



CITY COUNCIL Agenda

Council Chamber
1200 Carlsbad Village Drive
Carlsbad, CA 92008

April 9, 2024, 5 p.m.

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 Monday before the meeting to make arrangements. City staff will respond to requests by noon on Tuesday, the day of 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:

ANNOUNCEMENT OF CONCURRENT MEETINGS: None.

PLEDGE OF ALLEGIANCE:

APPROVAL OF MINUTES:

Minutes of the Regular Meeting held Feb. 27, 2024

PRESENTATIONS:

Oath of Office for Police Chief Calderwood
Proclamation in Recognition Arts Commissioner Laurenn Barker
Proclamation in Recognition of Earth Month

PUBLIC REPORT OF ANY ACTION TAKEN IN CLOSED SESSION:

PUBLIC COMMENT: *The Brown Act allows any member of the public to comment on items not on the agenda, provided remarks are confined to matters within the City Council's subject matter jurisdiction. Please treat others with courtesy, civility, and respect. Members of the public may participate in the meeting by submitting comments as provided on the front page of this agenda. The City Council will receive comments as requested up to a total of 15 minutes in the beginning of the meeting. All other non-agenda public comments will be heard at the end of the meeting. In conformance with the Brown Act, no action can occur on these items.*

CONSENT CALENDAR: *The items listed under Consent Calendar are considered routine and will be enacted by one motion as listed below. There will be no separate discussion on these items prior to the time the Council votes on the motion unless members of the Council, the City Manager, or the public request specific items be discussed and/or removed from the Consent Calendar for separate action.*

1. **ADDITIONAL SETTLEMENT OF THE WORKERS' COMPENSATION CLAIM OF DANIEL STEELE** – Adoption of a resolution authorizing an additional settlement of the workers' compensation claim of Daniel Steele in the amount of \$22,330. (Staff contact: Sarah Reiswig and Judy von Kalinowski, Administrative Services Department)
2. **ACQUISITION AND RESALE OF TWO UNITS AS PART OF THE CITY'S AFFORDABLE HOUSING RESALE PROGRAM** – Adoption of a resolution authorizing the City Manager to execute all required documents to complete the purchase and resale of two at-risk affordable housing units, 2778 Carlsbad Blvd., No. 200 and 6172 Colt Place, No. 103, as part of the City's Affordable Housing Resale Program and authorizing the City Manager or designee to appropriate \$747,944 from the Housing Trust Fund for related costs. (Staff contact: Erin Peak, Community Services Department)
3. **CONTINUATION OF PROCLAMATION OF A STORM-RELATED LOCAL EMERGENCY FOR REMOVAL OF SEDIMENT AND VEGETATION ON THE BUENA VISTA CREEK CONCRETE CHANNEL NEAR EL CAMINO REAL** – Adoption of a resolution continuing the proclamation of a storm-related local emergency for removal of sediment and vegetation in the Buena Vista Creek Concrete Channel near El Camino Real. (Staff contact: Tom Frank, Public Works Department)

4. CONTINUATION OF PROCLAMATION OF A STORM-RELATED LOCAL EMERGENCY FOR REPAIR OF THE SLOPE BETWEEN EL CAMINO REAL AND TRIESTE DRIVE – Adoption of a resolution continuing the proclamation of a storm-related local emergency for repair of the slope between El Camino Real and Trieste Drive. (Staff contact: Tom Frank, Public Works Department)

BOARD AND COMMISSION MEMBER APPOINTMENTS: None.

ORDINANCES FOR INTRODUCTION: None.

ORDINANCES FOR ADOPTION: None.

PUBLIC HEARINGS:

5. ANNUAL REVIEW OF THE POLICE DEPARTMENT’S MILITARY EQUIPMENT USE POLICY AND INTRODUCTION OF ORDINANCE RENEWING THE POLICY – 1) Receive the Police Department’s Annual Military Equipment Report;
2) Hold a public hearing to receive public comment; and
3) Introduction of an ordinance renewing the Police Department’s Military Equipment Use Policy, in accordance with California Assembly Bill 481. (Ryan Opeka, Police Department)

City Manager’s Recommendation: Take public input, close the public hearing, and introduce the ordinance.

6. LEGOLAND CALIFORNIA PROJECT 2025 – 1) Hold a public hearing; and
2) Adoption of a resolution approving a Site Development Plan (SDP 2023-0012) and Coastal Development Permit (CDP 2023-0022) to replace an existing Driving School and Junior Driving School attraction with a new space-themed attraction within the Inner Park Area of Legoland California on property located at One Legoland Drive, Assessor Parcel Number 211-100-09-00, within Planning Area 4 of the Carlsbad Ranch Specific Plan, the Mello II Segment of the Local Coastal Program and the Local Facilities Management Zone 13. (Jason Goff, Community Services Department)

City Manager’s Recommendation: Take public input, close the public hearing, and adopt the resolution.

7. CALIFORNIA COASTAL COMMISSION’S SUGGESTED MODIFICATIONS TO AMENDMENTS TO CARLSBAD MUNICIPAL CODE TITLE 21 FOR HOUSING ELEMENT PROGRAM IMPLEMENTATION AND THE 2022 ZONING ORDINANCE CLEANUP – 1) Hold a public hearing; and
2) Introduction of an ordinance acknowledging receipt of and approving the California Coastal Commission’s suggested modifications to the Local Coastal Program (Zoning Ordinance) for ZCA 2022-0001/LCPA 2022-0013 and ZCA 2022-0002/LCPA 2022-0014). (Jennifer Jesser, Community Services Department)

City Manager’s Recommendation: Take public input, close the public hearing, and introduce the ordinance.

DEPARTMENTAL AND CITY MANAGER REPORTS:

8. **UPDATE ON MANAGEMENT PLAN FOR AFFIRMED HOUSING’S WINDSOR POINTE AFFORDABLE HOUSING PROJECT** – Receive an update on the amended Windsor Pointe Management Plan to reflect enhanced security measures and provide direction on the amended Windsor Pointe Management Plan to city staff as appropriate. (Mandy Mills, Community Services Department and Mickey Williams, Police Department)

City Manager’s Recommendation: Receive the update.

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 (2nd 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 (1st alternate)

**Melanie Burkholder
Council Member – District 1**

City Council Legislative Subcommittee
North County Dispatch Joint Powers Authority (alternate)
SANDAG Board of Directors

**Teresa Acosta
Council Member – District 4**

Chamber of Commerce Liaison
City Council Legislative Subcommittee
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

**Carolyn Luna
Council Member – District 2**

Buena Vista Lagoon JPC
Encina Joint Powers JAC
Encina Wastewater Authority Board of Directors
North County Transit District (alternate)
SANDAG Shoreline Preservation Work Group

PUBLIC COMMENT: Continuation of the Public Comments

This portion of the agenda is set aside for continuation of public comments, if necessary, due to exceeding the total time allotted in the first public comments section. In conformance with the Brown Act, no Council action can occur on these items.

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
Minutes

Council Chamber
1200 Carlsbad Village Drive
Carlsbad, CA 92008

Feb. 27, 2024, 5 p.m.

CALL TO ORDER: 5 p.m.

ROLL CALL: Blackburn, Bhat-Patel, Acosta, Burkholder, Luna.

PLEDGE OF ALLEGIANCE: Chief of Police Mickey Williams led the Pledge of Allegiance.

ANNOUNCEMENT OF CONCURRENT MEETINGS: None.

APPROVAL OF MINUTES:

Minutes from the Regular Meeting held Feb. 6, 2024

Minutes from the Special Meeting held Feb. 15, 2024

Motion by Mayor Pro Tem Bhat-Patel, seconded by Council Member Acosta, to approve minutes as presented. Motion carried, 4/0/1 (Luna – Abstain).

PRESENTATIONS: None.

PUBLIC REPORT OF ANY ACTION TAKEN IN CLOSED SESSION: City Attorney Cindie McMahon announced there was no reportable action.

PUBLIC COMMENT:

Glenn Bernard spoke in support of preserving views.

Vanessa Forsythe spoke regarding the health impact caused by the leaded fuel used in propeller planes at Palomar Airport.

Gary Gonsalves spoke regarding the voluntary noise abatement issue at Palomar Airport.

Yasin Alkowni spoke regarding the community's silence regarding the current genocide.

Teresa Barnes Paullas spoke regarding the safety of people with hearing loss on Tamarack Avenue and El Camino Real.

CONSENT CALENDAR:

Motion by Mayor Pro Tem Bhat-Patel, seconded by Council Member Acosta, to approve Consent Calendar Item Nos. 1 through 6. Motion carried unanimously, 5.0.

1. **DATA SHARING AGREEMENT WITH THE COUNTY OF SAN DIEGO REGARDING THE COLLECTION, USE AND DISCLOSURE OF EMERGENCY MEDICAL SERVICES CARE RECORDS AND PATIENT DATA** – Adoption of Resolution No. 2024-033 authorizing the City Manager to approve an agreement with the County of San Diego, as the local Emergency Medical Services agency, to define and control the use of pre-hospital data provided by the Carlsbad Fire Department's Emergency Medical Services System. (Staff contact: Nathan Pearson, Fire Department)

2. AMENDMENT NO. 5 TO AN AGREEMENT WITH EMERGENCY VEHICLE SYSTEMS LLC FOR THE OUTFITTING OF POLICE PATROL VEHICLES – Adoption of Resolution No. 2024-034 authorizing Amendment No. 5 to an agreement with Emergency Vehicle Systems LLC for police patrol vehicle outfitting, extending the term of the agreement by six months. (Staff contact: Bradley Northup, Public Works Department)
3. LOW CARBON FUEL STANDARD CREDITS FOR ELECTRIC VEHICLE CHARGING STATIONS – Adoption of Resolution No. 2024-035 authorizing the City Manager or designee to track, manage, bank and sell low carbon fuel standard credits in accordance with the regulations set by the California Air Resources Board. (Staff contact: Shawn Gaskari, Public Works Department)
4. CONTINUATION OF PROCLAMATION OF A STORM-RELATED LOCAL EMERGENCY FOR REMOVAL OF SEDIMENT AND VEGETATION ON THE BUENA VISTA CREEK CONCRETE CHANNEL NEAR EL CAMINO REAL – Adoption of Resolution No. 2024-036 continuing the proclamation of a storm-related local emergency for removal of sediment and vegetation in the Buena Vista Creek Concrete Channel near El Camino Real. (Staff contact: Tom Frank, Public Works Department)
5. CONTINUATION OF PROCLAMATION OF A STORM-RELATED LOCAL EMERGENCY FOR REPAIR OF THE SLOPE BETWEEN EL CAMINO REAL AND TRIESTE DRIVE – Adoption of Resolution No. 2024-037 continuing the proclamation of a storm-related local emergency for repair of the slope between El Camino Real and Trieste Drive. (Staff contact: Tom Frank, Public Works Department)
6. ENDING THE FEB. 8, 2024, STORM-RELATED LOCAL EMERGENCY FOR REPAIR OF A STORM DRAIN PIPELINE ON CARLSBAD VILLAGE DRIVE NEAR PONTIAC DRIVE – Adoption of Resolution No. 2024-038 terminating the proclamation of a storm-related local emergency for repair of a storm drain pipeline on Carlsbad Village Drive near Pontiac Drive. (Staff contact: Tom Frank, Public Works Department)

BOARD AND COMMISSION MEMBER APPOINTMENTS:

7. MAYORAL APPOINTMENT OF TWO MEMBERS TO THE AGRICULTURAL CONVERSION MITIGATION FEE CITIZENS' ADVISORY COMMITTEE – 1) Adoption of Resolution No. 2024-039 appointing one member to the Agricultural Conversion Mitigation Fee Citizens' Advisory Committee; and
2) Adoption of Resolution No. 2024-040 appointing one member to the Agricultural Conversion Mitigation Fee Citizens' Advisory Committee. (Staff contact: Tammy McMinn, City Clerk Department)

City Manager's Recommendation: Adopt the resolutions.

Lin-Wei Wu spoke to her qualifications to be appointed to the committee.

Dale Ordas spoke to his qualifications to be appointed to the committee.

Kevin O'Neill spoke to his qualifications to be appointed to the committee.

Motion by Mayor Blackburn, to adopt Resolution No. 2024-039 appointing Kevin O'Neill to the Agricultural Conversion Mitigation Fee Citizens' Advisory Committee. Motion carried unanimously, 5/0.

Motion by Mayor Blackburn, to adopt Resolution No. 2024-040 appointing Lin-Wei Wu to the Agricultural Conversion Mitigation Fee Citizens' Advisory Committee. Motion carried unanimously, 5/0.

ORDINANCES FOR INTRODUCTION: None.

ORDINANCES FOR ADOPTION: None.

PUBLIC HEARING: None.

DEPARTMENTAL AND CITY MANAGER REPORTS:

8. **ECONOMIC AND FINANCIAL UPDATE FOR THE SECOND QUARTER OF FISCAL YEAR 2023-24 –**
- 1) Receive the report on the economic and financial update for the second quarter of fiscal year 2023-24 and provide direction as appropriate; and
 - 2) Receive a report on the results of the fiscal year 2023-24 mid-year budget review; and
 - 3) Adoption of Resolution No. 2024-041 authorizing the City Manager or designee to appropriate \$245,000 from the Fleet Maintenance Fund for citywide fuel costs and \$80,000 from the Stormwater Enterprise Fund for a funding study to the Fiscal Year 2023-24 Operating Budget. (Staff contact: Zach Korach and Matt Sanford, Administrative Services Department)

City Manager's Recommendation: Receive the reports and adopt the resolution.

Economic Development Manager Matt Sanford and Finance Director Zach Korach presented the report and reviewed a PowerPoint presentation (on file in the Office of the City Clerk).

Motion by Mayor Pro Tem Bhat-Patel, seconded by Council Member Acosta, to adopt Resolution No. 2024-041. Motion carried unanimously, 5/0.

9. **AGREEMENT WITH CHEN RYAN ASSOCIATES, INC., DBA CR ASSOCIATES, FOR TAMARACK AVENUE COMPLETE STREETS SERVICES –** Adoption of Resolution No. 2024-042 accepting proposals and awarding an agreement to Chen Ryan Associates, Inc., dba CR Associates, to provide transportation planning, engineering design and environmental assessment services for the Tamarack Avenue Complete Streets Plan for an amount not to exceed \$283,241. (Staff contact: Nathan Schmidt, Public Works Department)

City Manager's Recommendation: Adopt the resolution.

Transportation Director Tom Frank and Transportation Planning & Mobility Manager Nathan Schmidt presented the report and reviewed a PowerPoint presentation (on file in the Office of the City Clerk).

Glenn Bernard spoke in opposition to staff's recommendation.

Tim Morgan thanked the City Council and city staff for the community involvement for the safety issues of this item.

Sharon McDonald requested a safe crossing at the railroad track at Tamarack Avenue to access the rail trail.

Mayor Pro Tem Bhat-Patel spoke in support of the item.

Council Member Acosta expressed concerns about how the contract was written..

Council Member Burkholder explained that quite a bit of money has been spent on Tamarack Avenue improvements already and did not support additional modifications to the road at this time.

Motion by Council Member Burkholder, seconded by Council Member Acosta, directing staff to proceed with Alternative Option 2 in the staff report to not proceed with the plan. Motion carried, 3/2 (Bhat-Patel, Luna – No).

Mayor Blackburn called for a recess at 6:45 p.m.

Mayor Blackburn reconvened the meeting at 6:56 p.m.

10. CONSIDER DISCUSSING PROPOSED REVISIONS TO THE CITY'S CODE AND GENERAL PLAN RELATING TO MCCLELLAN-PALOMAR AIRPORT – Consider a request from Mayor Blackburn to engage in a discussion regarding a request from Citizens for a Friendly Airport relating to revisions to the City's Code and General Plan relating to McClellan-Palomar Airport. (Staff contact: Jason Haber, City Manager Department)

City Manager's Recommendation: Provide direction to staff.

Intergovernmental Affairs Director Jason Haber presented the report and reviewed a PowerPoint presentation (on file in the Office of the City Clerk).

Glenn Bernard spoke regarding the fact that the Palomar Airport existed before the residential areas were built.

Hope Nelson thanked the City Council and staff for their recommendation for review of the item.

Frank Sung expressed his appreciation and support for staff's recommendation.

Dom Betro thanked the City Council and staff for their support regarding this issue.

Vickey Syage thanked the City Council and staff for their time and consideration regarding the issue.

Kris Wright thanked the City Council for bringing this item forward for discussion.

Minute Motion by Mayor Blackburn, seconded by Mayor Pro Tem Blackburn, directing staff to review and investigate the requests from Citizens for a Friendly Airport and return to Council within 60 days with an analysis, any steps, potential costs and timing to implement the proposals. Motion carried unanimously, 5/0.

CONTINUATION OF NON-AGENDA PUBLIC COMMENT

Gurleen Vivik spoke regarding a cease fire in Gaza.

Public Information Officer with the U.S. Small Business Administration Claudia Anderson gave an overview of SBA disaster loan resources available to assist people impacted by the January 2024 severe winter storm and flooding disaster.

COUNCIL REPORTS AND COMMENTS: Mayor Blackburn and the City Council Members reported on activities and meetings of some committees and subcommittees of which they are members.

ANNOUNCEMENTS: None.

CITY MANAGER COMMENTS: None.

CITY ATTORNEY COMMENTS: None.

CITY CLERK COMMENTS: None.

ADJOURNMENT: Mayor Blackburn adjourned the duly noticed meeting at 7:26 p.m.

Tamara R. McMinn, CPMC, CMC
Senior Deputy City Clerk



CITY COUNCIL
Staff Report

Meeting Date: April 9, 2024

To: Mayor and City Council

From: Scott Chadwick, City Manager

Staff Contact: Sarah Reiswig, Senior Human Resources Officer
sarah.reiswig@carlsbadca.gov, 442-200-4718
Judy von Kalinowski, Human Resources Director
judy.vonkalinowski@carlsbadca.gov, 760-473-4670

Subject: Additional Settlement of the Workers' Compensation Claim of Daniel Steele

Districts: All

Recommended Action

Adopt a resolution approving an additional settlement of the workers' compensation claim of Daniel Steele in the amount of \$22,330.

Executive Summary

Daniel Steele, a Utility Locator, sustained a work-related injury during the course of his employment. The claimant had a previous injury involving the same body part, which settled in 2022 via stipulated award with a \$42,050 permanent disability award and future medical care benefits.

Mr. Steele's attorney filed a new claim reporting that the condition had gotten worse because of the second injury. This increased Mr. Steele's permanent disability rating¹ from 32% to 43%, thereby increasing his permanent disability award by \$22,330, bringing the total permanent disability award to \$64,380).

Settlements exceeding \$50,000 require the approval of the City Council in accordance with City Council Resolution 2015-086.

Explanation & Analysis

The terms and conditions of the proposed settlement are set forth in the request for settlement authority document, which is on file in the Human Resources Department. The terms and conditions were agreed upon by Mr. Steele and the city, and have been recommended by AdminSure Inc., the city's workers' compensation third-party administrator, and both parties' legal counsel.

¹ Permanent disability ratings, an assessment of the severity of a permanent impairment, are used in workers' compensation cases to assess the degree of damage that resulted from a work-related injury.

This permanent disability payment is required under California Labor Code Section 4650, and “bad faith actions” or failure to comply with the Workers’ Compensation Appeals Board Rules of Practice and Procedure may result in penalties and further litigation, so staff recommend timely action.

Fiscal Analysis

The additional cost of this settlement is \$22,330. Funding for this settlement was included in the adopted budget for fiscal year 2023-24.

Next Steps

With the City Council’s approval, staff will file the appropriate documentation with the Workers’ Compensation Appeals Board for its review and approval.

Environmental Evaluation

This action does not require environmental review because it does not constitute a project within the meaning of the California Environmental Quality Act under California Public Resources Code Section 21065 in that it has no potential to cause either a direct physical change or a reasonably foreseeable indirect physical change in the environment.

Exhibits

1. City Council resolution

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, AUTHORIZING AN ADDITIONAL SETTLEMENT OF THE WORKERS' COMPENSATION CLAIM OF DANIEL STEELE

WHEREAS, Daniel Steele sustained a work-related injury and received a Permanent Disability Award in 2022 in the amount of \$42,050 along with future medical care benefits; and

WHEREAS, Daniel Steele's permanent disability rating was increased after filing a new claim for the same body part; and

WHEREAS, AdminSure Inc., the city's third-party administrator, has recommended an additional settlement of the workers' compensation claim of Daniel Steele in the amount of \$22,330 (bringing the total permanent disability award to \$64,380); and

WHEREAS, all parties have agreed to settle these claims before the Workers' Compensation Appeals Board.

