for all activities associated with Section 2 based on TEA's Billing Rates (as provided in Section 8 herein) per hour incurred by TEA staff (the "Phase II Fees"). In consideration for the Launch Services performed by TEA hereunder, SBCCA shall pay TEA the amount of Phase II Fees.

Notwithstanding the foregoing, and provided there is no SBCCA Event of Default for either the RMA or this Task Order 1, the Parties agree to defer the amount owed to TEA for the Phase II Fees until Phase III. The amount owed by SBCCA for deferred Phase I Fees shall be calculated and paid in accordance with Task Order 2. Furthermore, the Parties agree that if there is an Event of Termination in compliance with the RMA Section 4.3 during Phase II, then SBCCA shall owe TEA the Termination Fee (as defined in the RMA) in lieu of the amount of the Phase II Fees.

During the term of the RMA and this Task Order 1, compensation and fees owed to TEA, excluding the deferred Phase I Fees and Phase II Fees, will be adjusted on an annual basis by the greater of (i) 3% or (ii) the U.S. Government Consumer Price Index for All Urban Consumers (the "CPI-U") beginning on the second anniversary of the RMA Effective Date.

Section 5. Controlling Terms and Conditions.

The provisions of this Task order 1 are subject to the Terms and Conditions of the RMA between the Parties. If any provisions of this Task Order 1 conflict with any provisions in the RMA, the provisions of the RMA shall take precedence. Capitalized terms found in this Task Order 1, and not defined herein, shall have the meaning assigned to such terms in the RMA.

Section 6. Expenses and Reimbursement.

Actual out-of-pocket expenses for travel and participation in on-site meetings are in addition to the compensation outlined in Sections 1, 2 and 4 of this Task Order 1. Travel costs such as airfare, hotel, ground transportation, per diem or meals (hereinafter, "Expenses") will be billed in the amount incurred by TEA for actual out-of-pocket cost, without any additional mark-up by TEA. Any Expenses incurred shall be billed for the month in which the Expenses are incurred. Air travel will be purchased at coach class fares, with advance purchase discounted tickets used when scheduling permits. Expense reports detailing all Expenses, along with receipts, will be presented to SBCCA for reimbursement.

Section 7. Payment Terms.

Section 7.1 Billing and Payment.

TEA billable hours will be tracked and itemized for each month for TEA services performed under Task Order 1. TEA will submit to SBCCA an invoice for such hours, plus Expenses, if any, on a monthly basis (the "Invoice"). Except as provided in Section 4 (deferred fees) of this Task Order 1 or otherwise agreed to by the Parties, SBCCA shall pay each Invoice for services provided by TEA under this Task Order 1 within thirty (30) days from the receipt of each Invoice, and will send payment either via electronic funds transfer or mail payment to:

The Energy Authority, Inc.
301 W. Bay Street, Suite 2600
Jacksonville, Florida 32202
Attention: Daina Dean
Email: ddean@teainc.org

Section 7.2 SBCCA Failure to Pay.

SBCCA's failure to make timely payments of undisputed amounts to TEA due under Task Order 1 shall be considered a breach. In the event such breach is not cured within ten (10) days following written notice by TEA, then SBCCA shall be in default (an "Event of Default"). Upon the occurrence of an Event of Default, TEA may, without prejudice to any other remedies:

(a) Apply any payments received by TEA for the benefit of SBCCA from any third party, towards the outstanding amount owed to TEA.

(b) Apply any monies from security posted by SBCCA in the Reserve Account (as defined in Task Order 2), if any, towards the outstanding amount owed to TEA;

(c) Defer collection or provide an extension of outstanding amounts owed to TEA; and/or

(d) Terminate this Task Order 1 and all services provided for herein pursuant to the process outlined in RMA Section 25.2.

Section 7.3 Late Payments.

Any payment that is not received (exclusive of deferred Phase 1 Fees and Phase II Fees) by TEA on or before the date required shall incur a monthly late fee, which shall be the total undisputed outstanding balance due multiplied by the 1.5% per month, or as allowable by state law (the "Late Fee").

Section 8. Billing Rates.

The TEA 2017 Billing Rates are applicable to any work performed by TEA in calendar year 2017 for which TEA is compensated on the basis of actual hours worked by TEA staff. Billing Rates are subject to annual adjustment and modification by TEA, and TEA agrees to provide SBCCA with written notice of any such revisions.

TEA 2017 Billing Rates

TEA 2017 Billing Rates[1]	
Job Group	**Billing Rate $/hour**
Principal Consultant	$300
Senior Consultant/Project Manager	$255
Consultant	$190
Analyst	$150
Clerical	$95
[1]Billing rates are subject to change after December 31, 2017.	

From time to time, SBCCA may request, and TEA may provide SBCCA with, additional services not described herein, and specifically described in a separate scope of work agreed to in writing by SBCCA and TEA.

Section 9. Functions Performed by SBCCA.

Unless otherwise mutually agreed to by the Parties, activities not expressly provided for herein are considered not within the scope of services for Task Order 1 and shall be performed by SBCCA or other third party, unless otherwise addressed in a separate Task Order.

Section 10. Amendment.

This Task Order 1 may be amended by an instrument in writing signed by each Party's authorized representative.

[Signature Page to Follow]

IN WITNESS WHEREOF, the Parties hereto have caused this Task Order 1 to be executed in their respective names by their respective duly authorized representatives as of the date written in the first paragraph of this Task Order 1.

THE CITY OF SOLANA BEACH d/b/a SOLANA BEACH CCA

By:_____

Name: _____

Its: _____

Date: _____

ATTEST:

By: _____

Name:

Its: _____

Date: _____

THE ENERGY AUTHORITY, INC.

By:_____

Name: Joanie C. Teofilo

Its: President and CEO

Date: _____

Task Order 2 for
Phase III Core Services

TEA and SBCCA agree that the following terms and conditions constitute Task Order 2 for Phase III Core Services ("Task Order 2").

Section 1 Scope of Services for Phase III (Program Operations).

During Phase III, TEA shall provide to SBCCA certain program operation services (hereinafter, the "Operational Services" or "Program Operations") as more particularly described herein. For purposes of this Task Order 2, the Operational Services provided by TEA are separated into and described in Section 1.1 (Power Purchases and Policies), Section 1.2 (Program Administration and Compliance), Section 1.3 (Integrated Resource Plan) and Section 1.4 (Support Tasks).

Section 1.1 Power Purchases and Policies.

1.1.1 Power Purchases.

(1) Subject to Resource Management Agreement ("RMA") Section 6.6, TEA shall provide trading services on behalf of SBCCA with TEA acting as principal in Transactions utilizing trading agreements between TEA and its counterparties, with such trading services including but not limited to, transacting as principal in the Transaction with third parties or with CAISO. "Transactions" means the purchase and sale of electricity products, including energy, resource adequacy capacity, ancillary services and renewable energy credits. Except as otherwise agreed by the Parties, SBCCA will transact with TEA for all of its wholesale power requirements. After SBCCA has met the conditions set forth in Section 1.1.1(2), then SBCCA, at its sole option, may enter into Transactions with third-party energy suppliers, including specific generators with local renewable generation located in San Diego County, which the Parties agree will be procured directly by SBCCA (hereinafter, "Direct SBCCA Counterparties").

(2) SBCCA agrees that as long as TEA is providing trading services, as principal, SBCCA will not (i) execute a Transaction with another PPA Provider, or (ii) grant a security interest, other than to TEA, in the Lock Box or Reserve Account. To the extent that SBCCA would like TEA's trading relationship with counterparties for Transactions made on SBCCA's behalf to change from principal to agent, thereby utilizing trading agreements between SBCCA and its Direct SBCCA Counterparties, SBCCA may provide notice to TEA (the "Trading Notice") that will be effective the first day of January of the subsequent calendar year (the "Notice Effective Date"). SBCCA agrees that (i) the Notice Effective Date will not be less than 36 months after the Power Start Date, and (ii) such Trading Notice must be provided no later than the first day of September in any calendar year. SBCCA agrees that effecting a change from TEA trading as principal to TEA trading as agent under Transactions made on CCA's behalf, does not release SBCCA from its obligations to TEA resulting from obligations incurred by TEA under Transactions made while trading as principal. The Parties agree to cooperate to facilitate communications with the relevant counterparties with respect to TEA's change from principal to agent for SBCCA Transactions.

1.1.2 Policies and Guidelines.

TEA will work with SBCCA to establish prudent power procurement policies, risk management policies, credit policies, and long-term hedging guidelines. SBCCA policies will include the following:

- Minimum and maximum hedge volumes by tenor which are dependent on expected headroom and opt-out rates;
- Maximum hedge tenor;
- Credit exposure metrics with policies to remediate exposure when necessary;
- Minimum financial reserve targets held by SBCCA once operations commence and traditional commercial bank credit facilities become available; and
- Other policies as deemed appropriate through discussions between the Parties.

Section 1.2 Program Administration and Compliance.

1.2.1 Regulatory and Legal Compliance.

TEA will coordinate with Calpine and SBCCA to provide the following:

- Relevant regulatory and legislative monitoring as it affects CCAs in California;
- Monthly and annual Resource Adequacy ("RA") showings to the California Public Utility Commission ("CPUC"); and
- Monthly and annual load forecasts to the CPUC and/or California Energy Commission ("CEC").

In addition, TEA will coordinate with Calpine and SBCCA to prepare and submit compliance filings to the appropriate regulatory bodies as follows:

- Annual Renewable Portfolio Standard ("RPS") Progress Reports and RPS Procurement Plans;
- Additional CPUC reporting including Annual EPS Attestation and Annual SSP filing;
- Additional CEC reporting including Historical load, Year-Ahead load forecasts, Integrated Energy Policy Report ("IEPR") as applicable, routine quarterly reporting and annual power mix report;
- Greenhouse Gas ("GHG") Annual Summary;
- Storage Biennial Progress Report; and
- Re-certification of CCA Implementation Plan, as needed.

TEA will monitor regulatory and compliance obligations and requirements associated with operating in the CAISO market. This effort includes performing a cross audit of supplier RA plans on a monthly basis. As Scheduling Coordinator, as defined by CAISO ("SC"), TEA will collect all RA Supply Plans from the market and will work with SBCCA to resolve any inconsistencies disputes in the RA showings with the supplier, CAISO and/or CPUC, as needed. This process is repeated monthly. As the SC, TEA will also perform the same cross audit function for the annual RA plan. The Parties recognize that the regulatory and legal compliance tasks outlined in this Section 1.2.1 will require the collective efforts of the TEA, Calpine and SBCCA.

1.2.2 Policy and Program Development.

TEA will work with SBCCA and Calpine to design and expand programs appropriate for the customer base and load profile for SBCCA customers. These programs will build on SBCCA's existing offering, and may include local renewable energy procurement, demand response, energy efficiency, energy storage, and other financially sound energy-related programs.

1.2.3 Ongoing Communications and Outreach to CCA Customers.

During the term of this Task Order 2, TEA will support efforts by SBCCA and Calpine to develop promotional outreach materials and expand SBCCA service to new communities by providing requested SBCCA data and information in the possession of TEA regarding energy services.

1.2.4 Accounting Services.

During the term of this Task Order 2, TEA will support SBCCA and Calpine by providing requested SBCCA data and information in the possession of TEA necessary for financial accounting, settlement, SBCCA audits, or to support ongoing SBCCA operations.

1.2.5 Wholesale Power Procurement Operations.

TEA will be the SC in the CAISO market and will provide a comprehensive suite of SC and related services to fulfill the requirements of a SC. TEA will conduct the following activities while performing its duties and responsibilities as SC on SBCCA's behalf:

- **Maintain credit facilities with CAISO**. Subject to Section 2.0 contained herein, TEA will maintain credit with the CAISO sufficient to make payments to, and receive payments from, the CAISO on SBCCA's behalf.
- **Provide daily forecast of SBCCA hourly loads**. Each business day, TEA will generate an hourly forecast of loads for the next 7 days for SBCCA.
- **Submit demand bids to Day Ahead ("DA") market**. TEA will submit Demand Bids to the CAISO Day Ahead Market to meet SBCCA's forecasted load requirements. TEA will monitor and compare Demand Bid information resident in the CAISO portal with submitted information and use commercially reasonable efforts to validate Day Ahead Market data submissions.
- **Submit supply bids to DA market (both economic and self-schedule)**. To the extent that TEA enters into agreements on behalf of SBCCA, or SBCCA directly enters into agreements with Direct SBCCA Counterparties, TEA will provide the scheduling and settlement activities required to schedule SBCCA's supply agreements with CAISO. For any supply agreements linked to a specific generation source, SBCCA will require its counterparty to provide TEA with a forecast of expected hourly generation levels that TEA will use in submitting day-ahead supply offers to CAISO.
- **Register and maintain Commercial Model and Resource Adequacy ("RA")**. TEA shall assist SBCCA in identifying SBCCA's information required to register and maintain SBCCA's assets, if any, in the CAISO commercial model. TEA shall assist SBCCA in identifying SBCCA's information required to comply with CAISO's resource adequacy requirements in accordance with Section 40 of the Tariff.
- **Settlement validation and allocation of costs**. TEA shall use reasonable efforts to validate CAISO invoices. Should TEA and SBCCA elect to dispute a CAISO invoice amount, TEA will file a dispute with CAISO pursuant to the CAISO tariff. Once a dispute determination has been made by CAISO, further appeals or action from TEA on SBCCA's behalf would be provided as requested and paid for by SBCCA on a time and materials basis using the billing rates provided in Section 8 herein.
- **Congestion Revenue Rights ("CRR") bid strategy development and implementation**. TEA will manage the annual CRR nomination and allocation process on behalf of SBCCA. Annually, TEA will provide SBCCA with an estimate of the dollar value of the potential CRRs based upon historic and forecasted Locational Marginal Prices for the source and sink pricing nodes

associated with the applicable source and load pricing nodes, and TEA will consult with SBCCA to select the CRRs to nominate. Selection of any CRRs to nominate will be at SBCCA's sole discretion. TEA will nominate any CRRs selected by SBCCA and TEA will notify SBCCA of the CRRs awarded to TEA for SBCCA's account. TEA will review the settlement statements and invoices associated with the CRRs for accuracy.

