



CITY COUNCIL Agenda

Special Meeting

Feb. 15, 2024, 3:30 p.m.

Council Chamber
1200 Carlsbad Village Drive
Carlsbad, CA 92008

Welcome to Your City Council Meeting

We welcome your interest and involvement in the city's legislative process. This agenda includes information about topics coming before the City Council and the action recommended by city staff. You can read about each topic in the staff reports, which are available on the city website and in the Office of the City Clerk. The City Clerk is also available to answer any questions you have about City Council meeting procedures.

How to Watch

In Person



City Council Chamber
1200 Carlsbad Village Drive

On TV



Watch the city's cable channel
Spectrum 24 and AT&T U-verse 99

Online



Watch the livestream at
carlsbadca.gov/watch

How to Participate

If you would like to provide comments to the City Council, please:

- Fill out a speaker request form, located in the foyer.
- Submit the form to the City Clerk before the item begins.
- When it's your turn, the City Clerk will call your name and invite you to the podium.
- For non-agenda public comment, speakers must confine their remarks to matters within the City Council's subject matter jurisdiction.
- For public comment on agenda items, speakers must confine their remarks to the question or matter under consideration.
- Speakers have three minutes, unless the presiding officer (usually the Mayor) changes that time.
- You may not give your time to another person, but can create a group. A group must select a single speaker as long as three other members of your group are present. All forms must be submitted to the City Clerk before the item begins and will only be accepted for items listed on the agenda (not for general public comment at the beginning of the meeting). Group representatives have 10 minutes unless that time is changed by the presiding officer or the City Council.
- Failure to comply with the rules for public participation is disruptive conduct. Continuing disruptive conduct after being asked by the presiding official to cease may result in removal from the meeting.

Reasonable Accommodations

Reasonable Accommodations Persons with a disability may request an agenda packet in appropriate alternative formats as required by the Americans with Disabilities Act of 1990. Reasonable accommodations and auxiliary aids will be provided to effectively allow participation in the meeting. Please contact the City Manager's Office at 442-339-2821 (voice), 711 (free relay service for TTY users), 760-720-9461 (fax) or manager@carlsbadca.gov by noon on the Wednesday before the meeting to make arrangements. City staff will respond to requests by 5 p.m. on Wednesday, the day before the meeting, and will seek to resolve requests before the start of the meeting in order to maximize accessibility.

More information about City Council meeting procedures can be found at the end of this agenda and in the Carlsbad Municipal Code chapter 1.20.

The City Council also sits as the Carlsbad Municipal Water District Board, Public Financing Authority Board, Community Development Commission and Successor Agency to the Redevelopment Agency. When considering items presented to the Carlsbad Municipal Water District Board, each member receives an additional \$100 per meeting (max \$300/month). When considering items presented to the Community Development Commission each member receives an additional \$75 per meeting (max \$150/month).

CALL TO ORDER:

ROLL CALL:

PLEDGE OF ALLEGIANCE:

PUBLIC COMMENT ON AGENDA ITEM ONLY:

DEPARTMENTAL AND CITY MANAGER REPORTS:

1. **PROCLAMATION OF A STORM-RELATED LOCAL EMERGENCY FOR REPAIR OF THE SLOPE BETWEEN EL CAMINO REAL AND TRIESTE DRIVE** – Adoption of a resolution ratifying the Director of Emergency Services’s proclamation of a storm-related local emergency for repair of the slope between El Camino Real and Trieste Drive. (Staff contact: Scott Chadwick, City Manager’s Department)

City Manager’s Recommendation: Adopt the resolution.

COUNCIL COMMENTARY AND REQUESTS FOR CONSIDERATION OF MATTERS: *This portion of the agenda is for the City Council Members to make brief announcements, brief reports of their activities and requests for future agenda items.*

City Council Regional Assignments (Revised 12/12/23)