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 expenditure of \$22,330 from the Workers' Compensation Self-Insurance Fund is authorized for the settlement of said claims.
3. That the City Council approves the request for settlement authority on file in the Human Resources Department.

PASSED, APPROVED AND ADOPTED at a Regular 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)



CITY COUNCIL
Staff Report

Meeting Date: April 9, 2024

To: Mayor and City Council

From: Scott Chadwick, City Manager

Staff Contact: Erin Peak, Program Manager
erin.peak@carlsbadca.gov, 442-339-2043

Subject: Acquisition and Resale of Two Units as Part of the City's Affordable Housing Resale Program

Districts: 1, 2

Recommended Action

Adopt a resolution authorizing the City Manager to execute all required documents to complete the purchase and resale of two at-risk affordable housing units, 2778 Carlsbad Blvd., No. 200 and 6172 Colt Place, No. 103, as part of the City's Affordable Housing Resale Program and authorizing the City Manager or designee to appropriate \$747,944 from the Housing Trust Fund for related costs.

Executive Summary

As part of the city's Affordable Housing Resale Program, the city purchases existing affordable housing units at risk of losing their affordability restrictions and then resells them to another eligible lower-income buyer. This extends the length of the time the unit is affordable and maintains and enhances the existing affordable housing stock in Carlsbad.

Staff are recommending that the City Council approve the city's purchase of two units that are being sold by existing owners, for a total of \$747,944. The funding for these purchases includes \$747,944 from the Housing Trust Fund.

The city will own the properties temporarily, with the intent to resell them to eligible lower-income buyers in accordance with the City Council-adopted Affordable Housing Resale Program Guidelines.

The revenue generated from the sale of the properties will be deposited into the Housing Trust Fund as program income.

City Council Policy Statement 73 requires the City Council's approval to carry out the purchase and resale of the at-risk affordable housing units.

Explanation & Analysis

Background

The city adopted an inclusionary housing ordinance in 1993 that requires all residential developments greater than six units to set aside 15% of the total number of units in a project as affordable to low-income households. Residential developers have the option to offer rental or ownership units to satisfy the inclusionary requirements. As a condition of the inclusionary housing program, homebuyers of these ownership affordable properties enter into an agreement with the city that requires them to notify the city when they intend to sell their homes and allow the city the option to purchase them at restricted prices.

City Council Policy Statement No. 73 - City Option to Purchase Resale Affordable Housing (Exhibit 2) and the Affordable Housing Resale Program Guidelines (Exhibit 3) were approved by the City Council in 2020. The City of Carlsbad's Affordable Housing Resale Program is designed to help qualified lower income households purchase city-owned residential units at an affordable price.

Affordable Housing Resale Program Guidelines

The Affordable Housing Resale Program Guidelines describe the eligibility requirements, marketing and application process. The city conducted an extensive marketing effort to promote the availability and sale of the city-owned residential units and received more than 2,000 applications.

The eligibility criteria include a requirement that applicants reside in San Diego County and that their total household income is limited to no more than 80% of the county's area median income. The qualified applicants were selected from priority categories and in the order that their complete applications were accepted, consistent with the guidelines. The affordable sales prices are determined based on a formula identified in the Affordable Housing Resale Program Guidelines.

Previous purchases

To date, the city has acquired 16 units, and is in the process of acquiring five additional units. In January 2024, the City Council adopted Resolution 2024-006, authorizing the acquisition of eight at-risk affordable housing units. Since that time, three of those property owners have declined to move forward in the process.

The city has resold 14 of the 16 acquired units to eligible lower-income households, with one additional unit in the process of being resold. The purchase of these two additional units will bring the total to 23 at-risk units that the city has acquired since 2020.

Properties to be purchased

Staff are recommending the city purchase the following units, which were set aside for low-income buyers by the projects' developers to fulfill their obligations under the city's inclusionary housing ordinance:

2778 Carlsbad Blvd., No. 200

- One of the 11 units sold to low-income homebuyers at a restricted affordable price in the 65-unit Village by the Sea project
- Along Carlsbad Boulevard between Beech Avenue and Christensen Way
- Would be the city's second purchase in this project

6172 Colt Place, No. 103

- One unit in the 25-unit Kensington at the Square - Bressi Ranch complex that were sold to low-income homebuyers at a restricted affordable price
- Located at the Intersection of Colt Place & Gateway Road
- This would be the city’s first purchase in this project

Once eligible buyers are vetted and affordable resale prices are determined, each unit will be sold with a second deed of trust recorded against the property to ensure it is resold at an affordable price so the city can continue providing this benefit to future low-income buyers.

Staff recommend the City Council authorize the City Manager to execute all required documents to complete the purchase and resale of the two at-risk affordable housing units identified as part of the Affordable Housing Resale Program.

Fiscal Analysis

There is no impact to the General Fund from these purchases. There are sufficient funds available in the Housing Trust Fund to cover the costs for purchase and resale including refurbishment, related closing costs and future loss on sale of property. The net proceeds from the resale of the unit will be returned to the Housing Trust Fund.

The restricted price for the city to buy the affordable units is based on the change in area median income levels during the seller’s period of ownership.

The restricted purchase price for each property and the proposed funding source are shown in the table below:

Address	District	Description	Price	Funding source
6172 Colt Place, #103	2	3 bed/3 bath	\$391,860	Housing Trust Fund
2778 Carlsbad Blvd., #200	1	2 bed/2 bath	\$308,763	Housing Trust Fund
Total:			\$700,623	

The costs for purchase and resale, which include brief city ownership, refurbishment, and related closing costs, are estimated to be \$747,944. An appropriation from the Housing Trust Fund in an amount of \$747,944 is required for the purchase costs related to refurbishing and preparing the unit for resale. The costs will be partially offset by the future resale of the properties.

The resale prices are based on a maximum affordable price formula and are generally less than the city purchase price.

The city also receives a 6% transaction fee, estimated at \$42,038, for the purchase of each unit because the city is acting as the real estate agent for these transactions. This helps cover the cost of the real estate professional the city has contracted with to sell the affordable units the city will have purchased.

Next Steps

After review and approval of the City Attorney, the City Manager or designee will execute all required documents to complete the purchase and resale of the units, consistent with the Affordable Housing Resale Program Guidelines.

Environmental Evaluation

This action does not constitute a project within the meaning of California Environmental Quality Act under Public Resources Code section 21065 in that has no potential to cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment and therefore does not require environmental review.

Exhibits

1. City Council resolution
2. Council Policy No. 73
3. Affordable Housing Resale Program guidelines

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, AUTHORIZING THE CITY MANAGER TO EXECUTE ALL REQUIRED DOCUMENTS TO COMPLETE THE PURCHASE AND RESALE OF TWO AT-RISK AFFORDABLE HOUSING UNITS, 2778 CARLSBAD BLVD., NO. 200 AND 6172 COLT PLACE, NO. 103, AS PART OF THE CITY'S AFFORDABLE HOUSING RESALE PROGRAM AND AUTHORIZING THE CITY MANAGER OR DESIGNEE TO APPROPRIATE \$747,944 FROM THE HOUSING TRUST FUND FOR RELATED COSTS

WHEREAS, the City Council of the City of Carlsbad, California has determined that it desires to purchase and resell at-risk affordable housing units to eligible lower income buyers at an affordable price to implement the city's affordable housing goals and policies; and

WHEREAS, on Dec. 8, 2020, the City Council approved Council Policy Statement No. 73 - City Option to Purchase Resale Affordable Housing and the Affordable Housing Resale Program Guidelines by Resolution No. 2020-234; and

WHEREAS, the property owners of two at-risk affordable housing units, 2778 Carlsbad Boulevard, No. 200 and 6172 Colt Place, No. 103, provided notice of their intent to sell or transfer ownership of the restricted affordable housing units; and

WHEREAS, the purchase of the units enables the city to extend the affordability of the existing units, and to resell them to another eligible lower-income buyer in accordance with the City of Carlsbad Affordable Housing Resale Program; and

WHEREAS, City Council Policy No. 73 authorizes the City Manager or designee to exercise the city's option to purchase existing at-risk affordable housing units, subject to City Council appropriation of funds and acceptance of the grant deed; and

WHEREAS, the purchases are consistent with City Council Policy No. 73, the Affordable Housing Program Guidelines, and consistent with City Council Policy 90, Administration of the Housing Trust Fund; and

WHEREAS, the revenue generated from the sale of the properties will be deposited into the Housing Trust Fund respectively as program income, with the sale proceeds being available to create more affordable housing opportunities.

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 City Manager, or designee, is authorized to execute all required documents for the purchases of 2778 Carlsbad Boulevard, No. 200 and 6172 Colt Place, No. 103, and make all future decisions and actions necessary to implement the resale and disposition of two at-risk affordable housing units in the City of Carlsbad identified in Attachment A, in compliance with Council Policy No. 90, City Council Policy No. 73, and the Affordable Housing Resale Program Guidelines, and to do so in full compliance with the terms and conditions and to the satisfaction of the City Attorney.
3. That the City Manager, or designee, is authorized to appropriate \$747,944 from the Housing Trust Fund for the property purchase of at-risk affordable units authorized and for costs related to refurbishing and preparing the units for resale identified in Attachment A.

PASSED, APPROVED AND ADOPTED at a Regular 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)

Property no.	Location	APN	Development	Source of Funding
22	Colt Place #103	213-262-22-18	Kensington	Housing Trust Fund
23	Carlsbad Boulevard #200	203-172-25-01	Village-by-the Sea	Housing Trust Fund



Policy No.	73
Date Issued:	12-08-2020
Effective Date:	12-08-2020
Resolution No.	2020-234
Cancellation Date:	N/A
Supersedes No.	73, issued 1/22/08

Council Policy Statement

Category: AFFORDABLE HOUSING
Specific Subject: City Option to Purchase Resale Affordable Housing

PURPOSE:

To provide procedural guidelines for staff when exercising the city's option to purchase restricted affordable housing ownership units that were created under the Inclusionary Housing Program. The city's primary interest in exercising its option to purchase affordable units is to preserve, extend and enhance affordability covenants to subsequent lower-income purchasers and to provide additional housing opportunity to underserved populations. The policy will establish the authority, selection criteria, and resale requirements for the identification, acquisition and disposition of these affordable units.

BACKGROUND:

The city's Inclusionary Housing Ordinance requires developers of residential projects with more than six units to provide fifteen percent of the homes to lower income households at an affordable price. Developers may satisfy the ordinance requirements by providing rental or for sale (ownership) units.

Ownership units produced under the Inclusionary Housing Program have affordability restrictions for 30 years. Under the initial requirements of the Inclusionary Housing Program, low-income homebuyers were required to execute resale agreements that allowed them to sell their homes at market rate to a non-low-income homebuyer if they repaid the city any outstanding loan amounts and paid the city a share of the equity from the sale. This initial policy resulted in the loss of many of the for-sale affordable units in the city. To more effectively implement inclusionary housing requirements (CMC 21.85.040(E)), the policy was changed to require a restricted unit to be sold to another low-income household during the first 15 years of the 30-year affordability term. In year 16 and later, the home could be sold to a non-low-income household with the repayment of the city subsidy loan with a share of equity (also referred to as contingent interest).

The revised policy also required that the city would be given an option, or first right of refusal, to purchase the affordable unit at a restricted price upon notice of intent to sell from the owner. The city could also assign its option to a "city-designated purchaser", defined as another public agency, a nonprofit corporation, or an eligible low-income purchaser. The restricted price option to purchase or assign is a requirement for participation in the homeownership program and applies throughout the entire 30-year term of the loan.

For the restricted affordable housing ownership units, if the city declines its option to purchase the unit or to assign the option to a city-designated purchaser, the owner is required to resell the

affordable home to another low-income household during the first 15 years of ownership at a restricted affordable price established by the city. After the initial 15 years, and if the city declines to exercise its option to purchase or to assign its option to a city-designated purchaser, the resale agreement permits the owner to sell the unit at market value to a non-low-income buyer and the city recaptures its subsidy together with shared equity (contingent interest) up through the 30th year of the resale agreement. The revenue from the loan payoff and shared equity is deposited into the city's Housing Trust Fund to create additional opportunities for affordable housing within the city.

POLICY:

By adopting this policy, the City Council grants authority to the City Manager, or designee, to accept or decline the option to purchase a restricted affordable housing ownership unit at a restricted low-income price during the full term of the resale agreement. This policy shall apply to all units restricted under a *Resale Restriction Agreement and Option to Purchase* in order for a housing development to comply with the requirements of the city's Inclusionary Housing Program. The decision to accept or decline the option to purchase a restricted affordable housing ownership unit will be guided by the following principles:

1. The unit would be at-risk of conversion to market rate if the city declines its option to purchase it; or
2. The public interest is served well through purchase of the unit by the city and resale to a qualified lower-income household; or
3. An underserved population will benefit greater from the city's purchase and resale of the unit; or
4. An affordable housing opportunity will be enhanced through the city's purchase and resale of the unit; and
5. Special funding (such as CDBG, HOME, Successor Housing Agency funds) is available and/or is required to be expended in a timely manner and the city's purchase of the unit is a qualified expenditure of these funds; or
6. When special funding is unavailable, sufficient Housing Trust Fund dollars are available to purchase the unit.

The City Manager, or designee, will consider options to purchase as written notices of intent to sell from restricted affordable housing ownership units are received. If the city receives notices of intent to sell from multiple owners at a given time, the City Manager, or designee, may rank order them based on the principles above. For example, an affordable unit that is at-risk of conversion to market rate (i.e., can be sold to a market rate purchaser after 15 years) will be prioritized for acquisition over a unit that is not at-risk (i.e., must be sold to a low-income buyer). Other factors, such as purchase price, amount of available funding, size, location and condition of the unit may be taken into account when rank ordering multiple options to purchase units.

Upon a decision by the City Manager, or designee, to exercise the option to purchase a restricted affordable housing ownership unit, the City Manager, or designee, will proceed accordingly to complete the purchase transaction and present it to the City Council for consideration and final action, accepting the Grant Deed for the property.

Upon approval of the City Council of the acquisition and completion of the purchase transaction, the restricted affordable housing ownership unit will be resold by the city according to the *Affordable Housing Resale Program Guidelines* recommended for approval by the Housing Commission and approved by the City Council, and which may be amended from time to time to update policies, process and/or resale priorities.

As an alternative to accepting the option to purchase the restricted affordable housing ownership unit, the City Manager, or designee, is authorized to assign the city's option to an eligible low-income purchaser. This alternative is appropriate when: a) there is insufficient funding available or there are higher priority uses for the available funding; and b) the unit would be at-risk of conversion to market rate if the city declines its option to purchase it. In such a case the City Manager, or designee, will assign the city's purchase option to an eligible purchaser drawn from a waiting list maintained in accordance with the *Affordable Housing Resale Program Guidelines*.

Assignment of the city's purchase option to another public agency, nonprofit corporation, or an eligible purchaser not on the waiting list will require City Council approval.

If the city is unable to accept or assign its option to a city-designated purchaser, then the City Manager, or designee, is authorized to decline the option and allow the restricted affordable housing ownership unit to be sold according to the terms of the resale agreement. The City Manager's, or designee's, decision to decline the option to purchase will be valid for no more than 180 days. If the unit owner has not completed the sale of their home within this time frame, the unit owner will be required to file another notice of intent to sell and grant the city another opportunity to exercise or assign its option to purchase the unit at an affordable price.

All sales of city-owned restricted affordable housing ownership units require City Council approval.

CITY OF CARLSBAD

AFFORDABLE HOUSING RESALE PROGRAM GUIDELINES

1. PROGRAM BACKGROUND

In 2018, the Carlsbad City Council authorized staff to exercise the city’s option to purchase restricted affordable housing ownership units when the original lower-income buyer provided notice of intent to sell the unit during the 30-year regulatory/loan term. These units were originally constructed by a private residential developer in Carlsbad to satisfy the requirements of the city’s Inclusionary Housing Ordinance and initially sold to a qualified lower-income buyer at an affordable restricted price. Because the units are substantially subsidized to a below market price affordable to lower-income households, the city holds a “silent” second loan on the property that equals the value of the price subsidy (the difference between the fair market value of the unit and the restricted price for a lower income household). As part of the loan agreement between the city and the homeowner, the city has an option to purchase the unit at the time they are made available for sale by the homeowner; this option may be exercised at any time of sale during the 30-year term of the loan and the city pays the restricted price for the unit, calculated at the time of sale.

The City Council has subsequently approved use of federal Community Development Block Grant (CDBG) funds to purchase these units with the intent of preserving and extending the long-term affordability of the units. Because federal and potentially local housing funds have and will be used to purchase these units, the city intends to enhance the public benefit of the program through these resale guidelines by providing affordable homeownership opportunities to lower-income households and potentially providing a larger secondary loan if determined to be needed by the city to allow for the purchase by a qualifying buyer who meets the city’s priorities.

2. PROGRAM OVERVIEW

The City of Carlsbad Affordable Housing Resale Program is a homeownership program specifically designed to assist qualified lower-income households to purchase a city-owned residential property at an affordable price; these affordable units (under city ownership) were purchased from the original low-income homeowner at the time the owner decided to sell the unit and provided required notice to the city of the owner’s intent to sell the unit. The price the qualified buyer will pay for the unit will be set by the city to ensure that total housing costs for the qualified buyer will not exceed 30 percent of the gross household income of the buyer. Pricing will be based on incomes ranging from 50 to 80 percent of the San Diego Area Median Income (AMI). The difference between the fair market value of the property at time of sale to the qualified buyer and the actual price paid by the qualified buyer will continue to be

structured as a secondary loan documented in a promissory note executed by the new homeowner and with the city as the beneficiary. The loan will become immediately due and payable to the City of Carlsbad if the homeowner fails to comply with the terms of the loan and the requirements set forth within these resale program guidelines. The unit may be sold by the new owner but may only be sold to an eligible buyer at a price that is affordable to the designated income level set forth within the 30-year loan agreement. The city will retain an option to repurchase the unit again at a restricted price throughout the term of the agreement when the owner decides to sell at a later date.

3. PROGRAM REQUIREMENTS AND BUYER ELIGIBILITY

The city has established basic threshold eligibility criteria for participation in this affordable housing homebuyer program.

- A. The buyer must currently be living in San Diego County.
- B. The buyer has not purchased a unit under any other First-Time Homebuyer or Affordable For-Sale Housing Program administered by the City of Carlsbad in the past seven years.
- C. The buyer’s income may not exceed the maximum income limit for the resale program which shall be 80 percent of the San Diego County Area Median Income (AMI) as established by the US Department of Housing & Urban Development and as published by the State Department of Housing and Community Development and in effect at the time of the buyer’s application, adjusted for household size.
- D. The buyer must have a minimum income which allows for the total of all housing costs to not exceed 30 percent of the total gross household income for the buyer. The minimum income shall be determined on a case-by-case basis taking into consideration the size and market value of the unit, the homeowner association fees (if any) and other related housing costs (including a utility allowance) at the time of application to purchase one of the units.
- E. At time of application for a particular unit, the buyer’s household size shall meet the following minimum and maximum household size:

Unit Size	Household Size	
	Minimum	Maximum
1 bedroom	1	3
2 bedrooms	2	5
3 bedrooms	3	7
4 bedrooms	4	9

This requirement is intended to promote efficient use of available affordable housing and to prevent overcrowding at the time of sale; however, this does not limit future growth in the household size after the purchase. The buyer must execute legal documents that prohibit the unit or any portion thereof from being used as a short or long-term rental, and require the owner to use the unit as their primary residence for no less than 10 months out of each calendar year.

- F. Co-borrowers or co-signers who will not occupy the property as their primary residence are not permitted. A non-borrowing spouse is considered a co-borrower if they will occupy the property, even if they will not be on the loan for the first mortgage. Student dependents who live outside San Diego County at or near their college will not be counted as a household member.
- G. For the purpose of determining household size, any person claimed as a household member must have lived with the borrower for a minimum of twelve consecutive months immediately prior to purchase and must provide evidence they will live in the subject property after purchase. In addition, any non-borrowing person listed as having no income on the application must be indicated as a dependent on the applicant's tax return for the previous year to be considered a household member.