- **CAISO Market Monitoring.** TEA will monitor the following CAISO committees and participate (in person or via phone) in the committee meetings and provide a summary to SBCCA of any discussion items that it reasonably believes may impact SBCCA's planned operations.
    - Market Surveillance
    - Audit
- **Perform Additional Tasks.** In addition to the above, TEA will provide the following, as needed:
    - Import schedule, as required, including preparing e-tags.
    - Coordinating with generation operators to forecast generation.
    - Coordination of unit outages with generation operators and CAISO.
    - IST for system power transactions.

1.2.6 Long-term Power Procurement.

Consistent with SBCCA's renewable and GHG goals, its Integrated Resource Plan and hedging strategies developed pursuant to this Task Order 2, TEA will assist with issuing RFPs for power supplies, as well as assist with evaluating bids and assist with negotiating power purchase agreements.

1.2.7 Financial Planning.

TEA will develop and maintain a financial Pro Forma model of SBCCA's income and cash flows that will form the basis for a variety of applications including, but not limited to, annual budgeting and financial planning, ongoing risk analysis (both retail rate competitiveness and wholesale market risks), as well as form the basis for establishing SBCCA's annual revenue requirement. TEA anticipates that the rate design modules developed under Task Order 1 will be integrated with this financial planning model. TEA will include the following:

- **Financial Model:** Using the Pro Forma model developed during Phase I, TEA will build a financial model of SBCCA's financial projections which typically include load, resources with associated costs, market prices, various fixed costs and CAISO fees, executed short-term market Transactions and any other variables, as necessary, to inform a complete cost picture for SBCCA. TEA will coordinate with SBCCA staff on all necessary inputs required to derive an accurate financial projection. SBCCA will have on-demand access to the most recent financial model runs through a web portal.

- **Risk Model:** TEA has developed a modeling framework that will be applied to its risk analysis for SBCCA. The risk model generates scenarios by using inputs for several variables that may include market implied heat rates, natural gas prices, power prices, load variables, and other relevant inputs.

The risk model will be used as an important component to the entire risk management function, including calculating potential variability in SBCCA's cash flows. This information will be used in

assessing the need for short-term hedging Transactions, establishing adequate financial reserve funds, determining funding available for CCA programs and for setting retail rates.

- **Monthly Risk Reports:** TEA will create monthly risk reports that will measure SBCCA financial performance and potential uncertainty therein. These reports will then inform discussions with SBCCA as part of the continual risk management process.

1.2.8 Undertaking Continual Risk Management.

TEA will assist SBCCA in establishing a formal framework for performing continual risk management that will be memorialized through a SBCCA-approved risk management policy and procedures document. TEA will also assist SBCCA in drafting risk reporting requirements. TEA will be available on a quarterly basis for a meeting with SBCCA during which time CCA-related risks are reviewed, discussed, and as appropriate, risk mitigation strategies are reviewed and approved by SBCCA. The quarterly meetings will include the appropriate SBCCA staff and TEA staff. TEA will compile all risk-related information available into a single document or presentation that can be reviewed and discussed at the quarterly meeting. Upon approval by SBCCA, the results of the quarterly meeting will serve as the approved strategy guide for TEA market activities on behalf of SBCCA for the prompt quarter. This agreed upon strategy will be prepared consistent with reliability requirements, SBCCA renewable and GHG goals, financial goals and risk policies and procedures. The strategy will incorporate TEA's current market outlook and discussion of expected SBCCA loads and resources. The Parties agree no strategy will be adopted which violates the risk policies of SBCCA or TEA.

Section 1.3 Integrated Resource Plan.

1.3.1 Development of IRP.

TEA will prepare for SBCCA an Integrated Resource Plan ("IRP"), and update as necessary, consistent with the requirements of the Clean Energy and Pollution Reduction Act of 2015 ("SB350"), which requires a CCA to adopt an IRP and a process for updating the plan at least once every five years to ensure, among other things, that each CPUC jurisdictional load-serving entity (including CCAs) meet the state's greenhouse gas emission reduction targets and procures resources to meet the 50% RPS by 2030 target. TEA's services will include working with SBCCA to submit the IRP to the CEC and correct any deficiencies identified by the CEC.

TEA anticipates that the tasks completed in developing an IRP will include the following:

- TEA will develop a load forecast of SBCCA's load that extends to a 10-year study period. Included in this load forecast will be an analysis of the impacts of demand-side resource management including energy efficiency, distributed generation, and demand response.
- TEA will create a model of SBCCA's long-term financial function analyzing a 10-year study period. The financial model will characterize the economics of SBCCA's existing portfolio on a monthly and annual granularity along with monthly diurnal load or resource balance. The model will include data necessary to determine financial performance metrics that are commonly used and understood by SBCCA management.
- TEA will collect economic data from a variety of renewable and other generating resources that SBCCA desires to consider adding to its generation portfolio. TEA will also include local resource options that SBCCA may wish to consider or acquire. Utilizing a levelized lifecycle-cost of energy methodology, TEA will aggregate resource, regulatory, and market assumptions to model projected SBCCA resource costs.

- TEA will analyze forecasted market conditions and consider known uncertainties, such as carbon pricing and amending state renewable portfolio standards that may affect resource planning decisions. This information will be used to determine the quantity of wind, solar, energy storage, other renewable and/or gas generation capacity that likely will be added or retired in the California and broader western regional market over the study period.
- Based on the above analysis TEA will project portfolio options for SBCCA that include cost and a discussion of the relative risk of each respective option. TEA will work with SBCCA to recommend portfolios that strive to achieve minimal levels of risk relative to cost, consistent with SBCCA's renewable portfolio and GHG goals.
- TEA staff will work with SBCCA to identify the main areas of strategic focus and ultimate goals for the use of this IRP that may extend beyond the minimum requirements of SB350.

1.3.2 IRP Findings and Presentation.

Upon request of SBCCA, TEA will arrange for a presentation of the IRP findings and recommendations to the SBCCA executive management team. If SBCCA requests such a presentation, TEA will summarize the report in a presentation format containing the key components of the IRP, including study objectives, key assumptions, study approach, findings, and final recommendations.

Section 1.4 Additional Phase III Support Tasks.

TEA will provide additional Phase III tasks to include the following:

- Continue to coordinate and refine, with SBCCA and Calpine, a project timeline and detailed project plan for CCA operations.
- Continue to assist SBCCA and Calpine with community outreach; and participate in City Council and other community meetings, as necessary.
- Continue weekly calls and/or WebEx meetings with SBCCA and Calpine, as necessary, to ensure all TEA tasks are assigned and major milestones are being met.
- Continue to assist SBCCA with ongoing regulatory functions.
- TEA will provide assistance with negotiations and contracting with existing or new local generation facilities, including Direct SBCCA Counterparties, which SBCCA may elect to pursue.
- Continue to assist SBCCA with evaluating the factors involved in rate setting and rate policy making.

Section 2. Credit Solution.

Subject to the requirements described in Section 2 herein, TEA will, during the Term of this Task Order 2, use its existing credit facilities to provide credit support for Transactions made by TEA, on behalf of SBCCA, with wholesale market participants and CAISO. As more particularly described herein, such credit solution shall include the following: (i) the initial short-term cost of obtaining electricity and related attributes, (ii) required security for participation in CAISO, (iii) Deferred Fees (as defined herein), (iv) TEA satisfying requests for credit support from counterparties with respect to Transactions made by TEA as principal (collectively, the "Credit Solution"). Notwithstanding the foregoing, the Parties agree that TEA is not required to provide credit support for any Transaction in which TEA is acting as agent (i.e. not as principal) on behalf of SBCCA. This Credit Solution is subject to SBCCA meeting certain obligations, and establishing certain accounts and funding, as more particularly described in Sections 2.1, 2.2, and 2.3, contained herein.

Section 2.1 Lock-Box Pledge Account.

Providing the Credit Solution is subject to the following Lock-Box Account requirements and SBCCA obligations:

(1) SBCCA hereby grants a present and continuing first priority security interest in and lien upon the funds and payments made by SBCCA customers to SDG&E (the "Customer Payments"), which are subsequently deposited by SDG&E into the lock box pledge account (the "Lock Box Account") as funding for ongoing energy purchases made by TEA on behalf of SBCCA. Prior to TEA entering into Transactions on SBCCA's behalf, SBCCA shall execute and deliver a deposit account control agreement, substantially in the form attached hereto as Exhibit "A" (the "Control Agreement"), and other agreements as may be required. SBCCA shall direct SDG&E to deposit all Customer Payments only into the Lock Box Account. The Lock Box Account shall be held at a commercial bank regulated by the Federal Deposit Insurance Corporation ("FDIC") and the Office of the Comptroller of the Currency ("OCC"), meeting the following requirements: (i) the bank's lowest long-term deposit rating among Standard & Poor's, Moody's, and Fitch Rating Services must be at least an "A" or "A2" as applicable, (ii) the bank shall have assets of at least $5 billion, and (iii) the bank shall be a U.S. bank willing to issue standby letters of credit (the "SBCCA Bank").

(2) SBCCA agrees that the Customer Payments deposited in the Lock Box Account shall be distributed monthly, as follows:

(a) First, to TEA for billed power purchases and charges from CAISO related to CAISO Transaction, including outstanding prior month activity and current month estimated Transactions ("CAISO Power Payments").

(b) Second, to TEA and participating Direct SBCCA Counterparties, if any, for billed power purchase for monthly Bilateral Transactions ("Bilateral Power Payments"). SBCCA shall not make any pre-payments to any third party prior to making CAISO or Bilateral Power Payments;;

(c) Third, the Operational Fees and Deferred Fees, if any;

(d) Fourth, to be retained in the Lock Box Account until a balance of $200,000 dollars (the "Operating Funding") has been established as outlined in Schedule A;

(e) Fifth, monthly SBCCA administrative overhead[1] (based on annual budgeted amounts related to SBCCA activities) and other amounts owed to TEA under Section 4.14;

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1 The Parties agree that beginning with the thirteenth month after the Power Start Date, administrative overhead will be budgeted at (i) up to $16,000 per month ("Administrative Costs") for on-going SBCCA administrative costs, and in addition (ii) SBCCA may reimburse the City of Solana Beach for consulting costs related to the start-up of the CCA in an amount not to exceed $6,000 per month ("Reimbursement Costs") for months 13 through 24. After the first 24 months, the Parties will determine a reasonable budget for administrative costs which align with the SBCCA goals on an annual basis.

(f) Sixth, to be deposited into the Reserve Account (defined below) until the Reserve Requirement (defined below) is met;

(g) Seventh, to SBCCA, provided that all SBCCA obligations under Section 2.1(2)(a) through (g) are paid current, free and clear of any lien established or authorized by this Agreement.

(3) SBCCA shall be required to maintain the Operating Funding during the Initial Term, and thereafter only if TEA continues to provide a Credit Solution. The Parties agree that the Operating Funding shall be provided solely from the Customer Payments and SBCCA shall not be obligated to deposit additional funds to establish, maintain or restore the Operating Funding amount from any other City or taxpayer source. SBCCA shall authorize the SBCCA Bank to provide TEA with the continuous ability to view the activity and balance of the Lock Box Account.

Section 2.2 Reserve Account.

Providing the Credit Solution is subject to the following Reserve Account requirements and SBCCA obligations:

(1) SBCCA hereby grants a present and continuing first priority security interest in and lien upon (including the right of setoff against) the funds which will be deposited by SBCCA in a reserve account (the "Reserve Account") as security for Transactions made by TEA as a principal on behalf of SBCCA. Prior to TEA entering into such Transactions, SBCCA shall execute and deliver a deposit account control agreement, substantially in the form attached hereto as Exhibit "B" (the "Reserve Control Agreement"). The Reserve Account shall be held at the SBCCA Bank. The Reserve Account shall be used (i) to support counterparty or CAISO requests to TEA for collateral for the Transactions entered into by TEA for SBCCA's behalf, (ii) for reimbursement in the event of a SBCCA default under the RMA, (iii) in the event the Lock Box Account is not sufficiently funded to pay for monthly Transactions; or (iv) for other purpose as mutually agreed by the Parties in writing. SBCCA shall authorize the SBCCA Bank to provide TEA with the continuous ability to view the activity and balance of the Reserve Account.

(2) During the first twelve months of power procurement by TEA, SBCCA will deposit excess Customer Payments from the Lock Box Account, in accordance with the waterfall provisions of Section 2.1(2), into the Reserve Account (as required in Schedule "A") until the balance is equal to the aggregate reserve requirement (the "Reserve Requirement"). The initial amount of the Reserve Requirement is $550,000 dollars, which is targeted to be achieved by the end of the first twelve months of power deliveries.

(3) After the first twelve months of power deliveries, the Reserve Account will continue to serve as credit support for Transactions entered into on behalf of SBCCA by TEA. SBCCA shall fund and maintain the Reserve Requirement to be no less than the Credit Exposure (as defined below) calculated by TEA.

(4) From time to time, but no more frequently than once per month, on its own initiative, or at the reasonable request of SBCCA (each, a "Calculation Date"), TEA will recalculate SBCCA's Credit Exposure. "Credit Exposure" means the sum of the following:

(a) the aggregate of all amounts in respect of such Transactions that are owed or otherwise accrued and payable (regardless of whether such amounts have been or could be invoiced) to TEA and that remain unpaid as of such Calculation Date minus the aggregate of all amounts in respect of such Transaction that are owed or otherwise accrued and payable (regardless of whether such amounts have been or could be invoiced) to SBCCA and that remain unpaid as of such Calculation Date; plus

(b) the Current Mark-to-Market Value of all outstanding Transactions to TEA.