Keith Blackburn Mayor	Buena Vista Lagoon JPC
	Chamber of Commerce Liaison (alternate)
	Encina Joint Powers JAC
	Encina Wastewater Authority Board of Directors
	Economic Development Subcommittee
	SANDAG Board of Directors (2 nd alternate)
	SANDAG Shoreline Preservation Work Group (alternate)
Priya Bhat-Patel Mayor Pro Tem – District 3	City/School Committee
	Clean Energy Alliance JPA
	Economic Development Subcommittee
	League of California Cities – SD Division (alternate)
	North County Transit District
	SANDAG Board of Directors (1 st alternate)
	City Council Legislative Subcommittee
Melanie Burkholder Council Member – District 1	North County Dispatch Joint Powers Authority (alternate)
	SANDAG Board of Directors
	Chamber of Commerce Liaison
	City Council Legislative Subcommittee
Teresa Acosta Council Member – District 4	City/School Committee
	Clean Energy Alliance JPA (alternate)
	Encina Joint Powers JAC (alternate)
	Encina Wastewater Authority Board of Directors (alternate)
	League of California Cities – SD Division
	North County Dispatch Joint Powers Authority
	San Diego County Water Authority
	Buena Vista Lagoon JPC
Carolyn Luna Council Member – District 2	Encina Joint Powers JAC
	Encina Wastewater Authority Board of Directors
	North County Transit District (alternate)
	SANDAG Shoreline Preservation Work Group

ANNOUNCEMENTS:

This section of the Agenda is designated for announcements to advise the community regarding events that Members of the City Council have been invited to, and may participate in.

CITY MANAGER COMMENTS:

CITY ATTORNEY COMMENTS:

CITY CLERK COMMENTS:

ADJOURNMENT:

City Council Meeting Procedures (*continued from page 1*)

Written Materials

Written materials related to the agenda that are submitted to the City Council after the agenda packet has been published will be available for review prior to the meeting during normal business hours at the City Clerk's office, 1200 Carlsbad Village Drive and on the city website. To review these materials during the meeting, please see the City Clerk.

Visual Materials

Visual materials, such as pictures, charts, maps or slides, are allowed for comments on agenda items, not general public comment. Please contact the City Manager's Office at 442-339-2820 or manager@carlsbadca.gov to make arrangements in advance. All materials must be received by the City Manager's Office no later than noon the day before the meeting. The time spent presenting visual materials is included in the maximum time limit provided to speakers. All materials exhibited to the City Council during the meeting are part of the public record. **Please note that video presentations are not allowed.**

Decorum

All participants are expected to conduct themselves with mutual respect. Loud, boisterous and unruly behavior can interfere with the ability of the City Council to conduct the people's business. That's why it is illegal to disrupt a City Council meeting. Following a warning from the presiding officer, those engaging in disruptive behavior are subject to law enforcement action.

City Council Agenda

The City Council follows a regular order of business that is specified in the Carlsbad Municipal Code. The City Council may only make decisions about topics listed on the agenda.

Presentations

The City Council often recognizes individuals and groups for achievements and contributions to the community. Well-wishers often fill the chamber during presentations to show their support and perhaps get a photo. If you don't see an open seat when you arrive, there will likely be one once the presentations are over.

Consent Items

Consent items are considered routine and may be enacted together by one motion and vote. Any City Council member may remove or "pull" an item from the "consent calendar" for a separate vote. Members of the public may pull an item from the consent calendar by requesting to speak about that item. A speaker request form must be submitted to the clerk prior to the start of the consent portion of the agenda.

Public Comment

Members of the public may speak on any city related item that does not appear on the agenda, provided remarks are confined to matters within the City Council's subject matter jurisdiction. State law prohibits the City Council from taking action on items not listed on the agenda. Comments requiring follow up will be referred to staff and, if appropriate, considered at a future City Council meeting. Members of the public are also welcome to provide comments on agenda items during the portions of the meeting when those items are being discussed, provided remarks are confined to the question or matter under consideration. In both cases, a request to speak form must be submitted to the clerk in advance of that portion of the meeting beginning.

Public Hearing

Certain actions by the City Council require a "public hearing," which is a time within the regular meeting that has been set aside and noticed according to different rules.

Departmental Reports

This part of the agenda is for items that are not considered routine and do not require a public hearing. These items are usually presented to the City Council by city staff and can be informational in nature or require action. The staff report about each item indicates the purpose of the item and whether or not action is requested.

Other Reports

At the end of each meeting, City Council members and the City Manager, City Attorney and City Clerk are given an opportunity to share information. This usually includes reports about recent meetings, regional issues, and recent or upcoming meetings and events.

City Council Actions

Resolution

A resolution is an official statement of City Council policy that directs administrative or legal action or embodies a public City Council statement. A resolution may be introduced and adopted at the same meeting. Once adopted, it remains City Council policy until changed by subsequent City Council resolution.