Appendix A provides a quick review summary of eligibility requirements, documentation requirements and clarifications of the standards.

4. NOTIFICATION OF AFFORDABLE UNIT FOR SALE BY THE CITY

In an effort to be fair and ensure those that meet the priority criteria set forth by the city have an opportunity to purchase one of the city-owned affordable units, the city will open an application period when there are units available for purchase. The application period will remain open for a period of 60 days, or longer if needed to receive enough qualified applications.

- A. Outreach Strategies
 - o The city will utilize print media and electronic media to inform the public of affordable for-sale housing opportunities.
 - o The city will target outreach to minority and special needs populations that may not otherwise have the opportunity to access affordable housing opportunities.
 - o The city will communicate the status of affordable housing availability to a variety of agencies including social service agencies,

nonprofit agencies, and special interest groups in the community, advising them of eligibility factors and guidelines so that they can make appropriate referrals.

B. Public Noticing and Application Period

- The city will provide notice in local newspapers and the city website when affordable housing units will be offered for sale. The notices will announce when the application period will open and provide information on how to apply to purchase an affordable unit. Notices will be sent 15 days prior to the opening date of the application period.
- Applications for the purchase of an affordable unit must be filed with the City of Carlsbad, Housing Services Division by the date and time specified in the public notice. Applications will be date and time stamped in the order in which they are received.

C. Marketing.

- Informational materials for applicants will include a general description such as the locations and number of affordable units, number of bedrooms, number of parking/garage spaces per unit, amenities, pricing, etc.
- Marketing materials will include photos of the exterior and interiors of available units.

5. APPLICATION PROCESS

- A. Once the application period is opened by the city, an interested buyer will be able to download the application from the city's website (www.carlsbadca.gov/housing), complete it, provide the required back-up documentation and then return the original, signed application and supporting documents to:

City of Carlsbad
1200 Carlsbad Village Drive, Carlsbad, CA 92008
Attn: Homebuyer Program, Housing Services.

- Application forms will be mailed to interested buyers upon request.
- B. The potential buyer shall be required to complete both a program and uniform residential loan application to purchase the unit and must provide all pertinent documentation requested by the City of Carlsbad to determine eligibility as well as to determine sorting priority (see Section 6 below). Applications will only be accepted if all documentation is provided at the time the application is submitted to the city.

Incomplete applications will be returned to the potential buyer with a list of required documentation to be submitted to the city; applications may not be resubmitted until all required documentation is available and included with the completed application.

Community Development

Housing Services 1200 Carlsbad Village Drive | Carlsbad, CA 92008 | 760-434-2810 t

Please note that all applications must be signed and dated and may be noted on credit reports as an application for a loan.

- C. Submission of an incomplete application will be returned to the applicant, and the application will not be considered for the purchase of an existing unit until it is accepted as complete. A resubmitted application will be date and time stamped when it is received. If the resubmitted application is accepted as complete, the resubmittal date and time will be used for sorting as described in Section 6 below. It is important to review the application closely and ensure that the application is complete, signed and dated, and that all pertinent documents are included upon initial submission.
- D. Persons with disabilities are entitled to request a reasonable accommodation in rules, policies, practices, or services, or to request a reasonable modification in the application process and purchasing process, when such accommodations or modifications may be necessary to afford persons with disabilities an equal opportunity to housing.

6. APPLICATION SORTING

At the conclusion of the application period, based on the following criteria, all verified complete applications will be placed in one of three eligibility lists, and in the order that applications were accepted as complete:

List A	List B	List C
<p>Applicant household has</p> <p style="text-align: center;">BOTH</p> <p>Gross annual household income that is 50 percent of Area Median Income or less, adjusted for household size</p> <p style="text-align: center;">AND</p> <p>Current housing cost burden of 50 percent of gross household income or greater</p>	<p>Applicant household has</p> <p style="text-align: center;">EITHER</p> <p>Gross annual household income that is 50 percent of Area Median Income or less, adjusted for household size</p> <p style="text-align: center;">OR</p> <p>Current housing cost burden of 50 percent of gross household income or greater</p>	<p>All other eligible applicants</p>

Applicants will be selected first from List A in the order in which applications were accepted as complete. If units are still available after selection of applicants from List A has been completed, then applicants from List B will be selected in the order in which applications were accepted as complete. If units are still available after selection of applicants from List B has been completed, then applicants from List C will be selected in the order in which applications were accepted as complete.

Once all units are purchased by applicants on the eligibility list, remaining eligible applicants will be kept on a waiting list as provided in Section 7 below. If units still remain after all applicants from the eligibility lists have been considered and provided an opportunity to purchase a unit, then any remaining units will be sold to an eligible purchaser on a first-come, first-served basis.

7. WAITING LIST AND ASSIGNMENT OF OPTION TO PURCHASE

If there are more qualifying buyers than units available at the time of application, the applicant will be placed on a waiting list (with the same rank order) following the completed sale of the last affordable unit until the next application period is opened by the city. The applicant will then be considered for the opportunity to purchase a restricted affordable housing unit at that time.

As described in Section 1, in many cases the city has the option to purchase an existing affordable unit when the homeowner chooses to sell. The city also has the right to assign its option to an eligible purchaser rather than purchasing the unit outright and then re-selling it. Accordingly, whenever an owner of an affordable unit notifies the city of their intent to sell, the city may assign its purchase option to an eligible buyer on the waiting list created under this program. Note that in these cases, the qualifying household income limits and affordable unit sales prices will be determined by the terms of the original resale restriction agreement with the owner, generally set at 80 percent AMI and adjusted for household size. Therefore, the waiting list will be screened for applicants meeting the qualifying income requirements, who will then be selected in their ranked order.

Applicants should notify the city of any changes in email or mailing address to ensure that the city has the most current contact information for communications regarding unit availability or any program changes. Applicants on the waiting list will be contacted to update their application at the time additional units are made available for purchase.

8. INCOME QUALIFYING FOR PROGRAM ELIGIBILITY

The household's gross annual income must not exceed the income restriction set forth within these program guidelines and as noted above (maximum 80 percent of AMI for San Diego County, adjusted for household size). Gross income will be calculated according to these guidelines. The combined gross annual income of all members of the household age 18 and older who are currently living together and have lived together for 12 months or more and will be living in the property must be included in the determination of income. The household's income must be projected as an annual income. It will be assumed that today's circumstances will continue for the next 12 months, unless there is verifiable evidence to the contrary. All households must be income-qualified no more than 60 days prior to the purchase closing date. For the purpose of determining income eligibility, all income is included even if there is less than a two-year work history.

9. HOUSING DEBT-TO-INCOME RATIO (HOUSING AFFORDABILITY)

The buyer/borrower's monthly housing costs/debt—including principal, interest, property taxes, property insurance, and if applicable, private mortgage insurance and homeowner's association dues—shall not exceed 30 percent of the buyer/borrower's gross monthly income; this is known as the housing debt-to-income ratio. Please note that the income of a non-borrowing spouse is included when calculating this ratio if s/he has a work history of two or more years.

All household monthly debt (including home loan, car loans, credit card debt, etc.) shall not exceed 50 percent of the buyer household's gross monthly income.

10. INCOME FOR DEBT-TO-INCOME CALCULATIONS

Program guidelines require the combined income of all persons on title, including a non-borrowing spouse (if applicable), to be included in the calculation of income. The household's actual /average income will be calculated for underwriting purposes. It will be assumed that today's circumstances will continue for the next 12 months, unless there is verifiable evidence to the contrary. Applicants, co-applicants and non-borrowing spouses must have a minimum of a two-year continuous work history.

11. DOWN PAYMENT REQUIREMENTS

The following down payment requirements shall apply to this affordable housing resale program with the intent of requiring minimal investment by the buyer to extend the opportunity for homeownership to a larger population of lower income households. But, there is also a cap to the cash investment to ensure maximum public benefit. An all-cash transaction will not be permitted, except where exceptional circumstances demonstrate that is necessary to serve a special population such as very-low or extremely low-income seniors or the disabled.

- B. Minimum required down payment is three percent of the purchase price.
 - The borrower's down payment must be from their personal funds or a gift from an immediate family member. Immediate family members include the following people: father, mother, brother, sister, grandparent, uncle, aunt or child.
- C. Maximum down payment: 20 percent of the purchase price.
 - An exception to the maximum down payment guideline may be made for buyers whose *sole source of income* is derived from Social Security, Social Security Disability or Veterans Disability, in which case a down payment sufficient to bring their housing debt-to-income ratio to no less than 30 percent may be accepted.

- As the program is designed for lower-income buyers with limited assets but sufficient income to support a first mortgage payment, large down payments from family members with significant assets to assist the buyers qualify for the mortgage loan will not be considered.
- D. All-cash transactions are not permitted. An exception may be made for buyers whose *sole source of income* is derived from Social Security, Social Security Disability or Veterans Disability, and the proposed payment for property taxes, homeowners association (HOA) dues and homeowners insurance is equal to or greater than 30 percent of their income. The buyer must meet all eligibility requirements, have acceptable credit and have sufficient income to support the HOA, property taxes and monthly debt obligations.

12. ASSET LIMITATION

At the time eligibility is determined, the liquid assets of all household members, including children, must not exceed an amount equal to the maximum income limit set for the particular affordable unit, as adjusted for household size.

- A. The term “liquid assets” refers to cash and assets, which are readily convertible to cash within a reasonable period, including but not limited to savings and checking accounts, certificates of deposit of any term, marketable securities, money market and similar accounts, mutual fund shares, and insurance policy cash values.
- B. The term “liquid assets” shall not include retirement account funds if those accounts are not accessible to the buyer.
- C. An exception may be made for buyers whose *sole source of income* is derived from Social Security, Social Security Disability or Veterans Disability and a down payment of more than 20 percent is required to reduce their housing debt-to-income ratio to no more than 30 percent. In this case, the borrower’s assets must not exceed an amount equal to the maximum income limit (50 percent of San Diego County Area Median Income), as adjusted for household size after the maximum allowable down payment contribution.
- D. The minimum household reserve requirement is \$1,000. The reserves must be from liquid assets.

13. CREDIT GUIDELINES

- A. Minimum credit score: 640
- B. No foreclosure or bankruptcy (Chapter 7 or 13) within the last seven years
- C. A letter of explanation is required for all derogatory reporting dated within two

years prior to the close of escrow

- D. All collections, charge-offs and judgments must be paid or settled with the creditor through escrow or prior to the close of escrow. Back-up documentation showing the account has been paid is required if paid outside of escrow
- E. A credit report for a non-borrowing spouse is required. All debt of the non-borrowing spouse will be used in the debt-to-income ratio calculations

14. FIRST TRUST DEED LOAN

The borrower shall secure a 30-year fixed rate loan from a private lender. No adjustable rate loans or other financing programs shall be permitted. Conventional, Federal Housing Administration (FHA) and Veterans Administration (VA) financing are acceptable. First trust deed lenders are required to collect and manage an impound account for payment of taxes, assessments and property insurance for the term of the first mortgage.

15. HOMEBUYER EDUCATION CLASS

All applicants, co-applicants and non-borrowing spouses, whether on title or not, are required to attend a homebuyer education class given by a City of Carlsbad-approved Homebuyer Education Provider.

16. OCCUPANCY REQUIREMENTS

As long as the borrower(s) owns the affordable unit, the borrower(s) must reside in the unit as their principal place of residence. The borrower(s) shall not rent or lease all or any part of the restricted unit at any time. The unit shall be occupied full time (at least 10 months out of the year) and may not be used at any time as a vacation home or short-term vacation rental, or allow any other rental transaction or similar use. Borrower(s) must comply with annual occupancy certification requirements and submit the certification to the city upon request.

17. AFFORDABLE RESALE RESTRICTIONS

On the date of the sale of each Affordable Housing Resale Housing Program property, the city will record resale restrictions on the property. The resale restrictions will include income restrictions for new buyers, future sales price restrictions, initial occupancy restrictions, and length of restriction (30 years). Note that future buyer income restrictions and future sales price limits shall apply throughout the entire 30-year affordability term. The resale restrictions are included in the following documents:

- A. Declaration of Restrictive Covenants Regarding Restrictions on Transfer of Property, Occupancy Restrictions, Refinancing Restrictions, and Option to Purchase
- B. Deed of Trust
- C. Promissory Note
- D. Notice of Affordability Restrictions
- E. Buyer’s Disclosure Statement

18. CITY’S CONTINUING ROLE

The City of Carlsbad is the Affordable Housing Homeownership Program administrator and secondary lender. As the program administrator, the city is responsible for oversight and compliance of the affordable resale restrictions. The city’s responsibilities include but are not limited to:

- A. Managing the Affordable Housing Homeownership Program interest and waiting list
- B. Calculating the sales price for affordable for-sale units at the time of the first sale and for each subsequent sale
- C. Ensuring that upon resale, the property is in a “move-in” ready condition
- D. Verifying eligibility of buyers that participate in the program
- E. Monitoring owner-occupancy compliance

The city may use third parties to assist in administering the program.

The City of Carlsbad is a lien holder on each unit and has no further ownership interest in the properties after the initial sale of the unit.

19. REFINANCE

The Deed of Trust and Promissory Note to the city may be subordinated to the refinancing of the existing first trust deed loan in order to lower the interest rate and subsequent monthly payment only. Refinancing that increases the current principal balance (except for reasonable costs of refinance) or increases the monthly mortgage payment will not be permitted. Mortgage loans or equity lines of credit junior in lien priority to the city deed of trust are not permitted. No reverse mortgages will be approved for the affordable units. All refinances are subject to prior written approval by the city.

20. PROPERTY CONDITION

Units offered under this program will be sold by the City “as is”, which the City has determined is in “move in condition”. The city will make no repairs and is not responsible for any defects in the construction of the units or any repairs or replacements that may be required for the units. All buyers are encouraged to engage the services of a home inspector to provide for a full home inspection prior to close of escrow on the purchase transaction. The potential buyer will be permitted to cancel escrow if there are any conditions in the unit which are unacceptable to the buyer and with the understanding that the city will make no repairs or correct any identified defects.

At the time the new owner decides to resell the purchased affordable unit, the unit shall be restored to “move in condition” prior to providing the Notice of Intent to Sell to the City of Carlsbad.

These guidelines are provided as a basis for the determination of program eligibility and underwriting of Affordable Housing Resale Program loans. The City of Carlsbad at its sole and reasonable discretion, and with the City Manager's approval, may make exceptions to any guideline set forth herein, if not inconsistent with City Council Policy No. 73.

Please be aware that reporting fraudulent, untrue and/or incomplete documentation is a serious program violation. This could lead to the termination of your participation in the Affordable Housing Resale Program.

It is also important to acknowledge that Title 18, Section 1001 of the United States Code, states that a person is guilty of a felony for knowingly and willingly making false or fraudulent statements to any department or agency of the United States. It is very important to provide complete and accurate information as requested by the City of Carlsbad.



The City of Carlsbad is committed to affirmatively furthering fair housing by promoting fair and equal housing opportunities for individuals living in the City of Carlsbad and San Diego County. This commitment extends to all housing programs managed or owned by the city and to all grant-funded programs provided by the city. It is the policy of the city to provide services without regard to race, color, religion, national origin, ancestry, age, gender, source of income, familial status or physical/mental disability.

Appendix A

Summary of Applicant Eligibility and related standards and acceptable documentation:

Applicant Eligibility	Standards
Co-Signers	Co-signers who will not occupy the property are prohibited.
Documentation	<ul style="list-style-type: none"> • If married: spouse must sign city forms, disclosures and promissory note, regardless of vesting. • If divorced: copy of final divorce decree and judgment from the court. • Death certificate for deceased spouse. • Non-U.S. Citizen: copy of permanent alien registration card (green card). All borrowers must be a U.S. Citizen or Permanent Resident. • Copy of driver’s license or other government-issued photo ID.
Income (Required for ALL household members over the age of 18)	Standards
Alimony and Child Support	Copy of divorce decree and/or child support agreement, with six months proof of payment. To be used for eligibility and underwriting. Support must continue for 12 months or more.
Disability Income	Copy of award letter from payer.
Social Security Income	Copy of award letter from payer.
Pension Income	Copy of award letter or W-2 from payer.
Workers Compensation Benefits	Copy of award letter from payer.
Unemployment Compensation	Copy of award letter from payer.
Financial Aid (student loans, etc.)	Copy of award letter from payer.
Interest or Dividend Income	Two years 1040s, copies of current statements verifying buyer’s assets.
Tax Returns & W-2s	Three years of signed tax returns. Two years W-2s for all employers.
Salaried / Wage Earners	Most recent pay stubs covering a minimum of two month’s income. Pay stubs to reflect year-to-date earnings and deductions. If there are multiple employers, all pay stubs showing year-to-date earnings.
Part-Time Employment	Most recent pay stubs covering a minimum of two months. Pay stubs to reflect year-to-date earnings and deductions.

Bonus and Overtime Income	Must be documented on pay stub. Will be used if there is a two-year history and likelihood of continuation.
Self-Employed	Two years of tax returns with schedule C and a year-to-date signed profit and loss statement. Must have a minimum two-year history of self-employed income.
Commission Only	Two years of tax returns with schedule C and a year-to-date signed and dated profit and loss statement <u>or</u> most current pay stubs covering a minimum of one month. Must have a minimum two-year history of commission income.
Assets (Required for ALL households members over age 18)	Standards
Checking and Savings Accounts	Three months most recent bank statements for ALL accounts.
Stocks and Bonds	Must be verified by brokerage firm or similar company and statement of account.
Saving Bonds	Copy of bond.
401K or Retirement Accounts	Copy of account statement and letter from employer verifying that borrower does <u>not</u> have access to the funds, if applicable.
Liabilities	Standards
Alimony/Child Support	Included as debt if more than six months remaining. Copy of divorce decree.
Installment Loans	Included as debt if more than six months remaining.
Revolving Accounts	Payment stated on credit report or application is used, whichever is higher. If payment is not stated, the higher of \$10 or 5% of the outstanding balance owed is used.
Student Loan	If loan is deferred for one year or more, it is not included as a monthly obligation. If less than a year deferment or borrower making payments, it is included as a debt.
Credit History	Standards
Credit Reports	Must be a "three repository merged" credit report. Any items not belonging to borrower must be removed from the report. Credit report cannot be dated more than 60 days from underwriting. Minimum credit score: 640.

Collections	All unpaid collections must be paid. Need letter of explanation from borrower.
Derogatory Credit	Letter of explanation is required for all derogatory credit. No accounts can be past due at the time of loan application.
Bankruptcy	No bankruptcy (Chapter 7 or 13) within the last seven years.
Short Sales / Foreclosures	No short sale or foreclosure within the last seven years.
Judgments, Garnishments and Involuntary Liens	No outstanding judgments, garnishments or involuntary liens are allowed.
Inquiries	Any inquiries within the last 90 days must be explained.
No or Limited Credit History	Alternative credit history is required. Utility payment records (at least three months most recent statements), rental payments (past 12 months) or other personal loans (past 12 months). Need three forms of credit history, at least one must be a rental history.



CITY COUNCIL
Staff Report

Meeting Date: April 9, 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: Continuation of Proclamation of a Storm-Related Local Emergency for Removal of Sediment and Vegetation on the Buena Vista Creek Concrete Channel Near El Camino Real

District: 1

Recommended Action

Adopt a resolution continuing the proclamation of a storm-related local emergency for removal of sediment and vegetation in the Buena Vista Creek Concrete Channel near El Camino Real.

Executive Summary

Rainfall from the atmospheric river that hit California in early February and the prior one in January 2024, increased sediment and vegetation in the Buena Vista Creek, diminishing its capacity and risking significant damage to nearby property and infrastructure. Emergency removal of sediment and vegetation was necessary to ameliorate the risk. Exhibit 3 shows the area of the channel requiring emergency sediment and vegetation removal.

- The Acting City Manager, in his role as Acting Director of Emergency Services, proclaimed a local emergency on Feb. 8, 2024, as shown in Exhibit 2, so that the removal can be exempted from the city's normal bidding procedures and the necessary repairs can be completed as swiftly as possible.
- The City Council ratified the emergency proclamation on Feb. 13, 2024, and continued the emergency proclamation on Feb. 27, 2024.
- On March 12, 2024, the City Council continued the emergency proclamation again and authorized additional appropriations in the amount of \$474,000.
- The City Council continued the emergency proclamation again on March 19, 2024, and on March 26, 2024.