As used above, (i) "Current Mark-to-Market Value" of an outstanding Transaction, on any Calculation Date, means the amount, as calculated in good faith and in a commercially reasonable manner, which a party would pay to (a negative Current Mark-to-Market Value) or receive from (a positive Current Mark-to-Market Value) the other party as the Settlement Amount (calculated at the mid-point between the bid price and the offer price) for such Transaction and (ii) "Settlement Amount" means, with respect to a Transaction and the non-defaulting party, the losses or gains, and costs, expressed in U.S. Dollars, which such party would incur as a result of the liquidation of such Transaction.

(5) Following a Calculation Date, either party may request an adjustment to the Reserve Requirement, subject to the limitation that total Reserve Requirement shall not exceed the lesser of (i) the sum of the Credit Exposure plus twenty percent (20%) of the notional value of all outstanding Transactions, or (ii) the 95th percentile value of potential future exposure for all outstanding Transactions (as calculated by TEA in a commercially reasonable manner). The Parties agree that the Reserve Requirement shall be provided solely from available Customer Payments, to the extent such are available, and SBCCA is not required to deposit additional funds to establish, maintain, increase or restore the Reserve Requirement from any other City or taxpayer source. In any month which the total in the Reserve Account is less than the Reserve Requirement due to a change in the credit exposure (a "Shortage"), then SBCCA shall make-up such shortfall with Customer Payments in the month or months immediately following such Shortage in accordance with the waterfall provisions of Section 2.1(2).

Section 2.3 CAISO Market Participation.

Pursuant to the requirements of CAISO, new market participants which do not meet the CAISO minimum capitalization requirements of $1 million tangible net worth or $10 million total assets (the "MCR"), are required to deposit up to $500,000 of financial security (the "Security Deposit") with CAISO. As part of the Credit Solution, TEA will provide such Security Deposit on a temporary basis, beginning on or after the Phase III Commencement Date, and until SBCCA meets CAISO's MCR to obtain release of the Security Deposit held by CAISO. During the term of this Task Order 2, SBCCA shall provide TEA with quarterly financial statements which indicate, *inter alia*, SBCCA's MCR. At the earliest reasonable opportunity, SBCCA shall take steps to allow CAISO to release the Security Deposit. Upon return by CAISO of any or all Security Deposit, including accrued interest paid by CAISO, if any, SBCCA will return such Security Deposit without delay to TEA for the total amount of the Security Deposit. At no time will SBCCA pledge the Security Deposit to a third party, or otherwise allow a security interest or lien to encumber or be placed on the Security Deposit. Notwithstanding the foregoing, until the Security Deposit is returned to TEA as provided herein, SBCCA hereby grants to TEA a present and continuing first-priority security interest in the Security Deposit.

Section 3. Term and Termination of Task Order 2.

Section 3.1 Term of Task Order 2.

Operational Services provided under this Task Order 2 shall commence on the date the SBCCA Implementation Plan is certified by the California Public Utilities Commission (the "Phase III Commencement Date" and shall continue until the end of the Initial Term (as defined in RMA Section 3.1). Furthermore, during the Term of Task Order 2, the Parties agree that the delivery date for power procured by TEA on behalf of SBCCA shall be a date mutually agreed upon in writing by the Parties (the "Power Start Date"). After the Initial Term, this Task Order 2 shall renew on an annual basis (each a "Renewal Term"), unless and until terminated pursuant to Section 3.2 herein.

Section 3.2 Termination.

Either Party may terminate this Task Order 2 by (i) providing notice of termination at least one hundred eighty (180) days prior to the end of any Renewal Term for termination effective on the last day of such Renewal Term, or (ii) pursuant to the terms of RMA Section 25 ("Default").

Section 4. Compensation for Services Provided in Task Order 2.

Section 4.1 Compensation for Services.

4.1.1 Operational Services.

For the Operational Services defined in Sections 1.1, 1.2, 1.3 and 1.4 of this Task Order 2, SBCCA shall pay TEA on a monthly basis the amount of Seventeen Thousand Five Hundred Eighty-Three Dollars ($17,583.00) (the "Operational Fees"), in addition to any deferred fees owed by SBCCA for Phase I Fees or Phase II Fees.

4.1.2 Credit Solution.

For the Credit Solution (as defined in Section 2 of this Task Order 2), SBCCA shall pay TEA on a monthly basis a credit solution fee (the "Credit Solution Fee"). The Credit Solution Fee is calculated by multiplying the power procured by TEA to meet CCA load for the applicable month on a megawatt hour ("MWh") basis by the following amount per MWh, as applicable: (i) $1.00 per MWh as long as TEA is acting as principal in SBCCA Transactions, or (ii) $0.25 per MWh if TEA acts solely as an agent, rather than principal for SBCCA Transactions, and the Security Deposit has not been returned to TEA or Deferred Fees are still outstanding. The Credit Solution Fees, if any, are in addition to any amounts owed under Section 4.1.1 contained herein. Collectively, the Operational Fees and Credit Solution Fees shall be referred to as "Phase III Fees."

4.1.3 Deferred Phase I Fees and Deferred Phase II Fees.

For the Deferred Phase I Fees and Deferred Phase II Fees, as described in Task Order 1, SBCCA shall pay TEA an amount which shall be amortized for payment in equal monthly amounts during the first forty-six (46) months beginning sixty (60) days after the Power Start Date, which is estimated to equal Six Thousand Seven Hundred Dollars ($6,700.00) (the "Deferred Fees") per month for those Phase I and Phase II Services incurred by TEA. The Deferred Fees are in addition to any amounts owed under Section 4.1.1 or Section 4.1.2 contained herein.

4.1.4 Hourly Rate.

For additional services not provided for in this Task Order 2 and requested by SBCCA, SBCCA shall pay TEA on a time and materials basis using the hourly billing rates provided in Section 8 contained herein.

4.1.5 SBCCA Power Obligations.

SBCCA obligations to pay TEA for power procurement on behalf of SBCCA ("Power Obligations") are separate from any fees owed to TEA for TEA Services. During the term of the RMA and this Task Order 2, compensation and fees owed to TEA, excluding the (i) Deferred Phase I Fees, (ii) Deferred Phase II Fees, and (iii) Power Obligations, will be adjusted on an annual basis by the greater of (i) 3% or (ii) the U.S. Government Consumer Price Index for All Urban Consumers (the "CPI-U") beginning on the second anniversary of the RMA Effective Date.

Section 5. Controlling Terms and Conditions.

The provisions of this Task Order 2 are subject to the Terms and Conditions of the RMA between the Parties. If any provisions of this Task Order 2 conflict with any provisions in the RMA, the provisions of the RMA shall take precedence. Capitalized terms found in this Task Order 2, and not defined herein, shall have the meaning assigned to such terms in the RMA.

Section 6. Expenses and Reimbursement.

Actual out-of-pocket expenses for travel and participation in on-site meetings are in addition to the compensation outlined in Sections 1 and 4 of this Task Order 2. Travel costs such as airfare, hotel, ground transportation, per diem or meals (hereinafter, "Expenses") will be billed in the amount incurred by TEA for actual out-of-pocket cost, without any additional mark-up by TEA. Any Expenses incurred shall be billed for the month in which the Expenses are incurred. Air travel will be purchased at coach class fares, with advance purchase discounted tickets used when scheduling permits. Expense reports detailing all Expenses, along with receipts, will be presented to SBCCA for reimbursement.

Section 7. Settlement, Billing, and Payment Terms.

Section 7.1 CAISO Settlement, Billing, and Payments.

TEA shall provide services as Scheduling Coordinator ("SC") representing SBCCA in CAISO. TEA shall provide SBCCA with a statement of CAISO settlement activities on a regular basis in coordination with CAISO's settlement calendar (i.e., currently weekly). Additionally, each month TEA shall provide SBCCA with an aggregate or estimate of SBCCA Transactions based on available information from CAISO. For Transactions executed by TEA as principal in the Transaction for SBCCA's account within CAISO, SBCCA shall owe TEA for the Transactions, and TEA shall make weekly payments to CAISO in a timely matter contingent upon the following:

(1) Pursuant to Section 2.1, SBCCA shall maintain sufficient funds in the Lock Box Account to allow withdrawal of funds by TEA (or payment to TEA) at least one (1) business day in advance of TEA's weekly payment to CAISO for Transactions made on behalf of SBCCA (the "CAISO Payments"). The CAISO Payments will reflect actual weekly Transactions based on CAISO settlement invoices; and

(2) any amounts received from CAISO on behalf of SBCCA will serve as a credit to the respective CAISO Payments due by SBCCA.

Notwithstanding the foregoing, unless funds are received from SDG&E into the Lock Box Account, during the first two months of power procurement (the "Transition Period") TEA will (i) not impose a minimum Operating Funding requirement (as shown in Schedule "A"), and (ii) not require payments from the Lock Box for amounts owed for weekly CAISO Transactions made on behalf of SBCCA.

TEA shall use reasonable effort to validate CAISO invoices based on a review of actual CAISO charges. Should TEA and SBCCA elect to dispute a CAISO invoice amount, such dispute shall be in accordance with Section 1.2.5 of this Task Order 2.

Section 7.2 Direct SBCCA Counterparties.

During the Initial Term, SBCCA may request that TEA settle with one or more Direct SBCCA Counterparties pursuant to direct supply agreements between SBCCA and its Direct SBCCA Counterparties. If TEA is not precluded by market regulations, and upon either (i) pre-payment in full by SBCCA, or (ii) a comparable increase is made to the Operating Funding amount, then TEA will make timely payments to such Direct SBCCA Counterparties as agreed by the Parties for SBCCA's account.

Section 7.3 Physical Bilateral Power Transactions with TEA as Principal in the Transactions.

For Transactions executed by TEA as principal in the Transaction for SBCCA's account with counterparties other than CAISO (such non-CAISO counterparties referred to herein as "Bilateral Counterparties"), SBCCA shall owe TEA for the Transactions, and TEA shall make monthly payments to such Bilateral Counterparties, in a timely manner, contingent on the following:

(1) Pursuant to Section 2.1, after the Transition Period, SBCCA shall maintain sufficient funds in the Lock Box Account to allow payment of funds to TEA at least five (5) business days in advance of TEA's monthly payment to Bilateral Counterparties (the "Monthly Payments"), as more particularly described in Section 7.3(2) below. The Monthly Payments will be based on the monthly settlements of Transactions with Bilateral Counterparties; and

(2) On or before the 5th business day of each month, TEA will provide SBCCA with an invoice or statement of the Monthly Payments owed, including immediately preceding month's activities and settlement due related to Transactions with Bilateral Counterparties during the monthly billing period. Monthly Payments owed shall include any related penalty, interest, payments, or credits. If an amount is due SBCCA, considering all amounts owed between the Parties under this Task Order 2, then TEA will deposit the funds into the Lock Box Account. If an amount is due TEA, SBCCA will have sufficient funds available in the Lock Box Account, to allow TEA to withdraw such amounts by the 15th of each month in immediately available funds.

Notwithstanding the above provision of this Section, billing and payment provisions for these Transactions are dependent upon the market rules or contracts governing the specific transactions. If said billing and payment provisions require earlier payments than the provisions of this Section, then billing and payment shall be in accordance with the earlier payment provisions of such contracts or market rules.

Section 7.4 Other Products.

This section is reserved.

Section 7.5 Hourly Billing and Payments.

TEA billable hourly fees, if any, will be tracked and itemized for each month in which TEA services are performed under Task Order 2. TEA will bill SBCCA on a monthly basis for the amount of fees owed as Deferred Fees, Phase III Fees, or other billable hourly fees (hereinafter, "Compensation") pursuant to Section 4 of this Task Order 2, plus Expenses, if any. If timing permits, such billable amounts will be itemized on the same monthly invoice(s) related to Transactions as described in Section 7.3 herein.

Except as provided in Section 4 (with respect to deferred fees) of this Task Order 2, SBCCA shall pay each invoice for Compensation related to TEA Services under this Task Order 2 the later of thirty (30) days after receiving the invoice from TEA or the first business day of the following month. SBCCA will send payment as designated in Section 7.5, or as otherwise designated by TEA. For the first month of operations, and until funds are first received by SBCCA from SDG&E into the Lock Box Account, then TEA shall give SBCCA a grace period of an additional thirty (30) days for the payment of Compensation by SBCCA.

Section 7.6 Payment Information.

Unless otherwise provided by TEA, SBCCA will send payment either via electronic funds transfer to TEA's bank account or via U.S. mail to:

The Energy Authority, Inc.
301 W. Bay Street, Suite 2600
Jacksonville, Florida 32202
Attention: Daina Dean, Accounting

The Parties agree to cooperate to develop and supplement the procedures related to billing and payments for the orderly implementation Sections 7.1 through 7.5; provided, however, that nothing herein shall require either Party to agree to an amendment to the terms of those sections.

Section 7.7 SBCCA Failure to Pay.

SBCCA's failure to make timely payments to TEA or fund amounts required in this Task Order 2 shall be considered a breach. Pursuant to RMA Section 25.1, in the event such breach is not cured within Cure Period described in RMA Section 25.1.1(a) and (b) following written notice by TEA, then SBCCA shall be in default, defined in RMA Section 25.1 as an Event of Default. Upon the occurrence of such Event of Default, TEA may, without waiving any other remedies:

(a) Apply any revenues or payments received by TEA for the benefit of SBCCA from any third party, if any, towards the outstanding amount owed to TEA;

(b) Apply any monies from security, including the Reserve Account or Lock Box Account, posted by SBCCA, towards the outstanding amount owed to TEA;

(c) Defer collection or provide an extension of outstanding amounts owed to TEA; and/or

(d) Terminate this Task Order 2 and all services provided for herein pursuant to the process outlined in RMA Section 25.2.