Ordinance

Ordinances are city laws contained in the Carlsbad Municipal Code. Enacting a new city law or changing an existing one is a two-step process. First, the ordinance is “introduced” by city staff to the City Council. If the City Council votes in favor of the introduction, the ordinance will be placed on a subsequent City Council meeting agenda for “adoption.” If the City Council votes to adopt the ordinance, it will usually go into effect 30 days later.

Motion

A motion is used to propose City Council direction related to an item on the agenda. Any City Council member may make a motion. A motion must receive a “second” from another City Council member to be eligible for a City Council vote.



CITY COUNCIL Staff Report

Meeting Date: Feb. 15, 2024

To: Mayor and City Council

From: Scott Chadwick, City Manager

Staff Contact: Tom Frank, Transportation Director/City Engineer
tom.frank@carlsbadca.gov, 442-339-2766

Subject: Proclamation of a Storm-Related Local Emergency for Repair of the Slope
Between El Camino Real and Trieste Drive

District: 1

Recommended Action

Adopt a resolution ratifying the Director of Emergency Services's proclamation of a storm-related local emergency for repair of the slope between El Camino Real and Trieste Drive.

Executive Summary

The recent atmospheric river in early February 2024 and the winter storm in January 2024 have resulted in unexpected slope movement in an area between El Camino Real and Trieste Drive, with potential to affect nearby property, infrastructure, and the environment. Emergency repair of the slope area behind four homes on Trieste Drive is necessary to ameliorate the risk. Exhibit 3 shows the area requiring emergency slope repair.

The City Manager, in his role as Director of Emergency Services, proclaimed a local emergency on Feb. 14, 2024, as shown in Exhibit 2, to expedite the slope repair. Staff are now requesting the City Council ratify the emergency proclamation so that the repair can continue to be exempted from the city's normal bidding procedures and the necessary repairs can be completed as swiftly as possible.

Construction projects that cost less than \$200,000 can be awarded by the City Manager using informal bidding procedures under Carlsbad Municipal Code, or CMC, Section 3.28.080 – Construction Projects, subsections (B) and (H), which implement California Public Contract Code Section 22032.

This project will likely cost more than \$500,000. Public Contract Code Sections 22035 and 22050 and CMC Sections 3.28.110(A) and 3.28.120 provide for an exemption from formal bidding procedures for emergency construction procurements. The emergency proclamation allows the city to utilize the exemption. However, it must be ratified by a four-fifths vote of the City Council.

Explanation & Analysis

The slope area between El Camino Real and Trieste Drive, generally behind the backyards of four residential properties that front onto Trieste Drive (4215-4245 Trieste Drive), has experienced soil movement. The city has a Capital Improvement Program, or CIP, Project No. 6107 to repair the slope. The project is currently in the 50% design and environmental review stage. However, the recent severe storm events have created additional fissures in the soil that need to be repaired quickly.

To mitigate the emergency situation, the City Engineer recommends expedited, or emergency, repair of the slope while the larger slope repair project proceeds through the design and environmental review and permitting process. The emergency proclamation enables the city to procure a contractor to perform the necessary emergency repair work and would be limited to the immediate action(s) to prevent or mitigate loss of, or damage to, property, essential public services, and the environment.

Staff will meet with contractor(s) to obtain bids for the emergency work, which is estimated to cost in the range of \$500,000 to \$750,000.

Fiscal Analysis

No additional appropriations are needed at this time. Funding for the estimate of up to \$1,050,000 for the emergency work will come from the funding for CIP Project No. 6107.

Trieste Drive Slope Repair Project Capital Improvement Program Project No. 6107	
Total appropriated funds to date	\$2,362,600
Total expenditures and encumbrances to date	-\$338,974
Total available funding	\$2,023,626
Emergency work (slope repair, estimated)	-\$750,000
Design and administrative costs (approximately 5%)	-\$38,000
Construction management and inspection (estimated)	-\$75,000
Construction contingency (25%)	-\$187,000
Total estimated project costs	-\$1,050,000
Remaining balance after total estimated project costs	\$973,626
Additional appropriation needed	\$0

City staff will request reimbursement if the emergency work qualifies under federal or state emergency relief programs.