Staff are now requesting the City Council continue the emergency proclamation again.

Construction projects that cost less than \$200,000 may 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 emergency project is expected to cost more than \$1.5 million.

California 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 use these exemptions.

Public Contracting Code Section 22050 requires the City Council to review the emergency at each regularly scheduled meeting, to determine, by a four-fifths vote of the City Council, the need to continue the emergency action.

Explanation & Analysis

Buena Vista Creek is situated at the northern border of the City of Carlsbad, adjacent to the City of Oceanside. The creek is located within both the City of Carlsbad and the City of Oceanside, outside the Coastal Zone, until it reaches Jefferson Street and the Buena Vista Lagoon. The creek comprises natural stream bed sections and some man-made concrete drainage channels designed to convey runoff from a large eastern watershed to the Pacific Ocean.

One segment of the Buena Vista Creek near El Camino Real, outside the Coastal Zone, was previously constructed as a concrete trapezoidal channel, starting at South Vista Way and ending approximately 230 feet east of El Camino Real, a total of approximately 900 feet. This man-made concrete segment of the creek is entirely within the City of Carlsbad.

Over time, sediment and vegetation accumulate in the creek. The city has a Capital Improvement Program project to remove the sediment and vegetation and make other repairs to the channel. The project is currently in the environmental review stage. However, the recent severe storm events have created debris flows that occur during short-duration, high-intensity rainfalls.

More specifically, the atmospheric river in early February brought an influx of heavy rain that inundated the Buena Vista Creek with material, including vegetation, debris and sediment-dominated slurry from the Buena Vista Creek Watershed, which is about 10 miles long. These rapid debris flows have significantly diminished the capacity of the channel, which is very close to the outfall of the watershed, resulting in a significant risk of the channel overflowing, with the potential to cause significant damage to nearby property and infrastructure during severe storms.

To mitigate the emergency conditions, the City Engineer recommended expedited, or emergency, removal of some of the sediment and vegetation to increase the channel's capacity while the larger maintenance project proceeds through the environmental review and permitting process.

The emergency proclamation enabled the city to procure a contractor to perform the necessary emergency removal work and would be limited to the immediate action(s) to prevent or mitigate loss of, or damage to, life, health, property, or essential public services. The near-term scope of work – the immediate measure – is the minimum necessary to alleviate the immediate emergency.

- Staff submitted a permit application to the U.S. Army Corps of Engineers on Feb. 15, 2024, and sent a notification to the San Diego Regional Water Quality Control Board the same day that the notice of intent was included in the permit application.

- The Corps of Engineers' District Engineer coordinated review of the project with affected agencies, including the California Department of Fish and Wildlife and the Regional Water Quality Control Board, and issued a permit on Feb. 27, 2024.
- The San Diego Regional Water Quality Control Board informed staff on Feb. 28, 2024, that the notice of intent for the project complies with federal water quality regulations and is complete and has been recorded as required.
- On March 5, 2024, the U.S. Army Corps of Engineers sent a verification letter on the permit which superseded its Feb. 27, 2024, letter. The March 5 letter stated that work authorized by the permit must be underway no later than 14 calendar days from date of issuance of the letter of verification, or by March 19, 2024, and that all work must be completed no later than April 22, 2024. If the city is unable to complete the authorized work by this date, the city must request, in writing, an extension from the Corps' Regulatory Division prior to the deadline.

Upon the City Council's ratification of the emergency proclamation, staff met with contractors to determine their availability to perform the work. Staff issued a notice to proceed to the contractor, Hazard Construction, on March 4, 2024. Work started on March 8, 2024, and is expected to be completed by the authorized date of April 22, 2024. If it appears that there may be a delay, staff will request an extension in writing from the Corps' Regulatory Division prior to April 22.

After closer inspection of the project site, staff have determined that additional clearing of sediment, debris and vegetation in the earthen section of the Buena Vista Creek channel east of the concrete channel for approximately 1,500 feet to the Haymar Drive bridge would be required to increase the channel's capacity. Staff submitted a second emergency permit application to the U.S. Army Corps of Engineers on March 28, 2024, and sent a notification to the San Diego Regional Water Quality Control Board the same day stating that the notice of intent was included in the permit application. Staff are awaiting approval from the permitting agencies before moving forward with this additional work.

Staff recommend that the City Council continue the emergency proclamation to complete the emergency work at the Buena Vista Creek concrete channel near El Camino Real as swiftly as possible to prevent damage to nearby infrastructure and property.

Fiscal Analysis

Funding for the entire project is in the amount of \$1,548,500, which will be funded from the fiscal year 2023-24 capital budget through the Storm Drain System Rehabilitation and Repair Program.

Storm Drain System Rehabilitation and Repair Program	
Total appropriated funds to date	\$5,935,360
Total expenditures and encumbrances to date	-\$4,287,987
Total available funding	\$1,647,373
Buena Vista Creek Concrete Channel emergency work	
Emergency work (sediment, vegetation removal, estimated) – Hazard Construction	-\$999,700
Design and administrative costs (approximately 5%)	-\$50,000
Construction management and inspection – Kleinfelder Construction Services	-\$108,300
Biological monitoring – Environmental Science Associates	-\$140,500
Construction contingency (25%)	-\$250,000
Total estimated emergency project costs	-\$1,548,500
Remaining balance	\$98,873

There may be outside funding that could cover some or all of these emergency costs. On Feb. 22, 2024, the City Manager sent a letter to the California Governor’s Office of Emergency Services requesting any and all state and federal resources including, but not limited to, state assistance through the California Disaster Assistance Act. The state replied and subsequently requested supplemental information on the city’s budget and how recent storms impacted it. On Feb. 26, 2024, staff provided the requested supplemental information and the initial damage estimate of \$771,000, which has now increased to over \$1.5 million.

Next Steps

The contractor is expected to complete the emergency work by April 22, 2024. Staff have prepared the emergency contract and sent it to the contractor for signature. It will be presented to the City Council for ratification at a future date.

If staff receive permits from the regulatory agencies and a cost estimate from a contractor for the additional sediment, debris and vegetation clearing work in the earthen section of the channel east of the concrete channel, staff will return to the City Council to request authorization for the additional work.

Staff will return to the City Council again on April 16, 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 the emergency proclamation.

Environmental Evaluation

The project has been determined to be exempt from the California Environmental Quality Act under Public Resources Code Section 21080(b)(3) and CEQA Guidelines Section 15269(a), which apply to projects undertaken, carried out or approved by a public agency to maintain, repair, restore, demolish or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which a state of emergency has been proclaimed by the Governor.

Exhibits

1. City Council resolution
2. Acting City Manager/Acting Director of Emergency Services' proclamation of a storm-related local emergency, dated Feb. 8, 2024
3. Location map

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, CONTINUING THE PROCLAMATION OF A STORM-RELATED LOCAL EMERGENCY FOR REMOVAL OF SEDIMENT AND VEGETATION IN THE BUENA VISTA CREEK CONCRETE CHANNEL NEAR EL CAMINO REAL

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 an 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 or, in the City Manager's absence, the Assistant City Manager, as Acting City Manager and Acting 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 arose within the City of Carlsbad caused by a powerful, slow moving, atmospheric river in early February that resulted in debris flows, or a "sediment-dominated slurry", which inundated the Buena Vista Creek and significantly diminished capacity in the Buena Vista Creek concrete channel (begins approximately 600 feet west/downstream of the El Camino Real bridge and extends upstream of the bridge approximately 230 feet); and

WHEREAS, on Feb. 8, 2024, the Acting City Manager/Acting Director of Emergency Services proclaimed a storm-related local emergency for removal of sediment and vegetation on the Buena Vista Creek concrete channel near El Camino Real; and

WHEREAS, on Feb. 13, 2024, the City Council ratified the proclamation of a storm-related local emergency for removal of sediment and vegetation on the Buena Vista Creek concrete channel near El Camino Real; and

WHEREAS, on Feb. 27, 2024, the City Council continued the proclamation of a storm-related local emergency for removal of sediment and vegetation on the Buena Vista Creek concrete channel near El Camino Real; and

WHEREAS, on March 12, 2024, the City Council continued the proclamation of a storm-related local emergency for removal of sediment and vegetation on the Buena Vista Creek concrete channel near El Camino Real again and authorized additional appropriations in the amount of \$474,000; and

WHEREAS, on March 19, 2024, and March 26, 2024, the City Council continued the emergency proclamation again; 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

WHEREAS, Public Contract Code Section 22050(c)(1) requires the City Council to review the emergency action at every subsequent City Council meeting to determine, by a four-fifths vote, whether this is a need to continue the emergency action; and

WHEREAS, on Feb. 27, 2024, the U.S. Army Corps of Engineers issued a Regional General Permit (RGP) 63 – Repair and Protection Activities in Emergency Situations; and

WHEREAS, on Feb. 28, 2024, the San Diego Regional Water Quality Control Board informed staff that in accordance with Water Quality Order No. 2023-0095-DWQ, or Order, Clean Water Act Section 401 Water Quality Certification for U.S. Army Corps of Engineers Reauthorization of Regional General Permit 63 (RGP 63) for Emergency Repair and Protection Activities Project, the Notice of Intent is complete, and the Project is enrolled under the Order; and

WHEREAS, on March 5, 2024, the U.S. Army Corps of Engineers sent a verification letter on the permit which superseded its Feb. 27, 2024, letter, which stated that work authorized by the permit must be underway no later than 14 calendar days from date of issuance of the letter of verification, or by March 19, 2024, and that all work must be completed no later than April 22, 2024, and if it is not then the city must request, in writing, an extension from the Corps' Regulatory Division prior to the deadline; and

WHEREAS, the contractor started emergency work on March 8, 2024, and is expected to complete the work by the authorized date of April 22, 2024; and

WHEREAS, on March 28, 2024, staff submitted another RGP-63 permit application to the U.S. Army Corps of Engineers for additional sediment, debris and vegetation clearing work in the earthen channel east of the concrete channel for over 1,500 feet to the Haymar Drive bridge, and notified the San Diego Regional Water Quality Control Board the same day; and

WHEREAS, staff will return to the City Council to request authorization for the additional sediment, debris and vegetation clearing work upon permit issuance from the regulatory agencies and a cost estimate from a contractor; and

WHEREAS, staff request that the City Council continue the proclamation of a local emergency again to complete the work; and

WHEREAS, under California Public Resources Code Section 21080(b)(3) and Title 14, Section 15269 of the California Code of Regulations, the requirements of the California Environmental Quality Act do not apply to projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish, or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which the Governor of the State of California has proclaimed a state of emergency, and on Feb. 4, 2024, the Governor found that conditions of extreme peril exist in San Diego County and proclaimed a state of emergency.

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 storm-related Proclamation for a Local Emergency for removal of sediment and vegetation in the Buena Vista Creek concrete channel near El Camino Real is continued.

PASSED, APPROVED AND ADOPTED at a Regular 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 REDUCE SEDIMENT AND VEGETATION IN THE BUENA VISTA CREEK CHANNEL NEAR EL CAMINO REAL

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.

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, or, in the City Manager's absence, the Assistant City Manager, as Acting City Manager and Acting 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, under California Public Resources Code Section 21080(b)(3) and Title 14, Section 15269 of the California Code of Regulations, the requirements of the California Environmental Quality Act do not apply to projects undertaken, carried out, or approved by a public agency to maintain, repair, restore, demolish or replace property or facilities damaged or destroyed as a result of a disaster in a disaster-stricken area in which the government has proclaimed a state of emergency; and

WHEREAS, the Acting Director of Emergency Services finds:

1. The National Weather Service has 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.
2. Existing conditions and threatened conditions of extreme peril to the safety of persons and property have arisen within the City of Carlsbad caused this powerful, slow-moving atmospheric river, and that the unexpected occurrence poses a clear and imminent danger, requiring immediate action to prevent or mitigate the loss or impairment of life, health, property and essential public services.

Local Emergency – Reduction of Sediment and Vegetation in the Buena Vista Creek Channel

Page 2

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 January 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 existing conditions of the current atmospheric river causing local flooding, in addition to the impacts of the January Storm, have created conditions of extreme peril in the Buena Vista Creek Channel, in part, because the inundation of sedimentation and debris flows from the multiple, powerful winter storms, which have diminished the channel’s capacity.

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 regular meeting, a local emergency now exists in the City of Carlsbad, California, in the area of the Buena Vista Creek Channel near El Camino Real.

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 reduce the sediment and vegetation in the Buena Vista Creek Channel without giving notice for bids to let contracts.

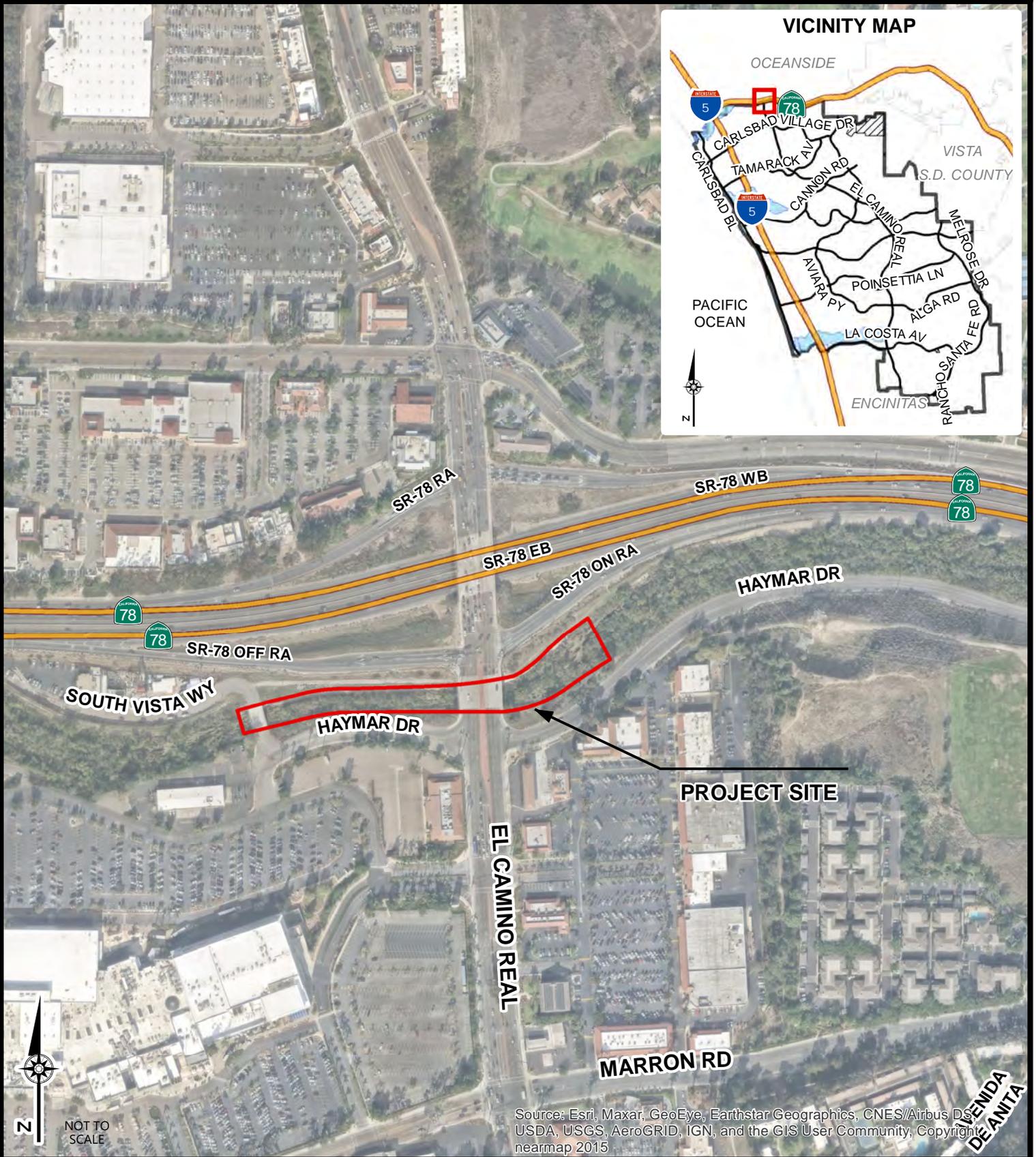
Dated: 2/8/24

By: 

GEOFF PATNOE
Acting City Manager/Acting Director of
Emergency Services

LOCATION MAP

Exhibit 3



PROJECT NAME

BUENA VISTA CREEK CHANNEL

EXHIBIT

3



CITY COUNCIL
Staff Report

Meeting Date: April 9, 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: Continuation of 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 continuing the proclamation of a storm-related local emergency for repair of the slope between El Camino Real and Trieste Drive.

Executive Summary

The atmospheric river in early February 2024 and the winter storm in January 2024 resulted in unexpected slope movement in an area between El Camino Real and Trieste Drive, with the 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.
- On Feb. 15, 2024, the City Council ratified 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.
- The City Council continued the emergency proclamation on Feb. 27, 2024.
- The City Council continued the emergency proclamation again on March 12, 2024, approving the plans for the repair work and authorizing additional appropriations in the amount of \$955,000.
- The City Council continued the emergency proclamation on March 19, 2024, and again on March 26, 2024.

Staff are now requesting that the City Council continue the emergency proclamation again to complete the work.

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 cost approximately \$3 million. 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 use the emergency exemption.

California Public Contract Code Section 22050(c)(1) requires the City Council to review the emergency action at every subsequent City Council meeting to determine, by a four-fifths vote, whether there is a need to continue the emergency action.

Staff recommend that the City Council continue the proclamation of the storm-related local emergency again to allow for the swift repair of the slope by approving the resolution provided as Exhibit 1.

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 project (Project No. 6107) to repair the slope. The project was 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.

The City Engineer recommended expedited, or emergency, stabilization of the slope while the larger slope repair project proceeds through the design and environmental review and permitting process. The emergency proclamation allows the city to procure a contractor to perform the necessary emergency work to prevent or mitigate loss of, or damage to, property, essential public services and the environment.

Staff and Urban Corps, a city contractor, completed emergency protective measures at a cost of \$5,774, which included removing debris and placing tarps and stakes in the right-of-way.

Upon proclamation of the emergency, Engineering Systems Inc., the city's geotechnical engineering consultant, met with contractors to check on their availability and capabilities to perform the emergency work. Condon-Johnson & Associates, Inc., or Condon-Johnson, initially provided a cost estimate of approximately \$871,000 for the emergency work.

The emergency work was initially intended to address the unexpected slope movement that occurred as a result of the recent atmospheric rivers and storms, not to perform the original scope of work of the Capital Improvement Program project. However, due to recent further slope movement, the city's geotechnical engineering consultant recommended performing the additional final repairs at the same time as the emergency work.

The contractor Condon-Johnson's estimate increased to \$2,087,090 for the total cost, which includes the initial estimate of \$870,990 for installation of 26 emergency shore stability pins, which stabilize the slope, and \$1,216,100 for installation of an additional row of 28 shore stability pins and other more permanent repairs such as grading and re-compaction of the slope within the repair area.

- On March 6, 2024, staff issued a notice to proceed to the contractor to perform the emergency work. The emergency work started on March 12, 2024, and is expected to be completed by June 2024.

- On March 19, 2024, in keeping with CMC Section 15.16.060(B)(2) - Work exempt from grading permit, the City Engineer made the determination to exempt the work from the requirement that the project receive a grading permit.
- On March 19, 2024, the consultant indicated that the number of emergency shore stability pins will increase to 28 instead of the initial 26 that was proposed. This change will be reflected in the as-built drawings.
- On March 19, 2024, the contractor, Condon-Johnson, and the City Manager fully executed the contract.
- On March 20, 2024, the contractor submitted a change order request in the amount of \$1,572,190 for Phases 2-5. The additional costs will be funded with the authorized appropriation that includes construction contingency, so no additional appropriation is being requested.

Staff recommend the City Council continue the emergency proclamation again 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.

Fiscal Analysis

Funding for the emergency work in the amount of \$3,317,600 will come from the funding in the General Capital Construction Fund for Capital Improvement Program Project No. 6107.