Section 7.8 Late Payments.

Any payment of an undisputed amount that is not received (exclusive of deferred Phase I Fees and Phase II Fees) by TEA on or before the date required shall incur a late fee, which shall be calculated by multiplying the total undisputed outstanding balance by the lesser of (i) the Interest Rate (as described in RMA Section 11.2), or (ii) the maximum rate allowable by state law (the "Late Fee") for the number of days which the balance remains outstanding.

Section 8. Billing Rates.

The TEA 2017 Billing Rates are applicable to any work performed by TEA in calendar year 2017 for which TEA is compensated on the basis of actual hours worked by TEA staff. Billing Rates are subject to annual adjustment and modification by TEA, and TEA agrees to provide SBCCA with written notice of any such revisions.

TEA 2017 Billing Rates

TEA 2017 Billing Rates[1]	
Job Group	**Billing Rate $/hour**
Principal Consultant	$300
Senior Consultant/Project Manager	$255
Consultant	$190
Analyst	$150
Clerical	$95
[1]Billing rates are subject to change after December 31, 2017.	

From time to time, SBCCA may request, and TEA may provide SBCCA with, additional services not described herein, and specifically described in a separate scope of work agreed to in writing by SBCCA and TEA.

Section 9. Functions Performed by SBCCA.

Unless otherwise mutually agreed to by the Parties, activities not expressly provided for herein are considered not within the scope of services for Task Order 2 and shall be performed by SBCCA or other third party, unless otherwise addressed in a separate Task Order.

Section 10. Amendment.

This Task Order 2 may only be amended by an instrument in writing signed by each Party's authorized representative.

Section 11. Exhibits and Schedules.

The following documents are attached hereto and incorporated herein:

1. Schedule A – Funding and Balance Requirements
2. Exhibit A - Deposit Account Control Agreement
3. Exhibit B - Deposit Account Control Agreement (Reserve Account)

[Signature Page to Follow]

IN WITNESS WHEREOF, the Parties hereto have caused this Task Order 2 to be executed in their respective names by their respective duly authorized representatives as of the date written in the first paragraph of this Task Order 2.

THE CITY OF SOLANA BEACH d/b/a SOLANA BEACH CCA

By:_____

Name: _____

Its: _____

Date: _____

ATTEST:

_____

Name:

_____

Date: _____

THE ENERGY AUTHORITY, INC.

By:_____

Name: Joanie C. Teofilo

Its: President and CEO

Date: _____

Schedule "A"

	(a)	(b)	(c)	(d)
Month	Lock Box Operating Funding Target	Aggregate Lock Box Operating Minimum Balance	Monthly Minimum Reserve Account Funding Target	Aggregate Reserve Account Funding Target
1	$0	$0	$0	$0
2	$0	$0	$0	$0
3	$100,000	$100,000	$0	$0
4	$100,000	$200,000	$50,000	$50,000
5	$0	$200,000	$50,000	$100,000
6	$0	$200,000	$50,000	$150,000
7	$0	$200,000	$50,000	$200,000
8	$0	$200,000	$50,000	$250,000
9	$0	$200,000	$50,000	$300,000
10	$0	$200,000	$50,000	$450,000
11	$0	$200,000	$50,000	$500,000
12	$0	$200,000	$50,000	$550,000

Exhibit "A" to Task Order 2

DEPOSIT ACCOUNT CONTROL AGREEMENT

Date: The __ day of _____, 2017

Debtor: The City of Solana Beach
d/b/a Solana Beach CCA

Address: Attention: Greg Wade
635 S. Highway 101
Solana Beach, CA 92075

gwade@cosb.org

Fax No.: _____

Secured Party: The Energy Authority, Inc.

Address: Attention: Daren L. Anderson
301 West Bay Street, Suite 2600
Jacksonville, FL 32202

danderson@teainc.org

Fax No.: (904) 665-0228

Depository Institution: _____

Address: Attention: _____
_____
_____

Fax No.: _____

1. **Definitions**. In this Agreement:

(a) "Article 9" means Article 9 of the Uniform Commercial Code.

(b) "Control" means control of a deposit account, as defined in Article 9.

(c) "Debtor" means each and all of the persons or entities shown above as Debtor. All agreements of the Debtor in this Agreement are joint, several, and joint and several.

(d) "Depository Institution" means the Depository Institution shown above.

(e) "Secured Party" means the Secured Party shown above.

(f) "Security" is defined in Article 8 of the Uniform Commercial Code.

2. **Agreement of the Parties.** The Debtor, the Secured Party and the Depository Institution agree to all of the provisions in this Agreement.

3. **Security Interest.** The Debtor has given the Secured Party a first priority security interest in, and has pledged and assigned to the Secured Party, the following property (the "Collateral"):

> All of the Debtor's existing and future accounts with the Depository Institution identified below, and all amendments, extensions, renewals and replacements of the accounts (all called the "Account"), and all existing and future amounts in the Account, and all existing and future interest and other earnings on the Account, and all proceeds.
>
> Account number(s) _____ with the Depository Institution, and all amendments, extensions, renewals and replacements of the account(s) (all called the "Account"), and all existing and future amounts in the Account, and all existing and future interest and other earnings on the Account, and all proceeds.

The security interest, pledge and assignment are called the "Security Interest." The Debtor and the Secured Party notify the Depository Institution of the Security Interest, and the Depository Institution agrees that it has been notified of the Security Interest.

4. **Control.** Until Depository Institution receives the Secured Party's notice that the Debtor's rights in the Account are suspended (the "Shifting Control Notice"), Debtor shall have unrestricted access to and shall have the authority to draw upon all available funds from time to time on deposit in and as part of the Collateral.

Upon receipt by Depository Institution of the Shifting Control Notice, Depository Institution shall immediately cut off Debtor's access to the Collateral and cease the payment of all Debtor-authorized transactions for the withdrawal of funds from the Collateral, using whatever means to do so that Depository Institution shall deem necessary or appropriate. If the Collateral is one or more deposit accounts under Article 9, by signing this Agreement the Debtor, the Secured Party, and the Depository Institution hereby agree that, upon receipt by Depository Institution of the Shifting Control Notice, Secured Party shall have immediate Control over the Collateral, and thereby perfect the Security Interest in the Collateral by Control. Whether or not the Collateral is a deposit account under Article 9, the Depository Institution will comply with all instructions and other directions originated by the Secured Party directing disposition of the funds in Collateral without any further consent by the Debtor. This means that the Depository Institution will comply with all orders, notices, requests and other instructions of the Secured Party relating to the Collateral, including but not limited to orders, notices, requests and other instructions to withdraw or transfer

any Collateral, and to pay or transfer any Collateral to the Secured Party or any other person or entity. The Depository Institution will promptly mark its records to register the Secured Party's Security Interest in the Collateral.

5. **Rights of Debtor and Others**. Until the Depository Institution receives the Shifting Control Notice, the Depository Institution will comply with all notices, requests and other instructions from the Debtor for disposition of funds in the Account. This includes but is not limited to orders, notices, requests or instructions to withdraw or transfer any of the Collateral, and to pay or transfer any of the Collateral to the Debtor or any other person or entity, but not to redeem or terminate the Account. After the Depository Institution receives the Shifting Control Notice, the Depository Institution will comply with all notices, requests and other instructions from the Secured Party for disposition of funds in the Account. Furthermore, unless the Secured Party agrees otherwise in writing: (a) the Depository Institution will not permit the Debtor or any other person or entity except the Secured Party to withdraw or transfer any of the Collateral, and (b) the Depository Institution will not comply with any order, notice, request or other instruction from the Debtor or any other person or entity except the Secured Party relating to any of the Collateral, and (c) the Depository Institution will not pay or transfer any of the Collateral to the Debtor or any other person or entity except the Secured Party, or to any other account except the Account. At all times after the Depository Institution receives the Shifting Control Notice, unless the Secured Party agrees or until such time as the Secured Party submits written notice to the Depository Institution that Debtor may resume Control of the Collateral (the "Control Withdrawal Notice"), the Depository Institution will not honor any check or other item drawn by the Debtor on any accounts included in the Collateral or any other withdrawal or transfer by the Debtor from the any account included in the Collateral, except to the Secured Party. The form of Shifting Control Notice is attached hereto as Schedule A.

6. **Representations and Agreements**. The Debtor and the Depository Institution represent to the Secured Party, and agree that:

   (a) Upon receipt by the Depository Institution of the Shifting Control Notice, no person or entity except the Secured Party will have Control over any of the Collateral. Neither the Debtor nor the Depository Institution has entered into any acknowledgment or agreement (including but not limited to any control agreement, pledged account agreement, blocked account agreement, or other acknowledgment or agreement) that gives any person or entity except the Secured Party (or acknowledges) Control over any of the Collateral or any security interest, pledge, assignment, other interest, lien or other right or title in any of the Collateral. Neither the Debtor nor the Depository Institution will permit any person or entity except the Secured Party to have Control over any of the Collateral or any security interest, pledge, assignment, other interest, lien or other right or title in any of the Collateral. Neither the Debtor nor the Depository Institution will enter into any acknowledgment or agreement (including but not limited to any control agreement, pledged account agreement, blocked account

agreement, or other acknowledgment or agreement) that gives any person or entity except the Secured Party (or acknowledges) Control over any of the Collateral or any security interest, pledge, assignment, other interest, lien or other right or title in any of the Collateral. Unless the Secured Party otherwise requests or agrees in writing, the Debtor is and will remain the sole account holder of the Account.

(b) No person or entity (except the Debtor, the Secured Party, and the Depository Institution) has made a claim against any of the Collateral, or claims any security interest, pledge, assignment, other interest, lien or other right or title in any of the Collateral. The Debtor and the Depository Institution will immediately notify the Secured Party if any person or entity (other than the Debtor, the Seemed Party, or the Depository Institution) makes a claim against any of the Collateral, or claims any security interest, pledge, assignment, other interest, lien or other right or title in any of the Collateral.

(c) The Depository Institution has not issued, and will not issue, any Security for any of the Collateral, and the Depository Institution has not given, and will not give, any Security for any of the Collateral to the Debtor or any other person or entity.

(d) The Depository Institution agrees that all of the Depository Institution's existing and future security interests, pledges, assignments, liens, claims, rights or setoff and recoupment, and other right, title and interest in any of the Collateral are and will remain fully subordinate to the Security Interest. The Depository Institution will not assert or enforce any of the Depository Institution's existing or future security interests, pledges, assignments, liens, claims, rights of setoff or recoupment, or other right, title or interest in any of the Collateral. But the Depository Institution may charge the Account for the Depository Institution's standard account fees for the Account, and for any checks and other items that are deposited in the Account and returned to the Depository Institution unpaid. The Secured Party is not personally liable to the Depository Institution for any fees, return checks, or other return items.

(e) The Depository Institution is a bank, as defined in Article 9. The State of _____ is the Depository Institution's jurisdiction for purposes of Article 9.

(f) Debtor hereby instructs Depository Institution, and Depository Institution hereby agrees, to furnish to Secured Party statements of the Account as well as online access to enable Secured Party to monitor activity in the Account, all as customarily provided to customers of Depository Institution at the times such statements and access are normally provided to customers of Depository Institution, through the normal method of transmission, at Debtor's expense. Additionally, Debtor hereby instructs Depository Institution, and Depository Institution agrees, to make available to Secured Party and Debtor copies of all daily debit and credit

advices of the Account and any other item reasonably requested by Secured Party. If Depository Institution receives any notice of a claim of a third party in respect of the Account or legal process of any kind relating to Debtor, Depository Institution shall make a reasonable effort to give notice to Secured Party and Debtor of such legal process.

7. **Rights of Depository Institution**. The Depository Institution does not have to pay uncollected funds. The Depository institution does not have to make funds available before it is required to do so under federal law. The Depository Institution is entitled to comply with all applicable laws, regulations, rules, court orders, and other legal process.

8. **Tax Reporting**. Until the Secured Party notifies the Depository Institution to use a different name and number, the Depository Institution will make all reports relating to the Collateral to all federal, state and focal tax authorities under the name and tax identification number of the Debtor.

9. **Waiver, Changes, and Cancellation**. Nothing in this Agreement can be waived, changed, or cancelled, except by a writing executed by the Debtor, the Secured Party, and the Depository Institution, and except that this Agreement may be cancelled by a writing signed by the Secured Party and sent to the Depository Institution in which the Secured Party releases the Depository Institution from any further obligation to comply with instructions and other directions originated by the Secured Party with respect to all of the Collateral. Except under the previous sentence, nothing in this Agreement will be affected by any act or omission by any person or entity.

10. **Notices**. All notices, orders, requests, and other instructions and communications to any party under this Agreement will be delivered, mailed, emailed or faxed to such party's address [,email address] or fax number stated above, or to the other address or fax number that such party may designate in a written notice that complies with this sentence.

11. **Successors**. This Agreement binds and benefits the parties and each of heirs, representatives, successors and assigns.

12. **Specific Performance**. This Agreement may be enforced in an action for specific performance.

13. **Governing Law**. This Agreement is governed by the laws of the state specified in Section 6(e) above.

14. **Counterparts**. This Agreement may be signed in counterparts, and all counterparts together are the same Agreement. Executed as of the date first above written.

The City of Solana Beach d/b/a Solana Beach CCA
Debtor

By:_____
Title:_____

The Energy Authority, Inc.
Secured Party

By: Joanie C. Teofilo
Title: President and CEO

_____
Depository Institution

By: _____
Title: _____

Schedule A

SHIFTING CONTROL NOTICE

To: [Depository Institution]
[Address]

Re: Depository Account Control Agreement dated _____ by and among The City of Solana Beach d/b/a Solana Beach CCA, The Energy Authority, Inc. and [Depository Institution]

Ladies and Gentlemen:

This constitutes a Shifting Control Notice as referred to in Section 5 of the above referenced agreement.