Recommendation

Staff recommend that the City Council ratify the emergency proclamation to complete the emergency work at the slope near El Camino Real and Trieste Drive as swiftly as possible to prevent damage to nearby infrastructure and property. Not ratifying the proclamation would likely result in delays and potentially more costs, with greater risk to the city and an inability to potentially access federal funds.

Next Steps

Upon proclamation of the emergency, staff will meet with contractor(s) to obtain a quote for the emergency work. Staff will then authorize the contractor(s) to proceed with performing the emergency work. Staff will then begin preparing the emergency contracts, which will be presented for ratification to the City Council at a future date.

Staff will return to the City Council on Feb. 27, 2024, to review the emergency action and ask the City Council to determine by a four-fifths vote whether there is a need to continue it.

Environmental Evaluation

The project was determined to be exempt from the California Environmental Quality Act, or CEQA, under Section 15301(d) and (f) of the CEQA Guidelines, which applies to projects for restoration or rehabilitation of deteriorated or damaged structures, and the addition of safety or health protection devices. None of the exceptions to the exemption applied to the project and a Notice of Exemption was filed on January 25, 2023.

Exhibits

1. City Council resolution
2. City Manager/ Director of Emergency Services's Proclamation of a Storm-related Local Emergency dated Feb. 14, 2024
3. Location map

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA,
RATIFYING THE DIRECTOR OF EMERGENCY SERVICES'S PROCLAMATION OF A
STORM-RELATED LOCAL EMERGENCY FOR REPAIR OF THE SLOPE BETWEEN EL
CAMINO REAL AND TRIESTE DRIVE

WHEREAS, on Feb. 4, 2024, the Governor of the State of California found that conditions of extreme peril exist in San Diego County and other counties due to the early February 2024 storms caused by the atmospheric river and proclaimed a state of emergency to make additional resources available to local governments, formalize emergency actions, and help the state prepare for the impact of the storms; and

WHEREAS, the City Council empowers the City Manager, as Director of Emergency Services, to proclaim the existence of a local emergency when the city is affected by a public calamity and the City Council is not in session; and

WHEREAS, conditions or threatened conditions of extreme peril to the safety of persons and property have arisen within the City of Carlsbad caused by an unexpected slope movement with potential to affect nearby property, infrastructure and the environment; and

WHEREAS, on Feb. 14, 2024, the City Manager/Director of Emergency Services proclaimed a storm-related local emergency for repair of the slope between El Camino Real and Trieste Drive, generally behind the backyards of four residential properties that front onto Trieste Drive (4215 - 4245 Trieste Drive); and

WHEREAS, Carlsbad Municipal Code, or CMC, Section 3.28.110(A) implements Public Contract Code Section 22035 and provides for an exemption from formal bidding procedures for emergency construction procurements, and to use the emergency exemption, CMC Section 3.28.120, as well as Public Contract Code Section 22050, requires a proclamation of a local public emergency by a four-fifths vote of the City Council, or by the City Manager subject to ratification by a four-fifths vote of the City Council at the next City Council meeting; and

WHEREAS, staff request the City Council ratify the proclamation of a local emergency as the emergency proclamation and emergency exemption are appropriate in this instance because the emergency work appears to be caused by unexpected slope movement, which could pose a threat to the public, property, infrastructure and the environment; and

WHEREAS, the project was determined to be exempt from the California Environmental Quality Act, or CEQA, under Section 15301(d) and (f) of the CEQA Guidelines, which applies to projects for

restoration or rehabilitation of deteriorated or damaged structures, and the addition of safety or health protection devices; and

WHEREAS, none of the exceptions to the CEQA exemption applied to the project and a Notice of Exemption was filed on January 25, 2023.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Carlsbad, California, as follows:

1. That the above recitations are true and correct.
2. That the Proclamation of a Storm-related Local Emergency for repair of the slope near El Camino Real and Trieste Drive is ratified.