Trieste Drive Slope Repair Project Capital Improvement Program Project No. 6107	
Total appropriated funds to date	\$3,317,600
Total expenditures and encumbrances to date	-\$338,974
Total available funding	\$2,978,626
Emergency work (slope repair) – Condon-Johnson	-\$2,443,180
Design and administrative costs (approximately 5%)	-\$104,400
Construction management and inspection (estimated)	-\$208,700
Environmental monitoring (estimated)	-\$50,000
Construction contingency balance	-\$165,710
Total estimated emergency Capital Improvement Program project costs	-\$2,971,990
Emergency protective measures – Urban Corps	-\$905
Staff labor and materials costs	-\$4,869
Total estimated emergency protective measures costs	-\$5,774
Remaining balance	\$862

This emergency work could qualify for outside funding. The City Manager sent a letter to the California Governor’s Office of Emergency Services on Feb. 22, 2024, requesting any and all state and federal resources including, but not limited to, state assistance through the California Disaster Assistance Act. The state replied and subsequently requested supplemental

information on the city's budget and how recent storms impacted it. On Feb. 26, 2024, staff provided the requested supplemental information and the initial damage estimate of \$1,293,774, which has now increased to almost \$3 million.

Next Steps

The contractor has begun performing the emergency work with an estimated completion date of June 2024.

Staff will return to the City Council again on April 16, 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 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 Jan. 25, 2023.

Exhibits

1. City Council resolution
2. 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, CONTINUING THE 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 an exemption from formal bidding procedures for emergency construction procurements, and to use the emergency exemption, CMC Section 3.28.120 and Public Contract Code Section 22050 require 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, on Feb. 15, 2024, the City Council ratified 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, on Feb. 27, 2024, the City Council continued the emergency proclamation; and

WHEREAS, on March 12, 2024, the City Council continued the emergency proclamation again, approved the plans and authorized additional appropriations in the amount of \$955,000; and

WHEREAS, on March 19, 2024, and March 26, 2024, the City Council continued the emergency proclamation again; and

WHEREAS, on March 19, 2024, the City Engineer made the determination to exempt the work from the requirements of a grading permit, consistent with CMC Section 15.16.060(B)(2); and

WHEREAS, a contractor commenced the emergency work on March 12, 2024, and is expected to complete the work by June 2024; and

WHEREAS, staff request that the City Council continue the emergency proclamation again to enable completion of the work; and

WHEREAS, Public Contract Code Section 22050(c)(1) requires the City Council to review the emergency action at every subsequent City Council meeting to determine, by a four-fifths vote, whether this is a need to continue the emergency action; 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 Jan. 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 continued.

PASSED, APPROVED AND ADOPTED at a Regular 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

Page 2

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.

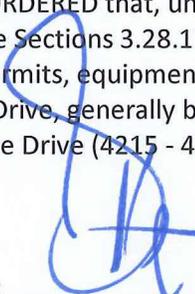
5. The conditions of the early February 2024 storms, in addition to the impacts of the January Storm, created an emergency condition on a slope that is located between El Camino Real and Trieste Drive, generally behind the backyards of four residential properties that front onto Trieste Drive (4215 -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

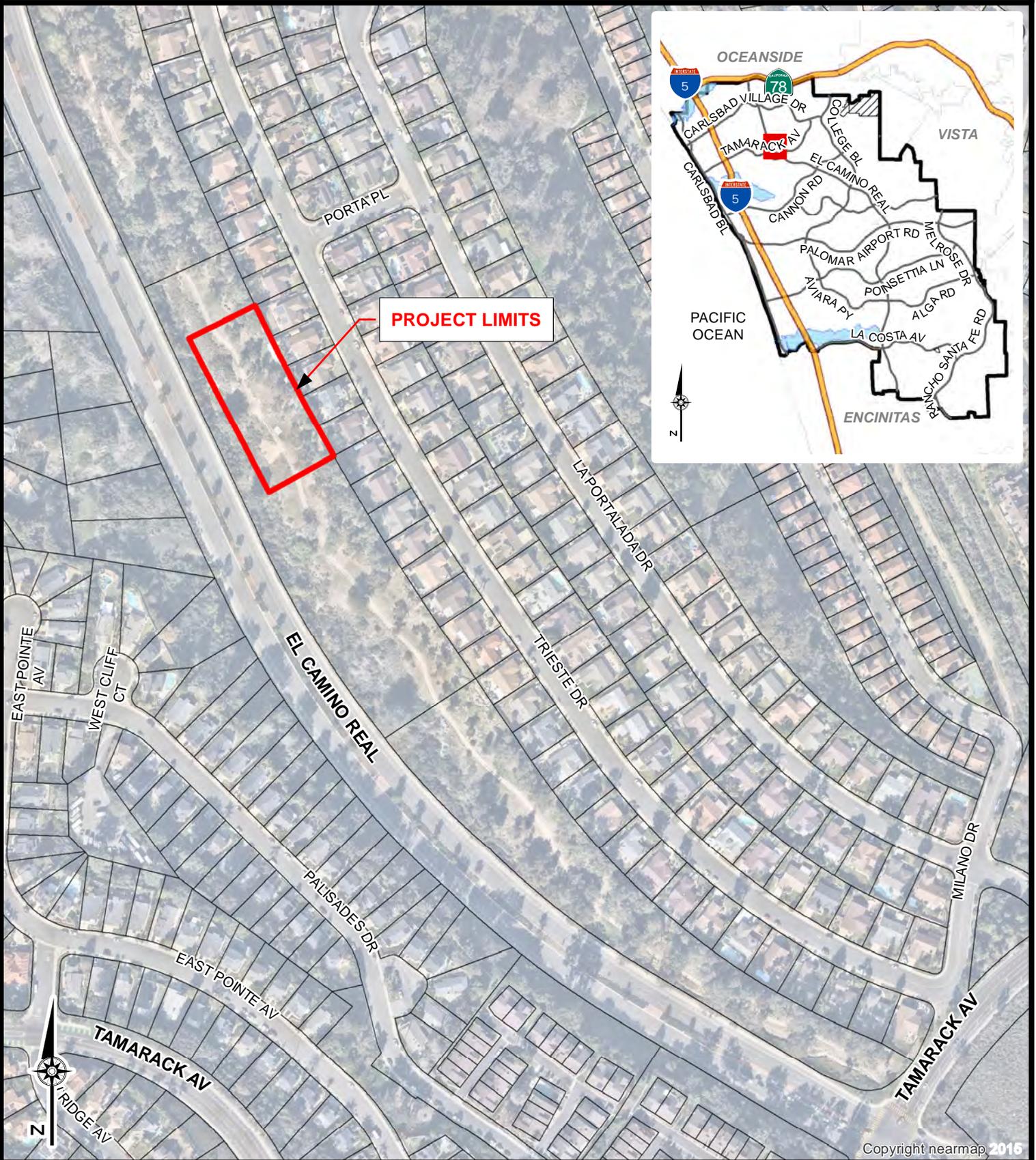
Dated: 14 FEB 24

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



CITY COUNCIL
Staff Report

Meeting Date: April 9, 2024

To: Mayor and City Council

From: Scott Chadwick, City Manager

Staff Contact: Ryan Opeka, Police Lieutenant
 ryan.opeka@carlsbadca.gov, 442-339-2149

Subject: Annual Review of the Police Department’s Military Equipment Use Policy and Introduction of Ordinance Renewing the Policy

Districts: All

Recommended Action

1. Receive the Police Department’s Annual Military Equipment Report.
2. Hold a public hearing to receive public comment.
3. Introduce an ordinance renewing the Police Department’s Military Equipment Use Policy, in accordance with California Assembly Bill 481.

Executive Summary

Today’s police departments must use a wide range of equipment to protect the public and provide law enforcement in the communities they serve. Much of this equipment is also used by the military.

Assembly Bill 481, which became law in 2021 as California Government Code Sections 7070-7075, requires law enforcement agencies to obtain approval from their governing bodies for the use of military equipment before the agencies can fund, acquire, or use military equipment, as defined in the law.

Under the terms of the law, the City Council can approve the funding, acquisition, and use of military equipment by the Carlsbad Police Department by renewing the annual military equipment use policy through an ordinance introduced and adopted at regular meetings. The current military equipment use policy was originally approved by City Council through Ordinance No. CS-421 on April 19, 2022, and reauthorized through Ordinance No. CS-447 on April 18, 2023. The policy is provided as Attachment A to Exhibit 1.

The law requires the City Council to review the ordinance each year along with an annual military equipment report prepared by the Police Department. The City Council then determines whether to renew its authorization of the military equipment use policy by considering certain factors provided under the law.

Staff recommend the City Council receive the Police Department's 2023 Military Equipment Report, hold a public hearing to receive public comment and introduce an ordinance renewing Carlsbad Police Department Policy 708 -Military Equipment Use Policy.

Explanation and Analysis

The complete list of items Government Code Section 7070 defines as military equipment is attached as Exhibit 3. It includes items not used by the Carlsbad Police Department.

The law defines a military equipment use policy as a publicly released, written document that addresses, at a minimum, all of the following:

1. A description of each type of military equipment, the quantity sought, its capabilities, expected lifespan and product descriptions from the manufacturer of the military equipment.
2. The purposes and authorized uses for which the law enforcement agency or the state agency proposes to use each type of military equipment.
3. The fiscal impact of each type of military equipment, including the initial costs of obtaining the equipment and estimated annual costs of maintaining the equipment.
4. The legal and procedural rules that govern each authorized use.
5. The training, including any course required by the Commission on Peace
6. Officer standards and training that must be completed before any officer, agent or employee of the law enforcement agency is allowed to use each specific type of military equipment to ensure the full protection of the public's welfare, safety, civil rights and civil liberties and full adherence to the military equipment use policy.
7. The mechanisms to ensure compliance with the military equipment use policy, including which independent persons or entities have oversight authority, and, if applicable, what legally enforceable sanctions are put in place for violations of the policy.
8. For a law enforcement agency, the procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of military equipment, and how the law enforcement agency will ensure that each complaint, concern or question receives a response in a timely manner.

Department's military equipment

The Police Department identified 53 types of equipment in its possession that meet the definition of military equipment provided in California Government Code Section 7070. More specific descriptions of these items and information on their cost, use and the training required to use them can be found in the Military Equipment Inventory, which is attached as Appendix A to the Military Equipment Use Policy.

Carlsbad Police Department Military Equipment Inventory			
Equipment Item	Quantity	Specialized unit use only	Standard patrol use
TECHNOLOGY			
Avatar tactical robot	1	✓	---
Bouncing Image Explorer	2	✓	---
Night vision monocular	24	✓	---
Dual tube night vision	3	✓	---
Recon Robots Throwbot	2	✓	---
Unmanned aircraft systems	12	✓	---
Infrared laser pointer	24	✓	---
LESS-LETHAL EQUIPMENT			
Beanbag shotgun	15	---	✓
LMT 40mm Launcher	4	✓	---
DefTech 40mm launcher	4	✓	---
Penn Arms 40mm launcher	2	✓	---
Tippman air-powered launcher	10	✓	---
LESS-LETHAL PROJECTILES			
SuperSock beanbag round	Approx 1500	---	✓
Exact Impact 40mm (standard round)	Approx 300	✓	---
Exact Impact 40mm (extended round)	Approx 75	✓	---
FIREARMS/ACCESSORIES			
M400 gas-operated rifle	24	✓	---
Rifle noise suppressor	120	---	✓
S&W patrol rifle	120	---	✓
12-gauge shotgun	35	---	✓
Remington 700 rifle .308 (bolt-action)	5	✓	---
Accuracy International rifle .308 (bolt-action)	5	✓	---
AR-10 .308 (semiautomatic)	1	✓	---
MCX gas-operated .300 rifle (SA)	24	✓	---
Sig Sauer SLX rifle suppressor	24	✓	---
Simmunition FX marking cartridge	5,500	✓	✓

Equipment Item	Quantity	Specialized unit use only	Standard patrol use
CHEMICAL AGENTS			
Gas ram	2	✓	---
Burn safe	2	✓	---
Mini burn safe	3	✓	---
40mm barricade round (liquid)	60	✓	---
40mm barricade round (powder)	72	✓	---
DefTech smoke grenade	26	✓	---
DefTech smoke grenade (teargas)	36	✓	---
DefTech Pocket smoke	45	✓	---
DefTech Triple Chaser CS gas	47	✓	---
First Defense OC (pepper spray)	2	---	✓
Flameless Tri-Chamber CS gas	26	✓	---
DefTech aerosol OC vapor	9	✓	---
OC aerosol foggers	13	✓	---
Speede-Heat CS gas grenade	49	✓	---
Pepperball munitions (various)	6,500	✓	---
Pepperball glass breaker rounds	125	✓	---
Body distraction device (12g)	23	✓	---
DefTech Low Roll Distraction Device	49	✓	---
Combined Systems flashbang trainer	2	✓	---
Low roll noise flash diversionary device training fuze	0*	✓	---
BREACHING EQUIPMENT			
Kinetic breaching tool	1	✓	---
Breaching rounds	100	✓	---
Breaching shotgun	4	✓	---
Rescue chainsaw	1	✓	---
Rescue circular saw	1	✓	---
VEHICLES			
Lenco Bearcat	1	✓	---
SWAT tactical command vehicle	1	✓	---
Mobile command post	1	✓	---

* Current inventory exhausted, department plans to purchase more.

As shown in the table above, only seven of these 53 items are available for use by patrol officers. The remaining 46 items are exclusively assigned to the Special Weapons and Tactics (SWAT) team and are only deployed by SWAT officers in serious public safety incidents.

Military equipment acquisitions

The Police Department will replace, as needed, any existing approved military equipment with equipment of the same make and model, or if unavailable, with substantially similar equipment which will be subject to the same requirements as the replaced equipment.

In addition, the Police Department may acquire additional equipment and munitions of the types (or substantially similar types) contained in Appendix A of the Military Equipment Use Policy. The quantity for each type of equipment and munition in Appendix A was never intended as a cap on the number that may be acquired. To clarify this point, the Police Department amended its Military Equipment Use Policy by adding the following language to Section 708.5.1 Replacement of Approved Equipment:

[Existing language:] The police department will replace, as needed, any existing approved military equipment with equipment of the same make and model, or if unavailable, with substantially similar equipment which will be subject to the same requirements as the replaced equipment. [Language added:] The police department may acquire additional equipment and munitions of the types (or substantially similar types) contained in Appendix A. The quantity for each type of equipment and munition in Appendix A is not intended as a cap on the number that may be acquired.

In 2023, the Police Department submitted a proposal to the San Diego Urban Areas Security Initiative federal grant program to purchase a new Bearcat armored rescue vehicle (previously disclosed in the 2022 Annual Report). The Urban Areas Security Initiative Board approved the funding for the acquisition of a Lenco Bearcat armored rescue vehicle and classified the approval as Priority 3. This classification means the funding for this purchase would be released only if enough higher-priority projects were abandoned.

Should the grant award be released for this equipment, the Police Department would not take receipt of the equipment until several years later. The Police Department currently maintains one Lenco Bearcat armored rescue vehicle within its inventory. The current Bearcat was originally purchased in 2011 and is approaching the end of its normal lifecycle.

To bolster de-escalation practices, the Police Department intends to outfit more field personnel with highly accurate less-lethal 40mm tactical single launchers, which can be used to launch a less-lethal projectile or a gas canister, replacing bean bag shotguns. The Police Department is seeking to add 16 40mm single launchers to its current inventory of eight.

Members of the Police Department's SWAT team will be exchanging their current issued rifles, the Sig MCX .300, for an AR-15 platform. The exchange of these rifles will reduce ammunition costs by switching to a caliber currently used by the rest of the department. This change will remove 24 Sig MCX rifles from the inventory, replacing them with 24 AR-15s (the actual make and model have yet to be determined).

The Police Department is seeking the purchase of four new unmanned aerial vehicles (UAVs). These new UAVs are upgraded models, intended to replace current inventories that have become obsolete. The total number of UAVs in the Carlsbad inventory would not exceed 12, as several current UAVs would be retired. One of the sought-after UAVs is capable of being tethered, a technique used to provide continuous power in a fixed location for long durations,

designed to be deployed at a special event or other static scene. This is a capability not provided by the current inventory.

The Police Department has not obtained any equipment from the federal military surplus program, known as the 1033 Program, and does not possess any tactical equipment obtained from the military.

Required findings

To renew the policy, the City Council must determine, based on the 2023 Military Equipment Report (Exhibit 2), whether each type of military equipment identified in the report has complied with the following standards:

1. The military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.
2. The military equipment use policy will safeguard the public's welfare, safety, civil rights and civil liberties.
3. The equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
4. Prior military equipment use complied with the military equipment use policy that was in effect at that time, or if prior uses did not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

If the City Council determines that any of the military equipment identified in the 2023 Annual Military Equipment Report has not complied with the standards for approval, the City Council may decline to renew authorization for that type of military equipment or require modification to the military equipment use policy in a manner that will resolve the non-compliance.

Need for this equipment

The military equipment identified in Carlsbad Police Department Policy 708 is necessary because there are no reasonable alternatives that can achieve the same objective of officer and community safety.

The demands created by emergency situations and legitimate law enforcement investigations must be constantly balanced with the protection of privacy expected by every member of the public.

- Some of the military equipment items provide valuable real-time information to police personnel, enabling them to develop appropriate plans before entering potentially dangerous situations. The technology items, such as the throw robot and aerial drone, allow officers to interact with individuals from a safe distance, keeping officers out of harm's way and significantly reducing the potential for violent encounters.
- The less-lethal equipment on the list provides critical alternatives to lethal force in violent interactions with people who are often armed and represent a significant danger to the public, while lethal weapons, such as long-range rifles, provide the essential de-escalation component of time and distance while still enabling officers to immediately respond with accurate and potentially lifesaving force.

- Chemical agents provide the most effective means of encouraging a violent, resistive person to leave a position of strength. When trying to de-escalate an incident, one of the most dangerous actions officers can take is to move into the environment occupied by the subject, placing officers in danger and increasing the potential for a violent encounter. When all other attempts to gaining voluntary compliance have failed, chemical agents can encourage subjects to move to a location of disadvantage and increase the potential for safely taking them into custody.
- Diversionary devices such as flash-bang grenades serve as distractions and attention-getting tools to encourage voluntary compliance. Items such as breaching tools provide officers with the ability to break into secured locations to provide potentially lifesaving aid.
- The vehicles also provide various essential support. For example, the command post and ambulance allow police officers to transport personnel and equipment to and from incidents or provide a remote working location, while the Bearcat is essential for responding to such dangerous scenarios as an active-shooter incident. The Bearcat is also used as a lifesaving or defensive tool.

Before being allowed to use a piece of military equipment, a Carlsbad Police officer receives significant training in the safe use, handling and deployment of the item, and all actions by police personnel must comply with constitutional protections regarding search and seizure, state law and department policy. Many of the items have specific policies that relate to their deployment, and their use must comply with state and federal law.

Police Department Policy 708 and state law

The department's proposed military equipment use policy meets all the requirements of AB 481, including:

- The proposed policy was published on the Police Department's website on March 8, 2024, at least 30 days prior to this public hearing concerning the military equipment at issue, meeting the requirements of Government Code Section 7071.
- The Military Equipment Inventory (Appendix A to the Military Equipment Use Policy) describes each type of military equipment, their quantities, capabilities and expected lifespan, their purposes and authorized uses, acquisition and annual maintenance costs, the rules governing each authorized use, and the training required to use each piece of military equipment.
- It provides a mechanism to ensure compliance with the policy.
- Questions and complaints regarding the use of military equipment will be handled in accordance with Police Department Policy 1020, which means that questions and complaints may be submitted by emailing police@carlsbadca.gov or by submitting a personnel complaint form. Instructions and copies of the complaint form are available by clicking on the link in the Military Equipment Use Policy, on the Police Department's website, and in person at the Police Department.

Conclusion

The proposed military equipment use policy is intended to safeguard the public's welfare, safety, civil rights, and civil liberties by clearly defining the military equipment usage guidelines and standards applicable to the Carlsbad Police Department. The department's existing military

equipment and the future purchase of military equipment described in Appendix A to the Military Equipment Use Policy are reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.

Public notification

The proposed Military Equipment Use Policy was posted on the Police Department's website on March 8, 2024, at least 30 days prior to the first public hearing, and made available on the Police Department's website. The 2023 Military Equipment Report was posted on the Police Department's Internet website on March 13, 2024.