The Energy Authority, Inc.

_____

By:

Date:

Exhibit "B" to Task Order 2

DEPOSIT ACCOUNT CONTROL AGREEMENT
(RESERVE ACCOUNT)

Date: The __ day of _____, 2017

Debtor: The City of Solana Beach
d/b/a Solana Beach CCA

Address: Attention: Greg Wade
635 S. Highway 101
Solana Beach, CA 92075

gwade@cosb.org

Fax No.: _____

Secured Party: The Energy Authority, Inc.

Address: Attention: Daren L. Anderson
301 West Bay Street, Suite 2600
Jacksonville, FL 32202

danderson@teainc.org

Fax No.: (904) 665-0228

Depository Institution: _____

Address: Attention: _____
_____
_____

Fax No.: _____

1. **Definitions**. In this Agreement:

(a) "Article 9" means Article 9 of the Uniform Commercial Code.

(b) "Control" means control of a deposit account, as defined in Article 9.

(c) "Debtor" means each and all of the persons or entities shown above as Debtor. All agreements of the Debtor in this Agreement are joint, several, and joint and several.

(d) "Depository Institution" means the Depository Institution shown above.

(e) "Secured Party" means the Secured Party shown above.

(f) "Security" is defined in Article 8 of the Uniform Commercial Code.

2. **Agreement of the Parties.** The Debtor, the Secured Party and the Depository Institution agree to all of the provisions in this Agreement.

3. **Security Interest**. The Debtor has given the Secured Party a first priority security interest in, and has pledged and assigned to the Secured Party, the following property (the "Collateral"):

> All of the Debtor's existing and future accounts with the Depository Institution identified below, and all amendments, extensions, renewals and replacements of the accounts (all called the "Account"), and all existing and future amounts in the Account, and all existing and future interest and other earnings on the Account, and all proceeds.
>
> Account number(s) _____ with the Depository Institution, and all amendments, extensions, renewals and replacements of the account(s) (all called the "Account"), and all existing and future amounts in the Account, and all existing and future interest and other earnings on the Account, and all proceeds.

The security interest, pledge and assignment are called the "Security Interest." The Debtor and the Secured Party notify the Depository Institution of the Security Interest, and the Depository Institution agrees that it has been notified of the Security Interest.

4. **Control**. Until Depository Institution receives the Secured Party's notice that the Debtor's rights in the Account are suspended (the "Shifting Control Notice"), Debtor shall have unrestricted access to and shall have the authority to draw upon all available funds from time to time on deposit in and as part of the Collateral.

Upon receipt by Depository Institution of the Shifting Control Notice, Depository Institution shall immediately cut off Debtor's access to the Collateral and cease the payment of all Debtor-authorized transactions for the withdrawal of funds from the Collateral, using whatever means to do so that Depository Institution shall deem necessary or appropriate. If the Collateral is one or more deposit accounts under Article 9, by signing this Agreement the Debtor, the Secured Party, and the Depository Institution hereby agree that, upon receipt by Depository Institution of the Shifting Control Notice, Secured Party shall have immediate Control over the Collateral, and thereby perfect the Security Interest in the Collateral by Control. Whether or not the Collateral is a deposit account under Article 9, the Depository Institution will comply with all instructions and other directions originated by the Secured Party directing disposition of the funds in Collateral without any further consent by the Debtor. This means that the Depository Institution will comply with all orders, notices, requests and other instructions of the Secured Party relating to the Collateral, including but not limited to orders, notices, requests and other instructions to withdraw or transfer

any Collateral, and to pay or transfer any Collateral to the Secured Party or any other person or entity. The Depository Institution will promptly mark its records to register the Secured Party's Security Interest in the Collateral.

5. **Rights of Debtor and Others.** Until the Depository Institution receives the Shifting Control Notice, the Depository Institution will comply with all notices, requests and other instructions from the Debtor for disposition of funds in the Account. This includes but is not limited to orders, notices, requests or instructions to withdraw or transfer any of the Collateral, and to pay or transfer any of the Collateral to the Debtor or any other person or entity, but not to redeem or terminate the Account. After the Depository Institution receives the Shifting Control Notice, the Depository Institution will comply with all notices, requests and other instructions from the Secured Party for disposition of funds in the Account. Furthermore, unless the Secured Party agrees otherwise in writing: (a) the Depository Institution will not permit the Debtor or any other person or entity except the Secured Party to withdraw or transfer any of the Collateral, and (b) the Depository Institution will not comply with any order, notice, request or other instruction from the Debtor or any other person or entity except the Secured Party relating to any of the Collateral, and (c) the Depository Institution will not pay or transfer any of the Collateral to the Debtor or any other person or entity except the Secured Party, or to any other account except the Account. At all times after the Depository Institution receives the Shifting Control Notice, unless the Secured Party agrees or until such time as the Secured Party submits written notice to the Depository Institution that Debtor may resume Control of the Collateral (the "Control Withdrawal Notice"), the Depository Institution will not honor any check or other item drawn by the Debtor on any accounts included in the Collateral or any other withdrawal or transfer by the Debtor from the any account included in the Collateral, except to the Secured Party. The form of Shifting Control Notice is attached hereto as Schedule A.

6. **Representations and Agreements.** The Debtor and the Depository Institution represent to the Secured Party, and agree that:

   (a) Upon receipt by the Depository Institution of the Shifting Control Notice, no person or entity except the Secured Party will have Control over any of the Collateral. Neither the Debtor nor the Depository Institution has entered into any acknowledgment or agreement (including but not limited to any control agreement, pledged account agreement, blocked account agreement, or other acknowledgment or agreement) that gives any person or entity except the Secured Party (or acknowledges) Control over any of the Collateral or any security interest, pledge, assignment, other interest, lien or other right or title in any of the Collateral. Neither the Debtor nor the Depository Institution will permit any person or entity except the Secured Party to have Control over any of the Collateral or any security interest, pledge, assignment, other interest, lien or other right or title in any of the Collateral. Neither the Debtor nor the Depository Institution will enter into any acknowledgment or agreement (including but not limited to

any control agreement, pledged account agreement, blocked account agreement, or other acknowledgment or agreement) that gives any person or entity except the Secured Party (or acknowledges) Control over any of the Collateral or any security interest, pledge, assignment, other interest, lien or other right or title in any of the Collateral. Unless the Secured Party otherwise requests or agrees in writing, the Debtor is and will remain the sole account holder of the Account.

(b) No person or entity (except the Debtor, the Secured Party, and the Depository Institution) has made a claim against any of the Collateral, or claims any security interest, pledge, assignment, other interest, lien or other right or title in any of the Collateral. The Debtor and the Depository Institution will immediately notify the Secured Party if any person or entity (other than the Debtor, the Seemed Party, or the Depository Institution) makes a claim against any of the Collateral, or claims any security interest, pledge, assignment, other interest, lien or other right or title in any of the Collateral.

(c) The Depository Institution has not issued, and will not issue, any Security for any of the Collateral, and the Depository Institution has not given, and will not give, any Security for any of the Collateral to the Debtor or any other person or entity.

(d) The Depository Institution agrees that all of the Depository Institution's existing and future security interests, pledges, assignments, liens, claims, rights or setoff and recoupment, and other right, title and interest in any of the Collateral are and will remain fully subordinate to the Security Interest. The Depository Institution will not assert or enforce any of the Depository Institution's existing or future security interests, pledges, assignments, liens, claims, rights of setoff or recoupment, or other right, title or interest in any of the Collateral. But the Depository Institution may charge the Account for the Depository Institution's standard account fees for the Account, and for any checks and other items that are deposited in the Account and returned to the Depository Institution unpaid. The Secured Party is not personally liable to the Depository Institution for any fees, return checks, or other return items.

(e) The Depository Institution is a bank, as defined in Article 9. The State of _____ is the Depository Institution's jurisdiction for purposes of Article 9.

(f) Debtor hereby instructs Depository Institution, and Depository Institution hereby agrees, to furnish to Secured Party statements of the Account as well as online access to enable Secured Party to monitor activity in the Account, all as customarily provided to customers of Depository Institution at the times such statements and access are normally provided to customers of Depository Institution, through the normal method of

transmission, at Debtor's expense. Additionally, Debtor hereby instructs Depository Institution, and Depository Institution agrees, to make available to Secured Party and Debtor copies of all daily debit and credit advices of the Account and any other item reasonably requested by Secured Party. If Depository Institution receives any notice of a claim of a third party in respect of the Account or legal process of any kind relating to Debtor, Depository Institution shall make a reasonable effort to give notice to Secured Party and Debtor of such legal process.

7. **Rights of Depository Institution**. The Depository Institution does not have to pay uncollected funds. The Depository institution does not have to make funds available before it is required to do so under federal law. The Depository Institution is entitled to comply with all applicable laws, regulations, rules, court orders, and other legal process.

8. **Tax Reporting**. Until the Secured Party notifies the Depository Institution to use a different name and number, the Depository Institution will make all reports relating to the Collateral to all federal, state and focal tax authorities under the name and tax identification number of the Debtor.

9. **Waiver, Changes, and Cancellation**. Nothing in this Agreement can be waived, changed, or cancelled, except by a writing executed by the Debtor, the Secured Party, and the Depository Institution, and except that this Agreement may be cancelled by a writing signed by the Secured Party and sent to the Depository Institution in which the Secured Party releases the Depository Institution from any further obligation to comply with instructions and other directions originated by the Secured Party with respect to all of the Collateral. Except under the previous sentence, nothing in this Agreement will be affected by any act or omission by any person or entity.

10. **Notices**. All notices, orders, requests, and other instructions and communications to any party under this Agreement will be delivered, mailed, emailed or faxed to such party's address [,email address] or fax number stated above, or to the other address or fax number that such party may designate in a written notice that complies with this sentence.

11. **Successors**. This Agreement binds and benefits the parties and each of heirs, representatives, successors and assigns.

12. **Specific Performance**. This Agreement may be enforced in an action for specific performance.

13. **Governing Law**. This Agreement is governed by the laws of the state specified in Section 6(e) above.

14. **Counterparts**. This Agreement may be signed in counterparts, and all counterparts together are the same Agreement. Executed as of the date first above written.

The City of Solana Beach d/b/a Solana Beach CCA
Debtor

By:_____
Title:_____

The Energy Authority, Inc.
Secured Party

By: Joanie C. Teofilo
Title: President and CEO

_____
Depository Institution

By: _____
Title: _____

Schedule A

SHIFTING CONTROL NOTICE

To: [Depository Institution]
[Address]

Re: Depository Account Control Agreement dated _____ by and among The City of Solana Beach d/b/a Solana Beach CCA, The Energy Authority, Inc. and [Depository Institution]

Ladies and Gentlemen:

This constitutes a Shifting Control Notice as referred to in Section 5 of the above referenced agreement.

The Energy Authority, Inc.

_____

By:

MASTER PROFESSIONAL SERVICES AGREEMENT

This Master Professional Services Agreement (the "Agreement") is entered into effective May 25, 2017 (the "Effective Date"), by and between Calpine Energy Solutions LLC ("DM Services Provider") and the City of Solana Beach ("Customer"). Each party listed above may be referred to individually as a "Party," and collectively as the "Parties."

WITNESSETH

WHEREAS, City of Solana Beach is scheduled to begin providing Community Choice Aggregation ("CCA") services through its CCA program (the "Program"), on or around October 1, 2017;

WHEREAS, Customer has requested that DM Services Provider perform the Data Manager Services described in the Addendum, attached hereto and incorporated herein by this reference (the "Addendum"); and

WHEREAS, Customer will be purchasing electricity for the CCA Program from one or more electric energy suppliers ("Supplier").

NOW, THEREFORE, for and in consideration of the mutual benefits, obligations, covenants, and consideration, the receipt and sufficiency of which are hereby acknowledged, DM Services Provider and Customer hereby agree as follows:

1. **SERVICES**. Subject to the terms and conditions of this Agreement and during the term of this Agreement, DM Services Provider shall provide to Customer the services described in the Addendum (the "Services"). From time to time the parties may add new addenda, which upon execution by both parties, shall be subject to the terms and conditions of this Agreement.

2. **CONDITIONS TO DM SERVICES PROVIDER'S PERFORMANCE**.

(a) Information and Assistance. Upon DM Services Provider's reasonable request, Customer shall provide such information and assistance as is reasonably required for DM Services Provider to provide the Services. If Customer fails to provide DM Services Provider with such requested information or assistance then DM Services Provider shall continue to provide in a timely manner any such portion(s) of the affected Services that DM Service Provider can reasonably provide to the extent possible in the absence of such information or assistance. Notwithstanding any provision to the contrary herein, failure by Customer to provide DM Service Provider with such information or assistance shall not constitute an Event of Default, provided, however, that DM Service Provider's performance or lack of performance under this Agreement shall be excused to

the extent that it is hindered, prevented or impacted as a result of Customer's failure or inability to provide such information or assistance.

(b) Notification. Customer shall notify all other relevant parties, including but not limited to Supplier, the Utility Distribution Company ("UDC"), which is currently San Diego Gas & Electric Company ("SDG&E"), and the bank that receives CCA payments from the UDC, as necessary, of the existence of this Agreement and DM Services Provider's role as contemplated in this Agreement.

3. **FEES AND BILLING**.

(a) Fees. Customer shall pay all fees due in accordance with the Addendum.