PASSED, APPROVED AND ADOPTED at a Special Meeting of the City Council of the City of Carlsbad on the __ day of _____, 2024, by the following vote, to wit:

AYES:

NAYS:

ABSTAIN:

ABSENT:

KEITH BLACKBURN, Mayor

SHERRY FREISINGER, City Clerk
(SEAL)



Proclamation of Local Emergency

City Hall
1200 Carlsbad Village Drive
Carlsbad, CA 92008

FOR STORM-RELATED EMERGENCY PROTECTION ACTIVITIES TO REPAIR A SLOPE BETWEEN EL CAMINO REAL AND TRIESTE DRIVE

WHEREAS, on February 4, 2024, the Governor of the State of California found that conditions of extreme peril exist in San Diego County and other counties due to the early February 2024 storms caused by a powerful, slow-moving atmospheric river and proclaimed a state of emergency to make additional resources available to local governments, formalize emergency actions and help the state prepare for the impact of the storms; and

WHEREAS, California Government Code Section 8630 allows the City Council or an official designated by ordinance adopted by the City Council, to proclaim a local emergency; and

WHEREAS, the City of Carlsbad's Emergency Services Ordinance, including Carlsbad Municipal Code Section 6.04.100(A)(1), empowers the City Manager, as the City of Carlsbad's Director of Emergency Services, to proclaim the existence of a local emergency, subject to ratification by the City Council, when there exists, or there is threatened to exist, conditions of extreme peril to the safety of persons and property within the City of Carlsbad; and

WHEREAS, in the case of an emergency, California Public Contract Code Section 22050 allows the City Council, or a person delegated the authority by the City Council, to repair or replace a public facility, take any directly related and immediate action required by that emergency, and procure the necessary equipment, services and supplies for those purposes without giving notice for bids to let contract; and

WHEREAS, the repair project was determined to be exempt from the California Environmental Quality Act, or CEQA, under Section 15301 (d) and (f) of the CEQA Guidelines, which applies to projects for restoration or rehabilitation of deteriorated or damaged structures and the addition of safety or health protection devices; and

WHEREAS, none of the exceptions to the CEQA exemption applied to the project and a Notice of Exemption was filed on Jan. 25, 2023; and

WHEREAS, the Director of Emergency Services finds:

1. The National Weather Service issued multiple winter storm warnings, high wind warnings, wind advisories, and flood and flash flood watches throughout the State of California in anticipation of a powerful, slow-moving, atmospheric river in early February.
2. Conditions of extreme peril to the safety of persons and property have arisen within the City of Carlsbad caused by the powerful, slow-moving atmospheric river in early February, requiring immediate action to prevent or mitigate the loss or impairment of life, health, and property.

Local Emergency – REPAIR OF THE SLOPE BETWEEN EL CAMINO REAL AND TRIESTE DRIVE
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3. Prior to the early February 2024 storms, powerful winter storms that occurred less than a month ago had amplified the impact of local flooding due to the record-breaking amount of rainfall including a severe rainstorm which began on January 22, 2024 ("January Storm"), in all dropping 2 to 3 inches of rain in a three-hour period, a total that exceeds that of an average wet month and rivals the rainfall needed to spur a 100-year flood event.

4. On Jan. 22, 2024, the County of San Diego proclaimed an emergency due to the January Storm, which the county characterized as a thousand-year storm, and which caused drastic flooding and flash flooding in the county.

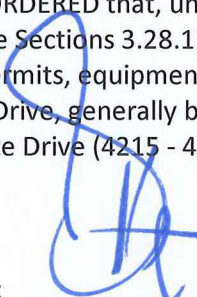
5. The conditions of the early February 2024 storms, in addition to the impacts of the January Storm, created an emergency condition on a slope that is located between El Camino Real and Trieste Drive, generally behind the backyards of four residential properties that front onto Trieste Drive (4215 - 4245 Trieste Drive) causing rapid slope movement and additional fissures in the soil that warrant immediate emergency repair.

6. That the City Council of the City of Carlsbad was not in session and could not be immediately called into session.

NOW, THEREFORE, IT IS PROCLAIMED that, subject to review and ratification by the City Council at its next meeting, a local emergency now exists in the City of Carlsbad, California, on a slope between El Camino Real and Trieste Drive, generally behind the backyards of four residential properties that front onto Trieste Drive (4215 - 4245 Trieste Drive).