As required under Government Code Section 7072, the Police Department hosted a well-publicized and conveniently located community engagement meeting on March 21, 2024, centrally located at the Carlsbad Safety Training Center, where the public was invited to discuss and ask questions about this annual Military Equipment Report and the Police Department's funding, acquisition, or use of military equipment. Department personnel were available to answer questions, provide demonstrations, and educate the community members on the equipment contained within the department's military equipment inventory. Similar public forum meetings have been carried out throughout the year at events such as the City's Citizens' Academy and Public Safety Open House.

In addition to the well-publicized community event on March 21, 2024, police personnel gave a presentation to the Community-Police Engagement Commission on the Police Department's annual review of military equipment, the 2023 military equipment use report and the proposed amendments. This presentation took place at the Community-Police Engagement Commission Special Meeting on March 25, 2024. Department personnel were available for questions from the commission as well as from community members during this open meeting.

Fiscal Analysis

There will be personnel costs incurred to prepare the annual review, prepare the annual report and set up community meetings each year. The fiscal impact of the personnel costs will be minimal and will be absorbed by the Police Department's operating budget.

Next Steps

If the ordinance is approved, the City Clerk will prepare the ordinance for adoption at the next regular City Council meeting. Once adopted, the City Clerk will publish the ordinance or a summary of the ordinance in a newspaper of general circulation within 15 days. The ordinance will be effective 30 days after its adoption.

If the policy is renewed, the Carlsbad Police Department will be able to continue using and be able to acquire any additional military equipment listed in Appendix A of the Military Equipment Use Policy. Acquisitions will continue to follow the city's policies and procedures for budgeting and procurement.

In accordance with state law and the current Military Equipment Use Policy, the Police Department will prepare and submit the next annual military equipment report to the City Council and make the report publicly available on the department's website. The ordinance adopting the military equipment use policy will continue to be presented to the City Council with the military equipment report at least annually so that the City Council can vote on whether to renew the ordinance, in keeping with Government Code Section 7071 (e).

Environmental Evaluation

This action does not require environmental review because it does not constitute a project within the meaning of the California Environmental Quality Act under California Public Resources Code Section 21065 in that it has no potential to cause either a direct physical change or a reasonably foreseeable indirect physical change in the environment.

Exhibits

1. City Council ordinance
2. 2023 Military Equipment Report
3. AB 481's definitions of military equipment

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, RENEWING THE POLICE DEPARTMENT'S MILITARY EQUIPMENT USE POLICY, IN ACCORDANCE WITH CALIFORNIA ASSEMBLY BILL 481

WHEREAS, on September 30, 2021, Governor Gavin Newsom signed into law Assembly Bill 481 relating to the use of military equipment by law enforcement agencies; and

WHEREAS, Assembly Bill 481, codified at California Government Code Sections 7070 through 7075, requires law enforcement agencies to obtain approval of the governing body, by an ordinance adopting a military equipment use policy at a regular meeting held pursuant to open meeting laws, prior to taking certain actions relating to the funding, acquisition, or use of military equipment. The term "military equipment" is defined in California Government Code Section 7070; and

WHEREAS, Assembly Bill 481 requires the governing body of a city to make specified determinations before it may approve a military equipment use policy; and

WHEREAS, annually thereafter, the governing body shall review the ordinance it has adopted approving the funding, acquisition, or use of military equipment and vote on whether to renew the ordinance; and

WHEREAS, the City of Carlsbad is in possession of certain pieces of equipment which are defined as military equipment under California Government Code Section 7070; and

WHEREAS, the City of Carlsbad's proposed military equipment use policy is found within Carlsbad Police Department Policy 708; and

WHEREAS, in order to promote public safety, civil rights, and officer safety, the Carlsbad Police Department desires to continue using, seeking funding for, acquiring, and collaborating, when necessary, with other law enforcement agencies in the use of, military equipment, as described in the Carlsbad Police Department Policy 708; and

WHEREAS, the proposed Carlsbad Police Department Policy 708 was published on the Carlsbad Police Department's internet website at least 30 days prior to any public hearing concerning the military equipment at issue, in accordance with Government Code Section 7071(b); and

WHEREAS, the Carlsbad Police Department Policy 708 meets the requirements of Government Code Section 7070, subdivision (d).

NOW, THEREFORE, the City Council of the City of Carlsbad, California, ordains as follows that:

1. The above recitations are true and correct.
2. Based on the recitations above and the information provided to the City Council at the public hearing, the City Council determines as follows:
 - a. The military equipment identified in Carlsbad Police Department Policy 708, attached and incorporated herein as "Attachment A", is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.
 - b. The military equipment use policy contained in Carlsbad Police Department Policy 708 will safeguard the public's welfare, safety, civil rights, and civil liberties.
 - c. The military equipment identified in Carlsbad Police Department Policy 708 is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
 - d. Prior military equipment use complied with the applicable equipment use policy (which included equipment now defined as military equipment) that was in effect at the time, or if prior uses that did not comply with the applicable equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.
3. The Carlsbad Police Department Policy 708 (Military Equipment Use Policy), attached hereto as Attachment A, is approved and adopted.
4. The Carlsbad Police Department is authorized to seek funds for military equipment described in Appendix A to the Military Equipment Use Policy, acquire military equipment described in Appendix A to the Military Equipment Use Policy, collaborate with another law enforcement agency in the deployment or other use of military equipment within Carlsbad, use any new or existing military equipment as provided in the Military Equipment Use Policy and solicit or respond to a proposal for, or enter into an agreement for funding, acquisition, use of, or collaboration for use of military equipment described in the Military Equipment Use Policy.
5. The City Council shall review this Ordinance at least annually and vote on whether to renew the ordinance, consistent with the requirements of state law.

EFFECTIVE DATE: This ordinance shall be effective thirty days after its adoption; and the City Clerk shall certify the adoption of this ordinance and cause the full text of the ordinance or a summary of the ordinance prepared by the City Attorney to be published at least once in a newspaper of general circulation in the City of Carlsbad within fifteen days after its adoption.

INTRODUCED AND FIRST READ at a Regular Meeting of the Carlsbad City Council on the _____ day of _____, 2024, and thereafter.

PASSED, APPROVED AND ADOPTED at a Regular 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:

APPROVED AS TO FORM AND LEGALITY:

CINDIE K. McMAHON, City Attorney

KEITH BLACKBURN, Mayor

SHERRY FREISINGER, City Clerk
(SEAL)

Military Equipment

708.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the approval, acquisition, use, training and reporting requirements of military equipment in accordance with California Assembly Bill 481 (codified at Government Code § 7070, et seq.). Additionally, this policy outlines the fiscal impact and specific descriptions of existing military equipment within the Department's inventory.

708.1.1 DEFINITIONS

The definitions provided in Government Code section 7070 apply to this policy, including the following:

Governing body – The elected or appointed body that oversees the Department.

Military equipment – Means the following:

- Unmanned, remotely piloted, powered aerial or ground vehicles. This definition applies to small Unmanned Aircraft Systems (sUAS) and SWAT robots.
- Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded from this definition.
- High mobility multipurpose wheeled vehicles (HMMWV), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached. However, unarmored all-terrain vehicles (ATVs) and motorized dirt bikes are specifically excluded from this definition.
- Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.
- Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
- Weaponized aircraft, vessels, or vehicles of any kind.
- Battering rams, slugs, and breaching apparatuses that are explosive in nature. However, items designed to remove a lock, such as bolt cutters or a handheld, one-person ram, are specifically excluded from this definition.
- Firearms and ammunition of .50 caliber or greater, However, standard-issue shotguns and standard-issue shotgun ammunition are specifically excluded from this definition..
- Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Penal Code sections 30510 and 30515, with the exception of standard-issue service weapons and ammunition of less than .50 caliber that are issued to sworn members.
- Any firearm or firearm accessory that is designed to launch explosive projectiles.
- "Flashbang" grenades and explosive breaching tools, "tear gas," and "pepper balls" including munitions containing tear gas or OC. However, standard, service-issued handheld pepper spray is specifically excluded from this definition.
- TASER® Shockwave, microwave weapons, water cannons, and long-range acoustic devices (LRADs).

- The following projectile launch platforms and their associated munitions: 40 mm projectile launchers, "bean bag," rubber bullet, and specialty impact munitions (SIM) weapons.
- Any other equipment as determined by the governing body or a state agency to require additional oversight.
- "Military equipment" does not include general equipment not designated as prohibited or controlled by the federal Defense Logistics Agency.

708.2 POLICY

It is the policy of the Carlsbad Police Department that members of this department comply with the provisions of Government Code § 7071 with respect to military equipment.

708.3 MILITARY EQUIPMENT COORDINATOR

The Chief of Police should designate a member of this department to act as the military equipment coordinator. The responsibilities of the military equipment coordinator include but are not limited to:

- a) Acting as liaison to the governing body for matters related to the requirements of this policy.
- b) Identifying department equipment that qualifies as military equipment in the current possession of the Department, or the equipment the Department intends to acquire that requires approval by the governing body.
- c) Conducting an inventory of all military equipment at least annually.
- d) Collaborating with any other law enforcement agency that may use military equipment within the jurisdiction of Carlsbad Police Department (Government Code § 7071).
- e) Preparing for, scheduling, and coordinating the annual community engagement meeting to include:
 1. Publicizing the details of the meeting.
 2. Preparing for public questions regarding the department's funding, acquisition, and use of equipment.
- f) Preparing the annual military equipment report for submission to the Chief of Police and ensuring that the report is made available on the department website (Government Code § 7072).
- g) Establishing the procedure for a person to register a complaint or concern, or how that person may submit a question about the use of a type of military equipment, and how the Department will respond in a timely manner.

708.4 MILITARY EQUIPMENT INVENTORY

Appendix A contains the descriptions, purposes and authorized uses, fiscal impact, training requirements, and legal and procedural rules governing each authorized use for all military equipment of the Department.

708.5 MILITARY EQUIPMENT USE POLICY APPROVAL

The Chief of Police or the authorized designee shall obtain approval from the governing body by way of an ordinance adopting the military equipment use policy. As part of the approval process, the Chief of Police or the authorized designee shall ensure the proposed military equipment use policy is submitted

to the governing body and is available on the department website at least 30 days prior to any public hearing concerning the military equipment at issue (Government Code § 7071). The military equipment use policy must be approved by the governing body prior to engaging in any of the following (Government Code § 7071):

- a) Requesting military equipment made available pursuant to 10 USC § 2576a.
- b) Seeking funds for military equipment, including but not limited to applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.
- c) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.
- d) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the jurisdiction of this department.
- e) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body.
- f) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of military equipment.
- g) Acquiring military equipment through any means not provided above.

708.5.1 REPLACEMENT OF APPROVED EQUIPMENT

The police department will replace, as needed, any existing approved military equipment with the equipment of the same make and model, or if unavailable, with substantially similar equipment which will be subject to the same requirements as the replaced equipment.

The Police Department may acquire additional equipment and munitions of the types (or substantially similar types) contained in Appendix A. The quantity for each type of equipment and munition in Appendix A is not intended as a cap on the number that may be acquired.

708.6 ANNUAL MILITARY EQUIPMENT REPORT AND COMMUNITY ENGAGEMENT

The Chief of Police or the authorized designee shall submit a military equipment report to the governing body for each type of military equipment approved within one year of approval of this policy, and annually thereafter, for as long as the military equipment is available for use (Government Code § 7072). The annual military equipment report shall, at a minimum, include the following information for the immediately preceding calendar year for each type of military equipment:

- a) A summary of how the military equipment was used and the purpose of its use.
- b) A summary of any complaints or concerns received concerning the military equipment.
- c) The results of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response, consistent with all applicable state employee privacy laws.
- d) The total annual cost for each type of military equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the military equipment in the calendar year following

- e) The quantity possessed for each type of military equipment.
- f) If the Department intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment

The Chief of Police or the authorized designee shall make each annual military equipment report publicly available on the department website for as long as the military equipment is available for use. Within 30 days of submitting and publicly releasing the annual military equipment report, the Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the general public may discuss and ask question regarding the annual military equipment report and the Department's funding, acquisition, or use of military equipment. The governing body will determine, based on the annual military equipment report, whether each type of military equipment identified in the report has complied with the standards for approval, as set forth in Government Code § 7071, subdivision (d). If the governing body determines that a type of military equipment identified in the annual military equipment report has not complied with the standards as set forth in Government Code § 7071, subdivision (d), it may either disapprove a renewal of the authorization for that type of military equipment or require modifications to this military equipment use policy in a manner that will resolve lack of compliance.

708.7 COORDINATION WITH OTHER JURISDICTIONS

Department members are required to adhere to this Military Equipment Use policy and all applicable Carlsbad Police Department policies and procedures, regardless of operational jurisdiction. Members of other law enforcement agencies that are providing mutual aid to this jurisdiction shall comply with their respective military equipment use policies in rendering mutual aid.

708.8 PUBLIC COMPLAINT PROCEDURE

Complaints related to the application or use of military equipment shall be handled in accordance with Department Policy 1020 - Personnel Complaints.

Appendix A

Carlsbad Police Department AB-481 Military Equipment Inventory (2024)

Technology/Electronics

AVATAR TACTICAL ROBOT											
Description	A remote-controlled belt-driven vehicle designed to handle different terrains while allowing access to its onboard camera so operators can visually clear the areas the robot has traveled.										
Quantity	1										
Capability	“Quickly and easily deployable. Navigates various terrain including stairs, sand, clothing, grass, etc. Two-way audio. Video recording capability.”										
Life Span	At or exceeded life span.										
Manufacturer’s description	“The AVATAR® enhances the capabilities of SWAT and tactical response teams by allowing them to quickly and safely inspect dangerous situations, there is no longer a need to send personnel in before you’ve had a chance to assess the situation.”										
Purpose/ Authorized Usage	Used for search and rescue to safely clear / make safe the interior/exterior of the buildings prior to putting Officers in harm's way. Can be used to communicate and negotiate with suspects.										
Legal / Procedural Rules Governing Use	PC 633.8 (Eavesdropping Device) and must comply with Carlsbad Police Policy 322 (Search and Seizure)										
Costs	<table style="width: 100%; border: none;"> <tr> <td style="padding-right: 20px;">Initial Cost:</td> <td>\$28,009.61</td> </tr> <tr> <td>Recurring Cost:</td> <td>N/A</td> </tr> <tr> <td>Maintenance:</td> <td>Replaced as damaged. Maintenance cost is equivalent to new device.</td> </tr> <tr> <td>Year Obtained:</td> <td></td> </tr> <tr> <td>How was it budgeted:</td> <td></td> </tr> </table>	Initial Cost:	\$28,009.61	Recurring Cost:	N/A	Maintenance:	Replaced as damaged. Maintenance cost is equivalent to new device.	Year Obtained:		How was it budgeted:	
Initial Cost:	\$28,009.61										
Recurring Cost:	N/A										
Maintenance:	Replaced as damaged. Maintenance cost is equivalent to new device.										
Year Obtained:											
How was it budgeted:											

Item Photograph		
Training Needed	Training per PC 633.8 (Eavesdropping Device) provided by the District Attorney's Office. SWAT provides familiarization and scenario-based training to sworn officers.	

BOUNCING IMAGE EXPLORER 2.0											
Description	A durable 360-degree camera designed to see into unknown locations.										
Quantity	2										
Capability	Extremely durable circular-shaped camera, designed to be tossed, thrown or placed into unknown locations to gain visuals on the target location.										
Life Span	N/A										
Manufacturer's description	"SAFER ROOM CLEARING - Avoid the Fatal Funnel, SAFER ATTIC/CRAWLSPACE CLEARING - Tactical Pole Camera, SAFER STAIRWELL/BASEMENT CLEARING"										
Purpose/ Authorized Usage	Used for search and rescue and to safely clear / make safe the interior/exterior of the buildings during critical incidents. Used to gain valuable lifesaving information and to observe locations prior to putting officers at risk.										
Legal / Procedural Rules Governing Use	Must comply with Carlsbad Police Policy 322 (Search and Seizure)										
Costs	<table border="0"> <tr> <td>Initial Cost:</td> <td>\$5,853.62</td> </tr> <tr> <td>Recurring Cost:</td> <td>n/a</td> </tr> <tr> <td>Maintenance:</td> <td>Replaced as damaged. Maintenance cost is equivalent to new device.</td> </tr> <tr> <td>Year Obtained:</td> <td>2017</td> </tr> <tr> <td>How was it budgeted:</td> <td>Departmental savings from FY17</td> </tr> </table>	Initial Cost:	\$5,853.62	Recurring Cost:	n/a	Maintenance:	Replaced as damaged. Maintenance cost is equivalent to new device.	Year Obtained:	2017	How was it budgeted:	Departmental savings from FY17
Initial Cost:	\$5,853.62										
Recurring Cost:	n/a										
Maintenance:	Replaced as damaged. Maintenance cost is equivalent to new device.										
Year Obtained:	2017										
How was it budgeted:	Departmental savings from FY17										

Item Photograph	
Training Needed	SWAT provides familiarization training to sworn officers.

L3 Night Vision Monocular	
Description	L3 White Phosphor PVS-14 Harris Gen 3 Autogated Night Vision Monocular
Quantity	24
Capability	<p>This monocular is now available with improved white phosphor tube technology for greater target detection and recognition. Low-light and nighttime maneuvers appear more natural in black and white, with added contrast detail in shapes and shadows, providing the operator more visual information for assessment and acquisition. White phosphor offers various shades of intensity between black and white (over black and green), resulting in better contrast and depth perception</p>
Life Span	N/A
Manufacturer's description	<p>The Night Vision Device, also known by its military nomenclature AN/PVS-14, is the U.S. military standard for night vision and can be either used as a handheld pocketscope, a right or left eye-mounted monocular or a weapon sight when mounted in conjunction with an infrared laser aimer or other night vision-compatible primary optic.</p>
Purpose/ Authorized Usage	<p>Used to provide personnel with more visual information in dark to low light environments without giving away the user's location. In a low light environment, when a light is used to visually clear an area it works both ways. The officer can locate and see the suspect, but the suspect can also locate and see the officer. This can be problematic and dangerous when the suspect is in a position of advantage and or is armed. The use of Night Vision Devices allows officers to scan and assess a low light environment without putting themselves at increased risk. The information gained can then be used to make more informed tactical decisions.</p> <p>Issued to individual SWAT personnel to be used in low light environments when the device would help provide more visual information in a low light environment.</p>

Legal / Procedural Rules Governing Use	None.	
Costs	Initial Cost:	\$10,999
	Recurring Cost:	0
	Maintenance:	N/A
	Year Obtained:	2020
	How was it budgeted:	UASI Grant
Item Photograph		
Training Requirements	Familiarization training for SWAT personnel.	

L3 Night Vision Monocular (Dual Tube)	
Description	L3 AN/PVS-31A BNVD White Phosphor Binocular Night Vision Device (BNVD)
Quantity	6
Capability	The AN/PVS-31A – BNVD is a compact, lightweight, Gen III dual-tube goggle with improved white phosphor tube technology for greater target detection and recognition. Low-light and nighttime maneuvers appear more natural in black and white, with added contrast detail in shapes and shadows providing the operator more visual information for assessment and acquisition. White phosphor provides varying shades of intensity between black and white (over black and green), resulting in better contrast and depth perception.
Life Span	N/A
Manufacturer's description	The Binocular Night Vision Device (BNVD) has an ergonomic low-profile design and offers superior situational awareness compared to a single tube goggle. The BNVD was designed to increase system resolution, significantly reduce head borne-weight, improve system center of gravity, provide additional operational utility, and improve overall situational awareness as compared to currently fielded dual-tube goggles.
Purpose/ Authorized Usage	Used to provide personnel with more visual information in dark to low light environments without giving away the user's location. In a low light environment, when a light is used to visually clear an area it works both ways. The officer can locate and see the suspect, but the suspect can also locate and see the officer. This can be problematic and dangerous when the suspect is in a position of advantage and or is armed. The use of Night Vision Devices allows officers to scan and

	<p>assess a low light environment without putting themselves at increased risk. The information gained can then be used to make more informed tactical decisions.</p> <p>Issued to individual SWAT personnel to be used in low light environments when the device would help provide more visual information in a low light environment.</p>										
Legal / Procedural Rules Governing Use	None.										
Costs	<table border="0"> <tr> <td>Initial Cost:</td> <td>\$34,835.10</td> </tr> <tr> <td>Recurring Cost:</td> <td>0</td> </tr> <tr> <td>Maintenance:</td> <td>N/A</td> </tr> <tr> <td>Year Obtained:</td> <td>Pending 2022</td> </tr> <tr> <td>How was it budgeted:</td> <td>Department funds</td> </tr> </table>	Initial Cost:	\$34,835.10	Recurring Cost:	0	Maintenance:	N/A	Year Obtained:	Pending 2022	How was it budgeted:	Department funds
Initial Cost:	\$34,835.10										
Recurring Cost:	0										
Maintenance:	N/A										
Year Obtained:	Pending 2022										
How was it budgeted:	Department funds										
Item Photograph											
Training Requirements	Familiarization training for SWAT personnel.										