(b) Billing and Payment Terms. Unless otherwise indicated in the applicable Addendum, DM Services Provider shall invoice Customer monthly for all fees related to Services performed during the previous month. Payment of fees shall be due within thirty (30) days after the date of invoice. All payments must be made in U.S. dollars. Late payments hereunder shall accrue interest at the lower of the rate of one percent (1%) per month, or the highest rate allowed by law, (the "Interest Rate"). If there is a good faith dispute regarding any invoice, Customer shall pay to DM Services Provider the undisputed amount of such invoice. If any part of the dispute is resolved in Seller's favor, Customer shall pay the resolved amount within five (5) Business Days of such resolution and shall include interest at the Interest Rate calculated as of the due date specified in the invoice.

(c) Taxes. Payments due to DM Services Provider under this Agreement shall be net of all sales, value-added, use or other taxes and obligations.

4. **REPRESENTATIONS AND WARRANTIES**. On the Effective Date and the date of entering into each Addendum, each Party represents and warrants to the other Party that: (i) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation; (ii) it has all regulatory authorizations necessary for it to legally perform its obligations under this Agreement and each Addendum; (iii) the execution, delivery and performance of this Agreement and each Addendum are within its powers, have been duly authorized by all necessary action and do not violate any of the terms and conditions in its governing documents, any contracts to which it is a party or any law, rule, regulation, order or the like applicable to it; (iv) this Agreement, each Addendum, and each other document executed and delivered in accordance with this Agreement constitutes its legally valid and binding obligation enforceable against it in accordance with its terms; (v) it is not bankrupt and there are no proceedings pending or being contemplated by it or, to its knowledge, threatened against it which would result in it being or becoming bankrupt, and (vi), in the case of DM

Services Provider, that it has the qualifications, experience and ability to perform the Data Manager Services described in the applicable Addendum.

5. **INDEMNIFICATION**.

(a) Each party to this Agreement (the "Indemnifying Party") agrees to accept all responsibility for loss or damage to any person or entity, and to defend, indemnify, hold harmless and release the other party (the "Indemnified Party"), and the Indemnified Party's supervisors, officers, agents, and employees, from and against any and all liabilities, actions, claims, damages, disabilities, or expenses that may be asserted by any person or entity, to the extent resulting from the Indemnifying Party's breach of any material term of this Agreement, or the Indemnifying Party's negligence or willful misconduct in connection with the performance of this Agreement, but excluding liabilities, actions, claims, damages, disabilities, or expenses to the extent arising from the Indemnified Party's breach of any material term of this Agreement, or the Indemnified Party's negligence or willful misconduct in connection with the performance of this Agreement.

(b) Each Indemnified Party shall promptly notify the Indemnifying Party in writing about the claim or action for which it seeks indemnification, and provide the Indemnifying Party with reasonable information and assistance (at the Indemnifying Party's reasonable expense) to enable the Indemnifying Party to defend such claim or action. The Indemnifying Party shall not settle any indemnified claim or disclose the terms of any such settlement, without the Indemnified Party's prior written consent, which may not be unreasonably withheld, conditioned or delayed.

(c) The indemnity obligation set forth in this Section 5 shall survive termination of this Agreement with respect to any matters arising prior to such termination.

6. **TERM**. Unless earlier terminated pursuant to the terms of Section 7, the term of this Agreement shall be the Effective Period described in the Addendum.

7. **TERMINATION**. No termination payment before customer launch.

(a) Early Termination Due to Cancellation of Customer's Program. If Customer determines on or before October 1, 2017, in its sole and absolute discretion, not to proceed with the Program, Customer may terminate this Agreement by giving written notice to DM Services Provider as provided in Section 19 of this Agreement. In such event, Customer shall have no further liability or financial obligation to DM Services, except that DM Services Provider shall be entitled to keep any fees already paid.

(b) Early Termination Due to Delay of Customer's Program. If the Program has not commenced by December 31, 2017, either Party may terminate this Agreement

by giving 30 days' written notice to the other Party so long as the Program has not yet begun. In such event neither Party shall have any further obligations under the Agreement.

(c) Termination for Cause. If any one of the following events (each an "Event of Default") occurs with respect to a Party, then the other Party may terminate this Agreement or the applicable Addendum upon written notice to the defaulting Party: (i) with respect to Customer, Customer fails to pay amounts due hereunder, subject to the provisions of 3(b), above, and such failure continues for fifteen (15) business days following written notice from DM Services Provider; (ii) with respect to DM Services Provider, DM Services Provider defaults in the observance or performance of any of its material covenants or agreements in this Agreement and such default continues uncured for twenty (20) business days following written notice to DM Services Provider; (iii) either Party makes an assignment for the benefit of creditors (other than a collateral assignment to an entity providing financing to such Party), files a petition or otherwise commences, authorizes or acquiesces in the commencement of a proceeding or cause under any bankruptcy or similar law for the protection of creditors or has such a petition filed against it or otherwise becomes bankrupt or insolvent (however evidenced), or is unable to pay its debts as they fall due; or (iv) Customer fails to satisfy UDC's credit-worthiness requirements set forth in the UDC tariffs and such failure continues uncured for twenty (20) business days following written notice to Customer from UDC.

(d) Effect of Termination. Upon the effective date of expiration or termination of this Agreement: (i) DM Services Provider shall immediately cease providing Services hereunder; and (ii) any and all payment obligations of Customer under this Agreement will become due within thirty (30) days; provided, however, that in the event that DM Services Provider is the defaulting Party, Customer shall have the right to deduct or set off against any part of the balance due DM Services Provider any amount due from DM Services Provider under this Agreement. Upon such expiration or termination, and upon request of Customer, DM Services Provider shall reasonably cooperate with Customer to ensure a prompt and efficient transfer of all data, documents and other materials to a new services provider in a manner such as to minimize the impact of expiration or termination on Customer's customers. If Customer is the defaulting Party, Customer agrees to pay DM Services Provider reasonable compensation for additional services performed in connection with such transfer, to the extent not otherwise provided for or contemplated in the Addendum.

8. **LIMITATION ON DAMAGES**. FOR ANY BREACH HEREOF, LIABILITY SHALL BE LIMITED TO DIRECT, ACTUAL DAMAGES ONLY, SUCH DIRECT, ACTUAL DAMAGES SHALL BE THE SOLE AND

EXCLUSIVE REMEDY, AND ALL OTHER REMEDIES OR DAMAGES AT LAW OR IN EQUITY ARE WAIVED. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, INCLUDING LOST PROFITS OR BUSINESS INTERRUPTION DAMAGES, WHETHER BASED ON STATUTE, CONTRACT, TORT, UNDER ANY INDEMNITY, INCLUDING ANY CLAIMS FOR MONETARY PENALTIES ASSESSED BY THE CALIFORNIA INDEPENDENT SYSTEM OPERATOR ASSOCIATED WITH THE SETTLEMENT QUALITY METER DATA REPORTING OR OTHERWISE, WITHOUT REGARD TO CAUSE OR THE NEGLIGENCE OF ANY PARTY, WHETHER SOLE, JOINT, ACTIVE OR PASSIVE, AND EACH PARTY HEREBY RELEASES THE OTHER PARTY FROM ANY SUCH LIABILITY, EVEN IF DURING THE TERM HEREOF IT ADVISES THE OTHER OF THE POSSIBILITY OF SUCH DAMAGES. TO THE EXTENT ANY DAMAGES REQUIRED TO BE PAID HEREUNDER ARE LIQUIDATED, THE PARTIES ACKNOWLEDGE THAT THE DAMAGES ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE, OR OTHERWISE OBTAINING AN ADEQUATE REMEDY IS INCONVENIENT AND THE DAMAGES CALCULATED HEREUNDER CONSTITUTE A REASONABLE APPROXIMATION OF THE HARM OR LOSS. THE FOREGOING LIMITATIONS SHALL NOT APPLY TO ANY CLAIM ARISING FROM A BREACH OF THE CONFIDENTIALITY PROVISIONS OF SECTION 13 OF THIS AGREEMENT. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, WITH THE EXPRESS EXCLUSION OF ANY CLAIM FOR INDEMNITY OR OTHER RIGHT UNDER SECTION 5, IN NO EVENT SHALL DM SERVICES PROVIDER'S LIABILITY TO CUSTOMER HEREUNDER EXCEED THE AMOUNT OF THE FEES PAID TO DM SERVICES PROVIDER BY CUSTOMER FOR THE SERVICES PROVIDED HEREUNDER. THE PROVISIONS OF THIS ARTICLE 8 SHALL APPLY TO THE FULLEST EXTENT PERMITTED BY LAW.

9. **FORCE MAJEURE EVENT**. A Party shall be excused from performance under this Agreement and shall not be considered in default with respect to any obligation hereunder (other than obligations to pay money), if, and to the extent, its failure of, or delay in, performance is due to a Force Majeure Event; provided, however, that (a) such claiming Party gives written notice and full particulars of such Force Majeure Event to the other Party promptly after the occurrence of the event relied on, (b) such notice shall estimate the expected duration and probable impact on the performance of such Party's obligations hereunder, (c) such affected Party shall continue to furnish timely regular reports with respect thereto during the continuation of the delay in the affected Party's performance, (d) the suspension of such obligations sought by such Party is of no greater scope and of no longer duration than is required by the Force Majeure Event, (e) no obligation or liability of either Party which became due or arose before the occurrence of the event causing the suspension of performance shall be excused as a result of the occurrence; (f) the affected Party shall exercise all commercially reasonable efforts to mitigate or limit the interference, impairment and losses to the other Party by promptly taking appropriate and sufficient corrective action; (g) when the affected Party is able to resume performance of the affected obligations under this Agreement, the affected Party shall give the other Party written notice to that effect, and (h) the affected Party promptly shall resume performance under this Agreement. The term "Force Majeure Event" means the occurrence of any event beyond the reasonable control and without the fault or negligence of the Party affected that results in the failure or delay by such Party of some

performance under this Agreement, in full or part, including but not limited to the following: drought, flood, earthquake, storm, fire, volcanic eruption, lightning, epidemic, war, pests, riot, civil disturbance, sabotage, terrorism or threat of terrorism, strike or labor difficulty, accident or curtailment of supply or equipment, total casualty to equipment, or restraint, order or decree by a governmental authority. Notwithstanding the foregoing, Force Majeure Events shall expressly not include lack of financial resources, material cost increases in commodities or labor, or other economic conditions.

10. **RELATIONSHIP OF PARTIES**. DM Services Provider and Customer are independent contractors and this Agreement will not establish any relationship or partnership, joint venture, employment franchise or agency between DM Services Provider and Customer. Neither DM Services Provider nor Customer will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent, except as otherwise expressly provided for herein.

11. **ASSIGNMENT OF RIGHTS**. Neither Party shall assign any of its rights or delegate any of its responsibilities hereunder without first obtaining the consent of the other Party except it may be assigned or transferred without such consent (i) by either Party to a successor acquiring all or substantially all of the shares and/or the assets of the transferring Party, whether by merger or acquisition, or (ii) by either Party to any wholly-owned affiliate. Any such request shall be made in writing and the consent, if any, shall be made in writing. Any transfer in violation of this provision shall be void.

12. **FURTHER ACTIONS**. The Parties agree to take all such further actions and to execute such additional documents as may be reasonably necessary to effectuate the purposes of this Agreement.

13. **CONFIDENTIALITY**.

(a) This Agreement and all information shared between the Parties regarding this Agreement and the Services to be provided hereunder (e.g., reports, etc.) is strictly confidential and shall not be disclosed by a Party (except to such Party's affiliates, employees, lenders, counsel and other advisors, permitted assignees, or prospective purchasers who have a need to know the information and have agreed to treat such information as confidential) without the prior written consent of the other Party, except (i) as required by Law, including but not limited to the California Public Records Act and the Brown Act; and (ii) that Customer may share all such data with its Supplier. In addition, DM Services Provider shall comply with the requirements of the customer information confidentiality policy adopted by Customer, and shall take all reasonable steps necessary to ensure that such data remains confidential.

(b) DM Service Provider acknowledges that the confidential information about Customer's customers to which it will have access under this Agreement could give it or a third party an unfair competitive advantage in the event that DM Services Provider or any third party were to compete with Customer in the provision of electrical or other services to Customer's customers. DM SERVICES PROVIDER AGREES THAT IT WILL NOT USE ANY INFORMATION IT RECEIVES REGARDING CUSTOMER'S CUSTOMERS FOR ANY PURPOSE OTHER THAN PROVIDING SERVICES UNDER THIS AGREEMENT. DM Services Provider agrees not to use any of the CCA data provided to it by Customer for its own marketing purposes. DM Services Provider shall not use such customer information to compete with Customer in any manner, except as provided herein below. Upon termination of this Agreement, DM Services Provider shall (i) return all documents and other materials received from the Customer and all copies (if any) of such documents and tangible materials, and (ii) destroy all other documents or materials in DM Services Provider's possession that contain customer data, and (iii) deliver to Customer a certificate, signed by an authorized representative of DM Services Provider, stating that DM Services Provider has returned or destroyed all such documents and materials; provided, however, that DM Services Provider may retain copies of information necessary for tax, billing or other financial purposes, to be used solely for such purposes. **Notwithstanding anything in the foregoing to the contrary, however**, that DM Service Provider is not prohibited from conducting its business with potential customers in Customer's territory, either due to a business opportunity already known to DM Service Provider as of the date of this Agreement, or made known to DM Service Provider, other than Customer, in the ordinary course of DM Service Provider's business. For the avoidance of doubt, any information, including but not limited to customer names, usage, data, etc., that DM Service Provider knows of, learns of or is provided to DM Service Provider by a third party in the ordinary course of DM Service Provider's business other than performance of the Services under this Agreement shall not be deemed to be confidential information for purposes of this Agreement, even if it is the same or similar information such as would be confidential information, if provided to DM Service Provider pursuant to this Agreement.

(c) The Parties agree that damages would be an inadequate remedy for breach of the provisions in this Section 13 and that either Party shall be entitled to equitable relief in connection therewith, and shall be entitled to recover any damages for such breach as may be provided by law.