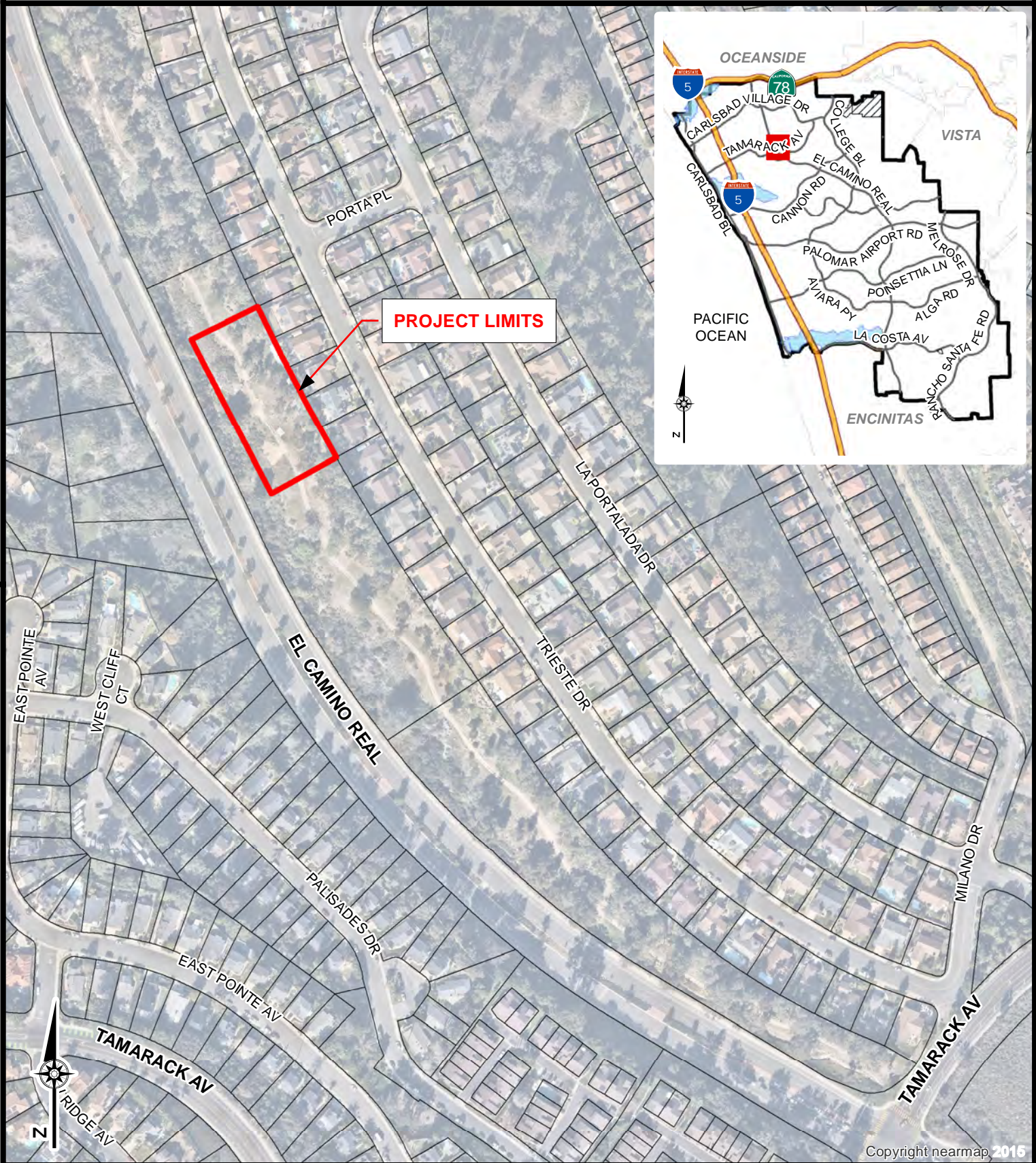
IT IS FURTHER PROCLAIMED AND ORDERED that, under California Public Contract Code Section 22050 and Carlsbad Municipal Code Sections 3.28.110(A) and 3.28.120, city staff may proceed at once to obtain the necessary permits, equipment, services, and supplies to repair the slope between El Camino Real and Trieste Drive, generally behind the backyards of four residential properties that front onto Trieste Drive (4215 - 4245 Trieste Drive), without giving notice for bids to let contracts.

Dated: 14 FEB 24

By: 
SCOTT CHADWICK
City Manager/Director of Emergency Services

LOCATION MAP

Exhibit 3



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TRIESTE DRIVE SLOPE REPAIR PROJECT

PROJECT
NUMBER
6107

EXHIBIT
3