RECON ROBOTICS THROWBOT 2	
Description	Robotic camera
Quantity	2
Capability	Used to transmit real-time video in a dangerous and life-threatening environment.
Life Span	N/A
Manufacturer's description	Once deployed, the robot can be directed to move through a structure and transmit real-time video and audio to the OCU II. These reconnaissance features can locate and identify subjects, confirm presence of hostages and reveal the room layout.
Purpose/ Authorized Usage	Used for search and rescue and to safely clear / make safe the interior/exterior of the buildings during critical incidents. Used to gain valuable lifesaving information and to observe locations prior to putting officers at risk.

Legal / Procedural Rules Governing Use	PC 633.8 (Eavesdropping Device) and must comply with Carlsbad Police Policy 322 (Search and Seizure)	
Costs	Initial Cost:	\$16,165.00
	Recurring Cost:	N/A
	Maintenance:	In-house cleaning
	Year Obtained:	2021
	How was it budgeted:	Departmental savings
Item Photograph		
Training Needed	Training per PC 633.8 (Eavesdropping Device) provided by the District Attorney's Office. SWAT provides familiarization and scenario-based training to sworn officers.	

Unmanned Aircraft Systems	
Description	Unmanned Aircraft Systems (UAS/Drones) – CA Gov't Code 7070(c)(1)
Quantity	12 (Seven different models)
Capability	Remotely piloted aerial vehicles capable of providing live and recorded video images captured from aerial positions, including images enhanced by dual thermal and optical zoom lenses.
Life Span	Approximately 5 years, highly dependent on battery replacement
Manufacturer's description	<p>DJI Matrice 100 (2): The Matrice 100 combines the ease of use of a ready-to-fly quadcopter with the flexibility of a build-it-yourself model. Sporting an "X"-configuration design, the Matrice 100 acts as a platform for the separately available Zenmuse X3 4K camera and gimbal system or can be adapted to support compact third-party cameras (e.g. GoPro). Stackable modular bays simplify adding components such as flight control extensions or a second battery, while the prop arms can be set at a slight angle to increase torque. (\$3866)</p> <p>DJI Matrice 210 (1): Built for industrial use, the Matrice 210 RTK V2 Professional Quadcopter is meant to go into hazardous conditions to relay vital information to personnel on the ground. With the addition of built-in RTK modules and the inclusion</p>

of a GNSS mobile station, the 210 RTK V2 is also capable of high-precision mapping. With up to 33 minutes of flight time and a range of up to 5 miles, it can be implemented in a variety of industries and professions. Inspecting infrastructure and getting a clear view of emergencies are just a couple of the jobs the Matrice 210 RTK V2 can perform. **(\$9600)**

DJI Mavic Enterprise (1): Built upon the Mavic 2 flight platform, the Mavic 2 Enterprise is an advanced, enterprise-level drone solution for demanding applications. Whether you need an eye in the sky for search and rescue, policing and firefighting support, or inspections of vital infrastructure, the Mavic 2 Enterprise is designed to be a compact solution that's easily deployable. To help with these tasks, the Mavic 2 Enterprise features a top extended port for mounting helpful modular accessories. Also equipped with 24GB of onboard storage to capture all the vital data. **(\$2949)**

DJI Mavic Enterprise Advance (1): Utilizing the practical benefits of drone technology, the versatile Mavic 2 Enterprise Advanced Drone is equipped with technology to help first responders enforce the law, find and rescue victims, or fight fires. It can also inspect power equipment, structures, and even the environment, in minutes compared to hours or days. The Mavic 2 Enterprise Advanced can do all this thanks to its compact size, long-lasting battery, ability to fly missions quickly, high-tech dual thermal and visual cameras, and a host of other features. **(\$6900)**

DJI Mavic Zoom (2): The Mavic 2 Zoom with Smart Controller is a professional-quality filmmaking drone that gives you the ability to get closer to the action, thanks to its 24-48mm 2x optical zoom camera with 1/2.3" 12MP sensor. With 4x lossless zoom (including 2x optical zoom), you can capture sensitive subjects from an even greater distance. There's even a single-tap aerial mode called Dolly Zoom that gives a Hitchcockian effect to your footage. **(\$2093)**

Spark (3): The Spark features a 12-megapixel camera stabilized mechanically by a 2-axis gimbal. The Spark also carries an advanced infrared 3D camera that helps the drone detect obstacles in front of it, as well as facilitating hand-gesture control. In addition to a smartphone app with a virtual controller, the Spark also has a physical controller. **(\$499)**

Phantom 4 (2): The Phantom 4 Pro has improved resolution capable of on-controller live-view streaming, enhanced connectivity, and more. Like the original, the Phantom 4 Pro Version 2 features a 3-axis-stabilized gimbal camera with a 20MP 1" CMOS sensor capable of shooting up to 4K60 fps video and photo bursts at up to 14 fps. It also utilizes the Flight Autonomy system, which includes dual rear-vision sensors and infrared sensing for a total of five directions of obstacle sensing and four directions of obstacle avoidance. Instead of Lightbridge, the Phantom 4 Pro Version 2 now uses Ocusync, which enables improved live video stream performance. Other notable enhancements include lighter props and reduced overall

	takeoff weight, wireless integration with DJI Goggles, and bolstered transmission power. (\$1399)	
Purpose/ Authorized Usage	UAS/Drones may be utilized to enhance the Department's mission of protecting lives and property when other means and resources are not available or are less effective. Uses may include but are not limited to search and rescue; suspect apprehension; crime scene documentation; tactical operations; scene security; hazard monitoring, identification and mitigation; response to emergency calls; crisis communications; and legally authorized surveillance.	
Legal / Procedural Rules Governing Use	<p>Any use of a UAS will be in strict accordance with constitutional and privacy rights and Federal Aviation Administration (FAA) regulations. The use of the UAS potentially involves privacy considerations. Absent a warrant or exigent circumstances, operators and observers shall adhere to FAA altitude regulations and shall not intentionally record or transmit images of any location where a person would have a reasonable expectation of privacy (e.g., residence, yard, enclosure).</p> <p>Operators and observers shall take reasonable precautions to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy. Reasonable precautions can include, for example, deactivating or turning imaging devices away from such areas or persons during UAS operations.</p> <p>Carlsbad Police Policy 354 (Unmanned Aerial Systems Operations).</p>	
Costs	<p>Initial Cost: \$35,662</p> <p>Recurring Cost: No defined recurring costs. Since the program's inception, eight (8) batteries have been replaced for a total cost of \$1129.00</p> <p>Maintenance: None performed outside on-duty hours</p> <p>Year Obtained: Matrice 100 – 2017 Phantom 4 – 2017 Spark – 2019 Matrice 210 – 2019 Mavic Enterprise – 2019 Mavic Zoom – 2019 Mavic Enterprise Adv. – 2021</p> <p>How was it budgeted: Departmental savings</p>	

Item
Photograph

Matrice 100:



Matrice 210:



Mavic Enterprise:



Mavic Enterprise Advance:



Mavic Zoom:



Spark:



Phantom 4:



Training Requirements

Prior to piloting any UAS/Drone staff members must secure an FAA Remote Pilot License and complete all training required by our FAA COA.

Steiner DBAL-A3											
Description	Steiner DBAL-A3										
Quantity	24										
Capability	<p>While the IR Laser and Visible Green Laser can be used to assist in aiming while using NVG's or Gas Mask, there are limitations to their accuracy.</p> <p>The DBAL-A³ is the first to feature new defocused adjustable IR illumination technology to enable both midrange and close quarter target acquisition. The visible green laser's direct diode allows for cold weather operation as low as -20°C.</p>										
Life Span	N/A										
Manufacturer's description	<p>Available for the commercial market, the first eye-safe IR laser pointer, IR illuminator and green laser pointer in a single compact unit. Features an adjustable IR illuminator for better illumination at longer ranges, dual activation switches and high/low power modes.</p> <p>The DBAL-A3 civilian model is based on the standard issue DBAL-A3 for U.S. warfighters. And just like the restricted models, this unit offers the latest advances in IR and visible laser technology. The dual-beam infrared laser and illuminator combination is extremely accurate in low- and no-light maneuvers. In addition, the DBAL-A³ is the first to feature new defocused adjustable IR illumination technology to enable both midrange and close quarter target acquisition. The visible green laser's direct diode allows for cold weather operation as low as -20°C.</p>										
Purpose/ Authorized Usage	<p>The dual-beam infrared laser and illuminator is used to identify and highlight objects in low light to dark environments. It allows users to illuminate areas via infrared light without giving away the users' position.</p> <p>Issued to individual SWAT personnel to be used in low light environments when the device would help provide more visual information in a low light environment.</p>										
Legal / Procedural Rules Governing Use	None.										
Costs	<table border="0"> <tr> <td style="padding-right: 10px;">Initial Cost:</td> <td>\$518</td> </tr> <tr> <td>Recurring Cost:</td> <td>N/A</td> </tr> <tr> <td>Maintenance:</td> <td>N/A</td> </tr> <tr> <td>Year Obtained:</td> <td>2020</td> </tr> <tr> <td>How was it budgeted:</td> <td>SWAT operating budget</td> </tr> </table>	Initial Cost:	\$518	Recurring Cost:	N/A	Maintenance:	N/A	Year Obtained:	2020	How was it budgeted:	SWAT operating budget
Initial Cost:	\$518										
Recurring Cost:	N/A										
Maintenance:	N/A										
Year Obtained:	2020										
How was it budgeted:	SWAT operating budget										

Item Photograph	
Training Requirements	Familiarization training for SWAT personnel.

Less Lethal Equipment and Munitions

Remington 870 Beanbag Shotgun							
Description	12-gauge shotgun used to deploy less lethal munition						
Quantity	15						
Capability	Deploying 12 gauge less lethal bean bag munitions						
Life Span	N/A						
Manufacturer's description	America's bestselling shotgun for over 50 years, the Model 870's dependability is legendary. The receiver is milled from a solid billet of steel for strength and durability, and the twin action bars ensure smooth, reliable non-binding action.						
Purpose/Authorized Usage	<p>This department is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation.</p> <p>Circumstances appropriate for deployment include, but are not limited to, situations in which: The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions. The suspect has made credible threats to harm him/herself or others. The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers. There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.</p>						
Legal / Procedural Rules Governing Use	All applicable State, Federal and Local laws governing police use of force. Carlsbad Police Policies 208 (Training), 300 (Use of Force), 303 (De-escalation), 308 (Control Devices and Techniques), 312 (Firearms) 313 (Firearms Qualification and Remediation) 471 (First Amendment Assemblies)						
Costs	<table style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding-right: 20px;">Initial Cost:</td> <td style="text-align: right;">800.00</td> </tr> <tr> <td>Recurring Cost:</td> <td style="text-align: right;">0</td> </tr> <tr> <td>Maintenance:</td> <td style="text-align: right;">0</td> </tr> </table>	Initial Cost:	800.00	Recurring Cost:	0	Maintenance:	0
Initial Cost:	800.00						
Recurring Cost:	0						
Maintenance:	0						

	Year Obtained: Pre 1990 How was it budgeted: Unknown
Item Photograph	
Training Requirements	8-hour POST Certified Less Lethal Operator Course, Qualification every 6 months.

40 MM Launcher - LMT	
Description	40LMTS- 40 mm LMT Tactical Single Launcher
Quantity	4
Capability	Deploying 40mm less lethal impact projectiles. Deploying 40mm chemical agent (CS) barricade penetrating (DefTech 2262) rounds.
Life Span	N/A
Manufacturer's description	40LMTS is a tactical single shot launcher that features an expandable ROGERS Super Stoc and an adjustable Integrated Front Grip (IFG) with light rail. The ambidextrous Lateral Sling Mount (LSM) and QD mounting systems allow both a single and two point sling attachment. The 40LMTS will fire standard 40mm less lethal ammunition, up to 4.8 inches in cartridge length. The Picatinny Rail Mounting System will accept a wide array of enhanced optics/sighting systems.
Purpose/Authorized Usage	<p>KINETIC ENERGY PROJECTILE GUIDELINES</p> <p>This department is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation.</p> <p>Circumstances appropriate for deployment include, but are not limited to, situations in which: The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions. The suspect has made credible threats to harm him/herself or others. The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers. There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.</p> <p>TEAR GAS GUIDELINES</p>

	Used to deploy chemical agent into a specific location from a distance. Tear gas may be used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances. Only the Watch Commander, Incident Commander or Crisis Response Unit Commander may authorize the delivery and use of tear gas, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary.										
Legal / Procedural Rules Governing Use	All applicable State, Federal and Local laws governing police use of force. Carlsbad Police Policies 208 (Training), 300 (Use of Force), 303 (De-escalation), 308 (Control Devices and Techniques), 313 (Firearms Qualification and Remediation) 471 (First Amendment Assemblies)										
Costs	<table border="1"> <tr> <td>Initial Cost:</td> <td>\$1000.00</td> </tr> <tr> <td>Recurring Cost:</td> <td>\$0</td> </tr> <tr> <td>Maintenance:</td> <td>\$0</td> </tr> <tr> <td>Year Obtained:</td> <td>2018</td> </tr> <tr> <td>How was it budgeted:</td> <td>Operating budget</td> </tr> </table>	Initial Cost:	\$1000.00	Recurring Cost:	\$0	Maintenance:	\$0	Year Obtained:	2018	How was it budgeted:	Operating budget
Initial Cost:	\$1000.00										
Recurring Cost:	\$0										
Maintenance:	\$0										
Year Obtained:	2018										
How was it budgeted:	Operating budget										
Item Photograph											
Training Requirements	8-hour POST Certified Less Lethal Operator Course. Qualification every 6 month										

Defense Technology 40 MM Launcher	
Description	Def Tech 40mm Tactical Single Launcher
Quantity	4
Capability	Deploying 40mm less lethal impact projectiles. Deploying 40mm chemical agent (CS) barricade penetrating (DefTech 2262) rounds.
Life Span	N/A
Manufacturer's description	40LMTS is a tactical single shot launcher that features an expandable ROGERS Super Stoc and an adjustable Integrated Front Grip (IFG) with light rail. The ambidextrous Lateral Sling Mount (LSM) and QD mounting systems allow both a single and two point sling attachment.

	The 40LMTS will fire standard 40mm less lethal ammunition, up to 4.8 inches in cartridge length. The Picatinny Rail Mounting System will accept a wide array of enhanced optics/sighting systems.	
Purpose/Authorized Usage	<p>KINETIC ENERGY PROJECTILE GUIDELINES</p> <p>This department is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation.</p> <p>Circumstances appropriate for deployment include, but are not limited to, situations in which: The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions. The suspect has made credible threats to harm him/herself or others. The suspect is engaged in riotous behavior or is throwing rocks, bottles, or other dangerous projectiles at people and/or officers. There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.</p> <p>TEAR GAS GUIDELINES</p> <p>Used to deploy chemical agents into a specific location from a distance. Only the Watch Commander, Incident Commander or Crisis Response Unit Commander may authorize the delivery and use of tear gas, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary.</p>	
Legal / Procedural Rules Governing Use	All applicable State, Federal and Local laws governing police use of force. Carlsbad Police Policies 208 (Training), 300 (Use of Force), 303 (De-escalation), 308 (Control Devices and Techniques), 313 (Firearms Qualification and Remediation) 471 (First Amendment Assemblies)	
Costs	Initial Cost: \$1000.00 Recurring Cost: \$0 Maintenance: \$0 Year Obtained: 2018 How was it budgeted: Operating budget	

Item Photograph	 A black less-lethal rifle, possibly a 40mm gas launcher, is shown against a white background. Above the rifle is a small red and yellow logo with the text "POST CERTIFIED" and "LESS LETHAL OPERATOR COURSE".
Training Requirements	8-hour POST Certified Less Lethal Operator Course. Qualification every 6 month

40MM Multi Launcher – Penn Arms GL6-40

Description	40MM Multi Launcher	
Quantity	2	
Capability	Deploying 40mm less lethal impact projectiles. Deploying 40mm chemical agent (CS) barricade penetrating (DefTech 2262) rounds.	
Life Span	N/A	
Manufacturer's description	A 40MM spring-advance magazine drum launcher with a six-shot capacity and a rifled barrel and 6" cylinder.	
Purpose/Authorized Usage	<p>(PRIMARY) KINETIC ENERGY PROJECTILE GUIDELINES</p> <p>This department is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation.</p> <p>Circumstances appropriate for deployment include, but are not limited to, situations in which: The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions. The suspect has made credible threats to harm him/herself or others. The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers. There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.</p> <p>TEAR GAS GUIDELINES</p> <p>Used to deploy chemical agent into a specific location from a distance. Tear gas may be used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances. Only the Watch Commander, Incident Commander or Crisis Response Unit Commander may authorize the delivery and use of tear gas, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary.</p>	
Legal / Procedural Rules Governing Use	All applicable State, Federal and Local laws governing police use of force. Carlsbad Police Policies 208 (Training), 300 (Use of Force), 303 (De-escalation), 308 (Control Devices and Techniques), 313 (Firearms Qualification and Remediation) 471 (First Amendment Assemblies)	
Costs	Initial Cost: \$3000 Recurring Cost: 0 Maintenance: 0 Year Obtained: 2019 How was it budgeted: Operating budget	

Item Photograph	
Training Requirements	8-hour POST Certified Less Lethal Operator Course. Qualification every 6 month

CSI Combined Systems 12 GA SuperSock Bean Bag or Equivalent	
Description	Less-lethal projectiles which, when deployed out of a shotgun, are intended to incapacitate without causing extreme injury or death.
Quantity	1810
Capability	Deployed via a 12-gauge shotgun
Life Span	5-year manufacturer's warranty
Manufacturer's description	<p>The Model 2581 Super-Sock® is in its deployed state immediately upon exiting the barrel. It does not require a minimum range to “unfold” or “stabilize.” The Super-Sock® is an aerodynamic projectile. However, accuracy is relative to the shotgun, barrel length, environmental conditions, and the operator. The Super-Sock® is very accurate. However, effectiveness depends on many variable, such as distance, clothing, stature, and the point where the projectile impacts.</p>
Purpose/Authorized Usage	<p>This department is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation.</p> <p>Circumstances appropriate for deployment include, but are not limited to, situations in which: The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions. The suspect has made credible threats to harm him/herself or others. The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers. There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.</p>
Legal / Procedural Rules Governing Use	All applicable State, Federal and Local laws governing police use of force. Carlsbad Police Policies 208 (Training), 300 (Use of Force), 303 (De-escalation), 308 (Control Devices and Techniques), 313 (Firearms Qualification and Remediation) 471 (First Amendment Assemblies)

Costs	Initial Cost: \$3123 Recurring Cost: Approx. \$30 per package of 5 Maintenance: N/A Year Obtained: 2020 How was it budgeted: Department funds
Item Photograph	
Training Needed	8-hour POST Certified Less Lethal Operator Course, Qualification every 6 months.

Exact Impact 40 MM Standard Range Sponge Round

Description	Exact Impact 40MM Standard Range Sponge Round
Quantity	345
Capability	This intermediate less lethal specialty munition allows for direct impact from a minimum range of 5ft./1.5m out to a maximum effective range of 131ft / 40m.
Life Span	5 years from date of manufacture
Manufacturer's description	The eXact iMPact™ 40 mm Sponge Round is a point-of-aim, point-of-impact direct-fire round. This lightweight, high-speed projectile consisting of a plastic body and sponge nose that is spin stabilized via the incorporated rifling collar and the 40 mm launcher's rifled barrel. The round utilizes smokeless powder as the propellant, and, therefore, have velocities that are extremely consistent. Used for Crowd Control, Patrol, and Tactical Applications.
Purpose/Authorized Usage	<p>This department is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation.</p> <p>Circumstances appropriate for deployment include, but are not limited to, situations in which: The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions. The suspect has made credible threats to harm him/herself or others. The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers. There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.</p>
Legal / Procedural Rules Governing Use	All applicable State, Federal and Local laws governing police use of force. Carlsbad Police Policies 208 (Training), 300 (Use of Force), 303 (De-

	escalation), 308 (Control Devices and Techniques), 313 (Firearms Qualification and Remediation) 471 (First Amendment Assemblies)
Costs	Initial Cost: \$3855 Recurring Cost: Replace as needed Maintenance: N/A Year Obtained: 2020 How was it budgeted: Operating Budget
Item Photograph	
Training Requirements	6-hour POST Certified Less Lethal Course and qualification every 6 months.