14. **COMPLIANCE WITH LAW**. Each party shall be responsible for compliance with all laws or regulations applicable to the Services being provided under this Agreement. If either Party's activities hereunder become subject to law or regulation of any kind, which renders the activity illegal, unenforceable, or which imposes additional costs on such Party for which the Parties

cannot mutually agree upon an acceptable price modification, then such Party shall at such time have the right to terminate this Agreement upon written notice to the other Party with respect to the illegal, unenforceable, or uneconomic provisions only; the remaining provisions of this Agreement will remain in full force and effect. Any such termination shall not constitute a basis for termination for cause as defined in Section 7, above.

15. **CHOICE OF LAW**. This Agreement, and the rights and duties of the Parties arising hereunder, shall be governed by and construed in accordance with the laws of the State of California, without giving effect to any choice of law rules that may require the application of the laws of another jurisdiction.

16. **INTEGRATION**. This Agreement contains the complete understanding between the Parties, supersedes all previous discussions, communications, writings and agreements related to the subject matter of this Agreement, and, except to the extent otherwise provided for herein, may not be amended, modified or supplemented except in a writing signed by both Parties.

17. **WAIVER**. No waiver by either Party of any right or obligation hereunder, including in respect to any Default by the other Party, shall be considered a waiver of any future right or obligation, whether of a similar or different character. Any waiver shall be in writing.

18. **GOVERNMENTAL ENTITY**. Customer shall not claim immunity on the grounds of sovereignty or similar grounds from enforcement of this Agreement. Except as provided in Section 7(a) above, Customer's failure to obtain any necessary budgetary approvals, appropriations, or funding for its obligations under this Agreement shall not excuse Customer's performance hereunder.

19. **NOTICES**. All notices and other communications required under this Agreement shall be in writing and may be delivered by hand delivery, United States mail, overnight courier service, facsimile or email and shall be deemed to have been duly given (i) on the date of service, if served personally on the person to whom notice is to be given, (ii) on the date of service if sent by facsimile or email, provided the original is concurrently sent by first class mail, and provided that notices received by facsimile or email after 5:00 p.m. shall be deemed given on the next business day, (iii) on the next business day after deposit with a recognized overnight delivery service, or (iv) on the third (3rd) day after mailing, if mailed to the party to whom notice is to be given by first class mail, registered or certified, postage-prepaid, and properly addressed as follows:

	Calpine Energy Solutions LLC
If to DM	Attn: Legal Dept.
Services	401 West A Street, Suite 500
Provider:	San Diego, CA 92101
	619-684-8251 (Phone)

619-684-8350 (Fax)

City of Solana Beach

Attn: Gregory Wade
If to Customer: 635 S. Highway 101, Solana Beach, CA 92075
858-720-2431
858-720-6513

20. **TIME**. Time is of the essence of this Agreement and each and all of its provisions. The parties agree that the time for performance of any action permitted or required under this Agreement shall be computed as if such action were "an act provided by law" within the meaning of California Civil Code §10, which provides: "The time in which any act provided by law to be done is computed by excluding the first day and including the last unless the last day is a holiday, and then it is also excluded."

21. **LIMITATIONS**. Subject to DM Services Provider's obligations under Section 13, nothing contained in this Agreement shall in any way limit DM Services Provider from marketing any of its products and services outside of Customer's service territory.

22. **THIRD PARTY BENEFICIARIES**. The Parties agree that there are no third-party beneficiaries to this Agreement either expressed or implied.

23. **INSURANCE**. With respect to performance of services under this Agreement, DM Services Provider shall maintain and shall require any subcontractor performing Call Center or other functions as described in the Addendum, to maintain, insurance as described in Exhibit A, which is attached hereto and incorporated herein by this reference.

24. **ATTORNEYS' FEES**. In the event that an action, suit or other proceeding is brought to enforce or interpret this Agreement or any part hereof or the rights or obligations of any Party to this Agreement, the prevailing Party will be entitled to recover from the other Party reasonable attorneys' fees and direct out-of-pocket costs and disbursements associated with the dispute that are incurred by the prevailing party.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Parties hereto have executed the Agreement as of the Effective Date provided herein.

Calpine Energy Solutions LLC	City of Solana Beach
By:_____	By: _____
Name: James Wood	Name:
Title: President	Title:
Date:	Date:

ADDENDUM FOR DATA MANAGER SERVICES

Reference: MASTER PROFESSIONAL SERVICES AGREEMENT

Between Calpine Energy Solutions, LLC ("DM Services Provider")

And City of Solana Beach ("CCA")

As of May 25, 2017

This Addendum (the "Addendum") is effective as of May 25, 2017 (the "Addendum Date") and supplements the Master Professional Services Agreement referred to above (the "Agreement"). Absent manifest error, any inconsistency or conflict between any terms of the Agreement and any terms of this Addendum shall be resolved in favor of the Addendum.

1. **EFFECTIVE PERIOD**. The Effective Period for the Addendum shall be from May 25, 2017 through March 31, 2022. Thereafter the Effective Period shall automatically renew for successive two-year terms ("Term Extensions") unless either party provides written notice to the other party, in a manner consistent with the notice provisions of the Agreement and at least 90 calendar days in advance of the renewal date, that the notifying party, in its sole discretion, will not renew the term.

2. **DESCRIPTION OF DATA MANAGER SERVICES**. During the Effective Period, DM Services Provider shall provide the Data Management Services listed below.
    a. Start-Up Support Services. DM Services Provider will:
        i. Participate in coordination meetings to initiate Community Choice Aggregation Service ("CCA Service") in SDG&E's territory. Such meetings may include CCA and/or SDG&E, as necessary, and may require on-site participation by DM Services Provider staff.
        ii. Complete the technical testing of all necessary electronic interfaces with SDG&E, which provide for the communication by Internet and Electronic Data Interchange ("EDI") between DM Services Provider and SDG&E to confirm system compatibility related to CCA Service Requests ("CCASRs"), billing

collections, meter reading, and electricity usage data.

iii. Demonstrate successful completion of all standard SDG&E technical testing and shall have the capability to communicate or exchange the information using EDI, Internet, or an electronic format acceptable to SDG&E.

iv. Obtain customer information data, including historical usage for enrolled customers, from CCA or SDG&E.

v. Provide customer mailing list to CCA designated printer for customer notices during each Enrollment Phase using methodology agreed upon by CCA, DM Services Provider and CCA designated printer.

b. Electronic Data Exchange Services. DM Services Provider will:

i. Process CCA Service Requests (CCASRs) from/to SDG&E which specify the changes to a customer's choice of services such as enrollment in CCA programs, customer initiated returns to bundled utility service or customer initiated returns to direct access service (814 Electronic Data Interchange Files).

ii. Obtain all customer usage data from SDG&E's Metered Data Management Agent ("MDMA") server to allow for timely billing (according to SDG&E requirements) of each customer (867 Electronic Data Interchange Files).

iii. Maintain and communicate the amount to be billed by SDG&E for services provided by CCA (810 Electronic Data Interchange Files).

iv. Receive and maintain data related to payment transactions toward CCA Service charges from SDG&E after payment is received by SDG&E from customers (820 Electronic Data Interchange Files).

v. Process CCASRs with SDG&E when customer status changes.

vi. Provider shall participate in the Customer Data Acquisition Program ("CDA") beta testing for SmartMeter data sharing as CCA's Data Manager.

c. Customer Information System. DM Services Provider will:

i. Maintain an accurate database of all eligible accounts that are located in the CCA service area and identify each account's enrollment status, rate tariff election(s), payment history, collection status, on-site generating capacity, if

applicable, and any correspondence with customer as well as other information that may become necessary to effectively administer CCA Service as mutually agreed to by parties from time to time.

ii. Allow CCA to have functional access to the Customer Relationship Management system ("CRM") to add customer interactions and other account notes.

iii. Allow CCA to view customer email or written letter correspondence within the CRM.

iv. Maintain and provide as needed historical usage data on all customers for a time period equal to the lesser of either (a) the start of service to present or (b) five years.

v. Until a cloud-based storage solutions for SmartMeter historical usage data is implemented, store SmartMeter historical usage data, as received by the MDMA, for a 48 hour window.

vi. Maintain viewing access, available to appropriate CCA staff, to view SDG&E bills for CCA customers. Maintain accessible archive of billing records for all CCA customers from the start of CCA Service or a period of no less than five years.

vii. Maintain and communicate as needed record of customers who have been offered CCA Service with CCA but have elected to opt out, either before or after starting CCA Service.

viii. Maintain and communicate as needed records of Net Energy Metering credits and generation data for customers to be posted on bill and settled annually.

ix. When requested by CCA, place program charges on the relevant customer account, identified by Service Agreement ID ("SAID").

x. Identify customers participating in various CCA programs in database.

xi. Include various program payment information in all relevant reports.

xii. Perform quarterly CCA program reviews to assess appropriate customer charge level.

xiii. Maintain all customer data according to CCA's customer privacy policy and the requirements of relevant California Public Utilities Commission Decisions

including D.12-08-045, including a daily backup process.

xiv. Comply with and cooperate with any required CCA audits, which shall be performed during normal working hours and upon reasonable written notice. Customer acknowledges that DM Services Provider maintains an active trading floor, and therefore any audits will take place off of DM Services Provider's premises.

xv. Maintain a Data Management Provider Security Breach Policy.

d. Customer Call Center. DM Services Provider will:

i. Provide professional Interactive Voice Response ("IVR") recordings for CCA customer call center.

ii. Provide option for IVR self-service and track how many customers start and complete self-service options without live-agent assistance.

iii. Staff a call center during any CCA Statutory Enrollment Period or Non-Enrollment Period between the hours of 8 AM and 5 PM PPT Monday through Friday, excluding CCA and SDG&E holidays ("Regular Business Hours").

iv. Provide account specialist to manage escalated calls between the hours of 8 AM and 5 PM PPT Monday through Friday, excluding CCA and SDG&E holidays ("Regular Business Hours").

v. Provide sufficient staffing to meet the requirements set forth herein:

a) 100% of voicemail messages answered within one (1) business day.

b) 100% of emails receive an immediate automated acknowledgement.

c) 100% of emails receive a customized response within three (3) business days.

vi. Provide callers with the estimated hold time, if applicable. Provide an automated 'call back' option for callers who will be put on hold for an estimated five minutes or longer.

vii. Record all inbound calls and make recordings available to CCA staff upon request. Maintain an archive of such recorded calls for a minimum period of 24 months.

viii. Track call center contact quality with criteria including:

a. Use of appropriate greetings and other call center scripts

b. Courtesy and professionalism

c. Capturing key customer data

d. Providing customers with correct and relevant information

e. First-contact resolution

f. Accuracy in data entry and call coding

g. Grammar and spelling in email communication

ix. Evaluate customer satisfaction through voluntary customer surveys that ask general questions about call quality, call resolution, and how satisfied the customer was with the service received.

x. Receive calls from CCA customers referred to Provider by SDG&E and receive calls from CCA customers choosing to contact Provider directly without referral from SDG&E.

xi. Provide the call center number on SDG&E invoice allowing CCA customers to contact the call center. Collect and/or confirm current email, mailing address and phone number of customers and add to or update database during inbound call.

xii. Collect permission (via voice recording, email request, or electronic form submittal) from customers to send electronic correspondence instead of printed mail.

xiii. Respond to telephone inquiries from CCA customers using a script developed and updated quarterly by CCA. For questions not addressed within the script, refer inquiries either back to SDG&E or to CCA.

xiv. Respond to customer inquiries within 24 hours, excluding weekends and holidays, including inquiries received either through telephone calls, email, fax or web-portal.

xv. Offer bi-annual cross training to SDG&E call center in coordination with CCA.

xvi. Ensure monthly status reports are provided during the first week of each

month.

xvii. Provide weekly status reports during Statutory Enrollment Periods.

xviii. Use commercially reasonable efforts to make Spanish speaking call center staff available to customers during Regular Business Hours.

xix. Provide translation services for inbound calls for Spanish.

xx. Create and maintain forms for the CCA website so that customers may change their account status to enroll or opt out of various CCA programs.

xxi. Assist CCA with making calls to customers upon reasonable request to provide additional information on the CCA program, in light of CCA's first-mover position in the SDG&E service territory. CCA will provide scripts for such information to DM Services Provider. DM Services Provider's obligation to make outbound calls is subject to DM Services Provider's obligations to respond to inbound customer calls on a timely basis.

xxii. Host CCA meetings with call center management and representatives on a monthly basis.

e. Billing Administration:

i. Maintain a table of rate schedules offered by CCA to its customers.

ii. Send certain CCA program charges for non-CCA customers, when supported by SDG&E, based on information provided to Provider by CCA.

iii. Send certain CCA program charges as a separate line item to SDG&E for placement on monthly bill during term of repayment.

iv. Apply SDG&E account usage for all CCA customers against applicable rate to allow for customer billing.

v. Review application of CCA rates to SDG&E accounts to ensure that the proper rates are applied to the accounts.

vi. Timely submit billing information for each customer to SDG&E to meet SDG&E's billing window.

vii. Use commercially reasonable efforts to remedy billing errors for any customer in a timely manner, no more than two billing cycles.

viii. Assist with annual settlement process for Net Energy Metering customers by identifying eligible customers, providing accrued charges and credits, and providing mailing list to CCA designated printer.

ix. Provide customer mailing list to CCA designated printer for new move-in customer notices and opt out confirmation letters routinely within 7 days of enrollment or opt out.

x. Send a CCA provided letter to customers that are overdue. If no payment is received from the customer after a certain amount of time, issue a CCASR to return customer to SDG&E.

f. Settlement Quality Meter Data Services:

i. DM Services Provider shall provide CCA or CCA's designated Scheduling Coordinator ("SC") with Settlement Quality Meter Data ("SQMD") as required from SC's by the California Independent System Operator ("CAISO").

ii. Obtain historical usage data for enrolled customers, from SDG&E, and utilize for estimation in SQMD process. In the absence of current historical usage, CCA to provide DM Services Provider with usage received from Schedule CCA-INFO in order to calculate Default Usage. CCA will approve Default Usage.

iii. Upon CCA's request, DM Services Provider shall submit the SQMD directly to the CAISO on behalf of CCA or CCA's designated SC.

iv. CCA agrees that DM Services Provider shall have no responsibility for any charges or penalties assessed by the CAISO associated with the SQMD under an indemnity or otherwise.

v. DM Services Provider shall prepare the SQMD in accordance with Prudent Utility Practice, however, DM Services Provider hereby disclaims in advance that any representation is made or intended that the SQMD is necessarily complete, or free from error.

g. Qualified Reporting Entity ("QRE") Services:

i. Consistent with terms and conditions included in the Qualified Reporting Entity Services Agreement(s) between CCA and DM Service Provider, serve as QRE for

up to ten (10) locally situated, small-scale renewable generators supplying electric energy to CCA through its feed-in tariff (FIT).

ii. Submit a monthly generation extract file to the Western Renewable Energy Generation Information System ("WREGIS") on CCA's behalf, which will conform to the characteristics and data requirements set forth in the WREGIS Interface Control Document for Qualified Reporting Entities.

iii. DM Services Provider shall receive applicable electric meter data from SDG&E for CCA FIT projects, consistent with SDG&E's applicable meter servicing agreement, and shall provide such data to CCA for purposes of performance tracking and invoice creation.

h. Reporting – DM Services Provider Shall include the following reports, frequency and delivery methods:

Report	**Frequency**	**Delivery Method**
Aging	Weekly, Monthly	SFTP
Call Center Statistics	Weekly, Monthly	Email
Cash Receipts	Weekly, Monthly	SFTP
Invoice Summary Report	Weekly, Monthly	SFTP
Days To Invoice	Weekly, Monthly	SFTP
Program Opt Up with Address	Weekly, Monthly	SFTP
Utility User Tax where applicable	Monthly	Email
Invoice Summary Report	Weekly, Monthly	SFTP
Monthly Transaction Summary	Monthly	Email
Opt Out with Rate Class	Ad hoc	CRM
Retroactive Returns	Monthly	Email
Sent to Collections	Monthly	Email
Customer Account Snapshot	Ad hoc	CRM
Customer Account Snapshot	Ad hoc	CRM

with Addresses		
Unbilled Usage	Monthly	SFTP
Full Volume Usage by Rate Class	Monthly	SFTP

Provider shall also assist CCA, as needed, in compiling various customer sales and usage statistics that may be necessary to facilitate CCA's completion of requisite external reporting activities. Such statistics will likely include annual retail sales statistics for CCA customers, including year-end customer counts and retail electricity sales (expressed in kilowatt hours) for each retail service option offered by CCA.

3. **SERVICE FEES**.

a. Beginning upon the first month the Program (as defined in the Agreement) CCA shall pay DM Services Provider $1.35 per month, in arrears, for each customer meter enrolled in CCA Service. If one or more CCAs enter the SDG&E service territory, DM Services Provider agrees to meet with CCA and discuss and consider in good faith a reasonable potential reduction in the Service Fee to reflect any cost savings or economy of scale that is accruing to DM Services Provider due to the addition of one or more CCAs to the SDG&E service territory; provided, however, that any reduction in the Service Fee shall not be effective except upon a subsequent written agreement signed by both parties.

b. Commencing with the first month of the first Term Extension, if applicable, the Service Fee shall escalate annually at the Consumer Price Index (CPI-U for the San Diego region).

4. **PRICING ASSUMPTIONS**.

The Fees defined in Section 3 include only the services and items expressly set forth in this Agreement. Unless otherwise agreed to by the Parties in an amendment to the Agreement, the cost of any additional deliverables requested by CCA and provided by DM Services Provider to CCA shall be billed at a labor rate of $150.00 per hour plus any out-of-pocket costs incurred by DM Service Provider without mark-up. Commencing with the first month of the first Term Extension, if

applicable, the labor rate shall escalate annually at the Consumer Price Index (CPI-U for the San Diego region).

5. DEFINITIONS.

"CCA Service" means CCA's Community Choice Energy Service which permits cities, counties or a joint powers agency whose governing boards have elected to acquire their electric power needs, hereinafter referred to as Community Choice Energy (CCA), to provide electric services to utility end-use customers located within their service area(s) as set forth in California Public Utilities Code Section 366.2 and other Commission directives.

"CCA Service Request ("CCASR")" means requests in a form approved by SDG&E to change a CCA Service customer's, utility customer's or direct access customer's choice of services which could include returning a CCA Service customer to bundled utility service or direct access service.

"Default Usage" means the average monthly usage value, by rate schedule, used for estimation in the absence of actual historical usage data.

"Mass Enrollment" means the automatic enrollment of customers into a CCA Service program where new service is being offered for the first time to a group of eligible customers.

"Meter Data Management Agent (MDMA) Services" means reading SDG&E's customers' meters, validating the meter reads, editing the meter reads if necessary and transferring the meter reading data to a server pursuant to SDG&E standards.

"Prudent Utility Practice" means any of the practices, methods, techniques and standards (including those that would be implemented and followed by a prudent operator of similar generating facilities in the United States during the relevant time period) that, in the exercise of reasonable judgment in the light of the facts known at the time the decision was made, could reasonably have been expected to accomplish the desired result, giving due regard to manufacturers' warranties and recommendations, contractual obligations, any governmental requirements or guidance, including CAISO, applicable laws, the requirements of insurers, good business practices, economy, efficiency, reliability, and safety. Prudent Utility Practice shall not be limited to the optimum practice, method, technique or standard to the exclusion of all others, but rather shall be a range of possible practices, methods, techniques or standards.

"SDG&E" is the local Utility Distribution Company.

"Statutory Enrollment Period" means three months prior to a Mass Enrollment, the month in which the Mass Enrollment occurs, and two billing cycles following Mass Enrollment. The Statutory Enrollment Period takes place over a six month period.

[*Remainder of page intentionally left blank*]

IN WITNESS WHEREOF, the Parties hereto have executed the Addendum to be effective as of the Addendum Date.

Calpine Energy Solutions, LLC	City of Solana Beach
By:_____	By: _____
Name: James Wood	Name:
Title: President	Title:

STAFF REPORT
CITY OF SOLANA BEACH

TO: Honorable Mayor and City Councilmembers
FROM: Gregory Wade, City Manager
MEETING DATE: May 24, 2017
ORIGINATING DEPT: Finance Department
SUBJECT: **Authorization for the Execution and Delivery of the Series 2017 Loan Agreement Providing for the Repayment of Funds Borrowed from the San Elijo Joint Powers Authority for the Water Reclamation Facility, Approving Sale of Bonds and Official Statement, and Authorizing Official Actions**

BACKGROUND:

In 2015, the San Elijo Joint Powers Authority (SEJPA) completed a detailed inspection and evaluation (conducted by Carollo Engineers) of SEJPA's assets and infrastructure resulting in the 2015 Facility Plan for the San Elijo Water Reclamation Facility. This document provides the basis for planning and budgeting future capital needs.

In April 2017, Staff presented a Capital Improvement Program Update listing infrastructure projects totaling $27.3 million. These projects will contribute to the SEJPA's mission of protecting public health and the environment, community sustainability, and proactive asset management. SEJPA Staff has outlined a municipal bond strategy to finance the projects. The proposed funding strategy is to bond for approximately $23.8 million.

The City of Encinitas (as successor to the Cardiff Sanitation District) and the City of Solana Beach (Cities) are joint members of the SEJPA which owns and operates the San Elijo Water Reclamation Facility. This facility receives wastewater from Cardiff, Solana Beach, and other surrounding areas. The wastewater is treated, filtered, and disinfected for use as recycled water, or discharged to the ocean during periods of low irrigation use.

COUNCIL ACTION:

Each City owns a specified percentage, or capacity rights, of the sewage treatment capacity provided by SEJPA. Loan agreements between the SEJPA and the Cities were originally drafted in 1990, and amended and restated in 1993, 2003, and 2011. These loan agreements were executed to provide the primary security for SEJPA's bonds, because the primary source of SEJPA's ability to generate revenues to make payments on its bonds are from the rate setting power of the Cities. The rate setting power is captured in the Loan Agreements, through each City's covenants to set their respective rates at the proper levels, collect the revenues, and pay SEJPA their respective share of SEJPA bonds' debt service. This structure is required because SEJPA is essentially a "wholesaler" of the wastewater service provided to the Cities, whereas the Cities are the "retailers" of the wastewater service to the sewer service customers in each of the Cities' jurisdictions.

This item is before the City Council to request approval of Resolution 2017-088 (Attachment 1) authorizing execution of the Series 2017 Loan Agreement (Attachment 2) which will provide City approval to proceed with the issuance of the SEJPA 2017 Revenue Bonds (Clean Water Projects) (2017 Bonds) and authorize the City to repay funds borrowed as part of the refunding.

DISCUSSION:

Hilltop Securities, the bond underwriter for the 2017 Bonds, estimates that the funding package will provide a deposit to the Project Construction Fund of $23.8 million based on current market conditions and a 30 year repayment term. The estimated average annual debt service payment is $1,345,000. The Cities will pay their share of the debt service based on capacity rights which is currently 50 percent each or $672,500.

Bond Counsel, Procopio, Cory, Hargreaves & Savitch of San Diego, has prepared documentation to implement the transaction, including an Indenture of Trust, Loan Agreement, the resolution, and other documents necessary to approve the issuance of the 2017 Bonds for consideration by SEJPA's Board. The Indenture of Trust provides the specific terms of the 2017 Bonds. The Series 2017 Loan Agreement provides the term of the loan between the City of Solana Beach and the SEJPA, which will provide payment for the City's share of the annual bond payments. The resolution is the document under which SEJPA's Board approves the documents and authorizes execution of agreements to which SEJPA is a party, and necessary to issue the 2017 Bonds.

Disclosure Counsel, Procopio, Cory, Hargreaves & Savitch of San Diego, has prepared a Preliminary Official Statement (Attachment 3) and a Continuing Disclosure Agreement (Attachment 4) relating to the information provided to the purchasers of the 2017 Bonds and information provided for the public markets. A Bond Purchase Contract (Attachment 5) was prepared by Underwriter's Counsel Nixon Peabody and provides the terms under which Hilltop Securities will purchase the 2017 Bonds from the Authority and resell them to the Public.

Municipal Advisor, Fieldman, Rolapp & Associates has provided bond structuring advice, reviewed all legal and financing documents, will independently review proposed pricing submitted by Hilltop Securities, and will provide the Authority with a recommendation to accept or make changes to the proposed pricing

The Resolution approves the documents listed below and authorizes the City Manager, the Finance Director, the City Clerk, the City Attorney and other officers of the City to take actions, including the execution of the documents to which the City is a party (the Loan Agreement, the Continuing Disclosure Agreement, and the Bond Purchase Contract) and with such changes as may be needed to qualify the Revenue Bonds for an investment grade rating by Standard and Poor's rating service. The Resolution expressly requires that the principal be no more than $25,000,000, the True Interest Rate be no more than 5.0% and the Underwriter's Discount not to exceed 0.70% of the par amount of Bonds sold.

Attached to this report are the following documents for Council consideration:

- Resolution 2017-088
- Series 2017 Loan Agreement
- Draft Preliminary Official Statement (POS)
- Continuing Disclosure Agreement
- Bond Purchase Contract

CEQA COMPLIANCE STATEMENT:

Not a project as defined by CEQA.

FISCAL IMPACT:

The average annual debt service on the 2017 Bonds is estimated by the Underwriter to be approximately $1,345,000 of which each city will pay their fair share based on capacity rights, which is currently 50% or $672,500. The exact amount of the debt service will be determined as of the actual sale date of the 2017 Bonds, currently scheduled for June 2017. The Capital expense payment (pay-as-you-go) to the SEJPA will be reduced until the 2011 Refunding Bonds are essentially paid in full (FY 2018-19) resulting in no significant changes in the sewer rates. Unless the par amount of the 2017 Bonds is less than $25,000,000, and the True Interest Cost is less than 5.0% and the Underwriter's Discount is less than 0.70%, the SEJPA is not authorized to proceed with the transaction.

There is no additional impact on staffing, except for the time of Finance and Public Works Staff to complete the refinancing. The majority of that effort has been completed.

WORK PLAN:

N/A

OPTIONS:

- Approve Staff recommendation
- Reject Staff recommendation
- Provide alternative direction to Staff

DEPARTMENT RECOMMENDATION:

Staff recommends that the City Council approve Resolution 2017-088 authorizing the Execution and Delivery of the Series 2017 Loan Agreement Providing for the Repayment of Funds Borrowed from the San Elijo Joint Powers Authority for the Water Reclamation Facility, Approving Sale of Bonds and Official Statement, and Authorizing Official Actions

CITY MANAGER'S RECOMMENDATION:

Approve Department Recommendation

Gregory Wade, City Manager

Attachments:

1. Resolution 2017-088
2. Series 2017 Loan Agreement
3. Draft Preliminary Official Statement (POS)
4. Continuing Disclosure Agreement
5. Bond Purchase Contract

ATTACHMENTS 1 THROUGH 5

1. Resolution 2017-088
2. Series 2017 Loan Agreement
3. Draft Preliminary Official Statement (POS)
4. Continuing Disclosure Agreement
5. Bond Purchase Contract

Awaiting receipt of Attachments from San Elijo JPA

THIS ATTACHMENT WILL BE POSTED WHEN AVAILABLE