Exact Impact 40 MM Extended Range Sponge Round	
Description	Exact Impact 40MM Extended Range Sponge Round
Quantity	75
Capability	This intermediate less lethal specialty munition allows for direct impact from a minimum range of 33ft./10 m out to a maximum effective range of 230ft / 70m.
Life Span	5 years from date of manufacture
Manufacturer's description	The eXact iImpact™ 40 mm Sponge Round is a point-of-aim, point-of-impact direct-fire round. This lightweight, high-speed projectile consists of a plastic body and sponge nose that is spin stabilized via the incorporated rifling collar and the 40 mm launcher's rifled barrel. The round utilizes smokeless powder as the propellant, and, therefore, has velocities that are extremely consistent. Used for Crowd Control, Patrol, and Tactical Applications.
Purpose/Authorized Usage	<p>This department is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation.</p> <p>Circumstances appropriate for deployment include, but are not limited to, situations in which: The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions. The suspect has made credible threats to harm him/herself or others. The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers. There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.</p>

Legal / Procedural Rules Governing Use	The eXact iMPact™ 40 mm Sponge Round is a point-of-aim, point-of-impact direct-fire round. This lightweight, high-speed projectile consisting of a plastic body and sponge nose that is spin stabilized via the incorporated rifling collar and the 40 mm launcher's rifled barrel. The round utilizes smokeless powder as the propellant, and, therefore, have velocities that are extremely consistent. Used for Crowd Control, Patrol, and Tactical Applications.	
Costs	Initial Cost: Recurring Cost: Maintenance: Year Obtained: How was it budgeted:	\$1631 Replace as needed N/A 2020 Operating budget
Item Photograph		
Training Requirements	8-hour POST Certified Less Lethal Operator Course. Qualification every 6 month	

Tippman APLS Marker	
Description	Tippman FT-12 Marker (Air Powered Launcher System)
Quantity	10
Capability	Deploys Pepperball type projectile with chemical agent
Life Span	15 years
Manufacturer's description	The FT-12 is a compact marker with an ergonomically-positioned front vertical grip, which is ideal for players of all ages. The marker's patent-pending design makes gaining access to internals significantly easier - simply remove the barrel, unscrew the collar and flip the top. No tools are required.
Purpose/ Authorized Usage	<p>KINETIC ENERGY PROJECTILE</p> <p>This department is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation.</p> <p>Circumstances appropriate for deployment include, but are not limited to, situations in which: The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions. The suspect has made credible threats to harm him/herself or others. The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers.</p>

	<p>There is probable cause to believe that the suspect has already committed a crime of violence and is refusing to comply with lawful orders.</p> <p>TEAR GAS (CS) Tear gas may be used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances. Only the Watch Commander, Incident Commander or Crisis Response Unit Commander may authorize the delivery and use of tear gas, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary.</p> <p>OLEORESIN CAPSICUM (OC) As with other control devices, oleoresin capsicum (OC) spray and pepper projectiles may be considered for use to bring under control an individual or groups of individuals who are engaging in, or are about to engage in violent behavior. Pepper projectiles and OC spray should not, however, be used against individuals or groups who merely fail to disperse or do not reasonably appear to present a risk to the safety of officers or the public.</p>										
Legal / Procedural Rules Governing Use	All applicable State, Federal and Local laws governing police use of force. Carlsbad Police Policies 208 (Training), 300 (Use of Force), 303 (De-escalation), 308 (Control Devices and Techniques), 313 (Firearms Qualification and Remediation) 471 (First Amendment Assemblies)										
Costs	<table border="0"> <tr> <td>Initial Cost:</td> <td>\$1,810</td> </tr> <tr> <td>Recurring Cost:</td> <td>\$1,051 (SCBA tanks and bottles must be serviced or replaced every 5 years.)</td> </tr> <tr> <td>Maintenance:</td> <td>\$30 (parts and equipment)</td> </tr> <tr> <td>Year Obtained:</td> <td>2020</td> </tr> <tr> <td>How was it budgeted:</td> <td>Savings from general operating budget</td> </tr> </table>	Initial Cost:	\$1,810	Recurring Cost:	\$1,051 (SCBA tanks and bottles must be serviced or replaced every 5 years.)	Maintenance:	\$30 (parts and equipment)	Year Obtained:	2020	How was it budgeted:	Savings from general operating budget
Initial Cost:	\$1,810										
Recurring Cost:	\$1,051 (SCBA tanks and bottles must be serviced or replaced every 5 years.)										
Maintenance:	\$30 (parts and equipment)										
Year Obtained:	2020										
How was it budgeted:	Savings from general operating budget										
Item Photograph											
Training Requirements	6-hour POST Certified Less Lethal Operator Course										

Firearms

SIG M400											
Description	The M400 is an air-cooled, direct impingement gas-operated, magazine-fed carbine that is based on the earlier AR-15 rifle										
Quantity	24										
Capability	The M400 is a lightweight, magazine-fed, gas-operated rifle.										
Life Span	N/A										
Manufacturer's description	The SIG M400 5.56 NATO Rifle is a tactical-style rifle that offers versatile performance and customization. Ambidextrous controls on this AR-15 rifle allow use by both right- and left-handed shooters. As a 5.56 NATO rifle, this Sig Sauer is capable of chambering both 5.56 NATO and .223 rounds. A mid-length direct impingement gas system cycles gas back through the barrel for smoother auto-loading and semi-auto action. This tactical rifle features an optics-ready rail and free-floating handguard for mounting accessories like sights and grips. With an included 30-round mag, the SIG M400 TREAD NATO 5.56 Rifle delivers a comfortable, customizable experience right out of the box.										
Purpose/Authorized Usage	<p>Officers may deploy the patrol rifle in any circumstance where the officer can articulate a reasonable expectation that the rifle may be needed. Examples of some general guidelines for deploying the patrol rifle may include, but are not limited to:</p> <ul style="list-style-type: none"> a. Situations where the officer reasonably anticipates an armed encounter; b. When an officer is faced with a situation that may require the delivery of accurate and effective fire at long range; c. Situations where an officer reasonably expects the need to meet or exceed a suspect's firepower; d. When an officer reasonably believes that there may be a need to deliver fire on a barricaded suspect or a suspect with a hostage; e. When an officer believes that a suspect may be wearing body armor; f. When authorized or requested by a supervisor. 										
Legal / Procedural Rules Governing Use	All applicable State, Federal and Local laws governing police use of force. Carlsbad Police Policies 208 (Training), 300 (Use of Force), 312 (Firearms), 313 (Firearms Qualification and Remediation)										
Costs	<table border="0" style="width: 100%;"> <tr> <td style="text-align: right;">Initial Cost:</td> <td>\$850 Each</td> </tr> <tr> <td style="text-align: right;">Recurring Cost:</td> <td>0</td> </tr> <tr> <td style="text-align: right;">Maintenance:</td> <td>0</td> </tr> <tr> <td style="text-align: right;">Year Obtained:</td> <td>Pre-2010</td> </tr> <tr> <td style="text-align: right;">How was it budgeted:</td> <td>Operating Budget</td> </tr> </table>	Initial Cost:	\$850 Each	Recurring Cost:	0	Maintenance:	0	Year Obtained:	Pre-2010	How was it budgeted:	Operating Budget
Initial Cost:	\$850 Each										
Recurring Cost:	0										
Maintenance:	0										
Year Obtained:	Pre-2010										
How was it budgeted:	Operating Budget										

Item Photograph	
Training Requirements	16-hour POST Patrol Rifle Course, POST certified biannual training, quarterly department qualification.

Patrol Rifle Suppressor	
Description	HX-QD 556K Suppressor
Quantity	120
Capability	Lowers sound to sub-140 dB
Life Span	15+ years
Manufacturer's description	<p>A short and extremely durable suppressor, the HX-QD 556k – updated with our newly designed flash cap – is built with patented and proven Flow-Through® technology, delivers sub-140 dB and zero flash performance, is full-auto rated, easily passes the USSOCOM Reliability Stress Test, and has no minimum barrel restrictions – it's designed and built for extreme use.</p>
Purpose/Authorized Usage	<p>A device that greatly reduces sound, recoil, and muzzle rise. Suppressors do not completely remove the need for hearing protection, but they can help a great deal. When you fire a gun, a large volume of hot, high-pressure gas exits the muzzle along with the bullet. This gas shooting down the gun barrel and exiting makes a lot of noise (“muzzle blast”). A suppressor contains some of those gasses for a fraction of a second and allows them to expand and cool more gradually by circulating them around internal baffles. This helps to lower the decibel level.</p> <p>The Occupational Safety & Health Administration (OSHA) has determined that a decibel (dB) level greater than 140 can cause permanent hearing loss. suppressors can lower the dB level below the detrimental 140 dB level.</p> <p>These devices are attached to issued Patrol Rifles.</p>
Legal / Procedural Rules Governing Use	<p>Because these devices are attached to rifles, all applicable State, Federal and Local laws governing police use of force apply. (See Sig M400 and Smith and Wesson M&P Rifle Legal/Procedural Rules Governing Use for further details)</p>

Costs	Initial Cost: 656.67 Recurring Cost: 0 Maintenance: 0 Year Obtained: 2021 How was it budgeted: Departmental savings
Item Photograph	
Training Requirements	Training in conducted in conjunction with Sig M400 Rifles and Smith and Wesson M&P Rifles (See Sig M400 and Smith and Wesson M&P Training Requirements for further details)

SIG MCX	
Description	WRMCX-300B-6B-TAP-SDHG-SBR
Quantity	24
Capability	The MCX is a lightweight, portable, magazine-fed, gas-operated rifle.
Life Span	N/A
Manufacturer's description	Configurable in more than 500 combinations, the ground-breaking and modular MCX VIRTUS is engineered for unmatched reliability and is designed to perform beyond 20,000 rounds without the need for replacement parts.
Purpose/Authorized Usage	<p>Officers may deploy the patrol rifle in any circumstance where the officer can articulate a reasonable expectation that the rifle may be needed. Examples of some general guidelines for deploying the patrol rifle may include, but are not limited to:</p> <ul style="list-style-type: none"> g. Situations where the officer reasonably anticipates an armed encounter; h. When an officer is faced with a situation that may require the delivery of accurate and effective fire at long range; i. Situations where an officer reasonably expects the need to meet or exceed a suspect's firepower; j. When an officer reasonably believes that there may be a need to deliver fire on a barricaded suspect or a suspect with a hostage; k. When an officer believes that a suspect may be wearing body armor; l. When authorized or requested by a supervisor.
Legal / Procedural Rules Governing Use	All applicable State, Federal and Local laws governing police use of force. Carlsbad Police Policies 208 (Training), 300 (Use of Force), 312 (Firearms), 313 (Firearms Qualification and Remediation)

Costs	Initial Cost: \$1377.00 Recurring Cost: 0 Maintenance: 0 Year Obtained: 2022 How was it budgeted: Departmental savings
Item Photograph	
Training Requirements	16-hour POST Patrol Rifle Course, POST certified biannual training, Quarterly department qualification, Quarterly SWAT qualification.

SIG SLX762-QD SUPPRESSOR	
Description	SIG SLX762-QD
Quantity	24
Capability	Lowers sound
Life Span	15+ years
Manufacturer's description	<p>The SLX series of rifle suppressors feature the new Clutch-LOK QD mounting system which is easy to use, repeatable, and extremely durable. The internal multi-flow path within the SLX suppressors allows gasses to exhaust at a faster rate than traditional baffle-style suppressors. This results in 70-80% less toxic fumes flowing back through the ejection port into the shooter's face. The SLX series is a performance-based suppressor designed for use with supersonic ammunition and ideal for users focused on flash reduction and lower toxic fumes. The new low-tox SLX suppressors deliver a superior shooting experience, unlike any other suppressor.</p> <p>The internal multi-flow path of the SLX with low resistance exhausts gases at a faster rate than traditional baffles. SLX features 70-80% less PPM than traditional baffle suppressors.</p>

Purpose/Authorized Usage	<p>A device that greatly reduces sound, recoil, and muzzle rise. Suppressors don't completely remove the need for hearing protection, but they can help a great deal. When you fire a gun, a large volume of hot, high-pressure gas exits the muzzle along with the bullet. This gas shooting down gun barrel and exiting makes a lot of noise ("muzzle blast"). A suppressor contains some of those gasses for a fraction of a second and allows them to expand and cool more gradually by circulating them around internal baffles. This helps to lower the decibel level.</p> <p>The Occupational Safety & Health Administration (OSHA) has determined that a decibel (dB) level greater than 140 can cause permanent hearing loss. suppressors can lower the dB level below the detrimental 140 dB level.</p> <p>These devices are attached to issued SWAT Rifles.</p>	
Legal / Procedural Rules Governing Use	<p>Because these devices are attached to rifles, all applicable State, Federal and Local laws governing police use of force apply. (See MCX Rifle Legal/Procedural Rules Governing Use for further details)</p>	
Costs	<p>Initial Cost: Recurring Cost: Maintenance: Year Obtained: How was it budgeted:</p>	<p>\$827 0 0 2022 Departmental savings</p>
Item Photograph		
Training Requirements	<p>Training in conducted in conjunction with MXC rifles (See MCX Rifle Training Requirements for further details)</p>	

Smith & Wesson M&P Patrol Rifle	
Description	Smith & Wesson M&P 15 SBR
Quantity	120
Capability	The M&P Patrol rifle is a lightweight, magazine-fed, gas-operated rifle, and is designed for longer, more precise shots.
Life Span	N/A
Manufacturer's description	M&P15 Rifles are the ideal modern sporting rifle. Built to perform multiple uses under various conditions, M&P15 Rifles are as versatile as they are reliable. Engineered for a wide variety of recreational,

	sport shooting and professional applications, M&P15 Rifles are easy to accessorize, but hard to put down. M&P15 Rifles are lightweight and rugged embodying the best combination of function and form.	
Purpose/Authorized Usage	<p>Officers may deploy the patrol rifle in any circumstance where the officer can articulate a reasonable expectation that the rifle may be needed. Examples of some general guidelines for deploying the patrol rifle may include, but are not limited to:</p> <ol style="list-style-type: none"> a. Situations where the officer reasonably anticipates an armed encounter; b. When an officer faced with a situation that may require the delivery of accurate and effective fire at long range; c. Situations where an officer reasonably expects the need to meet or exceed a suspect's firepower; d. When an officer reasonably believes that there may be a need to deliver fire on a barricaded suspect or a suspect with a hostage; e. When an officer believes that a suspect may be wearing body armor; f. When authorized or requested by a supervisor. 	
Legal / Procedural Rules Governing Use	All applicable State, Federal and Local laws governing police use of force. Carlsbad Police Policies 208 (Training), 300 (Use of Force) 312 (Firearms) 313 (Firearms Qualification and Remediation)	
Costs	Initial Cost: 716.90 Recurring Cost: 0 Maintenance: 0 Year Obtained: 2021 How was it budgeted: Departmental savings	
Item Photograph		
Training Requirements	16-hour POST Patrol Rifle Course, POST certified biannual training, quarterly department qualification.	

Remington 870 Shotgun

Description	12-gauge shotgun	
Quantity	35	
Capability	Deploying 12-gauge shotgun ammunition and 12 gauge slug ammunition.	
Life Span	N/A	
Manufacturer's description	<p>America's best selling shotgun for over 50 years, the Model 870's dependability is legendary. The receiver is milled from a solid billet of steel for strength and durability, and the twin action bars ensure smooth, reliable non-binding action.</p> <p>Its solid, dependable action makes it America's favorite, and our continual upgrades make it the most advanced, well-rounded family of pump shotguns around. Along with continually evolving designs, this shotgun's superiority is a matter of rugged dependability, great pointing characteristics and versatility. In fact, the Model 870™ has been the standard for slide-action performance for more than 60 years.</p>	
Purpose/Authorized Usage	Shotguns offer superior terminal ballistic characteristics when shooting through intermediate barriers compared to a handgun or rifle. A shotgun is to be displayed only under circumstances known or believed to be dangerous.	
Legal / Procedural Rules Governing Use	All applicable State, Federal and Local laws governing police use of force. Carlsbad Police Policies 208 (Training), 300 (Use of Force), 312 (Firearms), 313 (Firearms Qualification and Remediation).	
Costs	Initial Cost: Recurring Cost: Maintenance: Year Obtained: How was it budgeted:	800.00 0 0 Pre 1990 Operating budget
Item Photograph		
Training Requirements	Semi annual qualification.	

Remington 700 LTR

Description	Remington 700 R LTR (Light Tactical Rifle) Bolt Action Rifle	
Quantity	5	
Capability	Long rang precision shooting	
Life Span	End of life 01/01/2022	
Manufacturer's description	Sniper-grade accuracy meets police-grade tactical toughness with the legendary Remington 700 Police LTR platform, engineered to deliver extended-range precision.	
Purpose/Authorized Usage	<p>The Remington 700 is an accurate rifle for precision shooting. These rifles are equipped with magnified optics and can be utilized to take precision shots at intermediate to long ranges. The .308 caliber bullet it shoots is also larger and heavier than a typical .223 caliber bullet from an AR-15 which means it will penetrate intermediate barriers such as glass with less deflection.</p> <p>The rifle may only be deployed by the CBPD SWAT Sniper Team. CBPD SWAT Sniper Team members may deploy the rifle in any circumstance where the officer can articulate a reasonable expectation that the rifle may be needed. Examples of some general guidelines for deploying the rifle may include, but are not limited to:</p> <ol style="list-style-type: none"> a. Situations where the officer reasonably anticipates an armed encounter; b. When an officer faced with a situation that may require the delivery of accurate and effective fire at long range; c. Situations where an officer reasonably expects the need to meet or exceed a suspect's firepower; d. When an officer reasonably believes that there may be a need to deliver fire on a barricaded suspect or a suspect with a hostage; e. When an officer believes that a suspect may be wearing body armor; f. When authorized or requested by a supervisor. 	
Legal / Procedural Rules Governing Use	All applicable State, Federal and Local laws governing police use of force. Carlsbad Police Policies 208 (Training), 300 (Use of Force), 312 (Firearms), 313 (Firearms Qualification and Remediation)	
Costs	Initial Cost: N/A Recurring Cost: N/A Maintenance: 0 Year Obtained: N/A How was it budgeted: Department Funds	

Item Photograph	
Training Needed	CA POST Certified Sniper School, Quarterly ASA Sniper Qualification, Monthly Sniper Firearms Training and Qualification.

Accuracy International AT	
Description	.308 Accuracy International AT Bolt Action Sniper Rifle System
Quantity	5
Capability	Long rang precision shooting
Life Span	N/A
Manufacturer's description	<p>The AT (Accuracy Tactical) continues the legacy of the combat proven AW308 and takes the AW to new levels. The AIAT has a 20-inch quick change barrel and a folding stock. The rifle is fixed with a Thunder Beast Dominus noise suppressor. The AT is ideal for Law Enforcement and civilian users.</p>
Purpose/Authorized Usage	<p>The AIAT is an accurate rifle for precision shooting. These rifles are equipped with magnified optics and can be utilized to take precision shots at intermediate to long ranges. The .308 caliber bullet it shoots is also larger and heavier than a typical .223 caliber bullet from an AR-15 which means it will penetrate intermediate barriers like glass with less deflection.</p> <p>The rifle may only be deployed by the CBPD SWAT Sniper Team. CBPD SWAT Sniper Team members may deploy the rifle in any circumstance where the officer can articulate a reasonable expectation that the rifle may be needed. Examples of some general guidelines for deploying the rifle may include, but are not limited to:</p> <ol style="list-style-type: none"> a. Situations where the officer reasonably anticipates an armed encounter; b. When an officer faced with a situation that may require the delivery of accurate and effective fire at long range; c. Situations where an officer reasonably expects the need to meet or exceed a suspect's firepower; d. When an officer reasonably believes that there may be a need to deliver fire on a barricaded suspect or a suspect with a hostage; e. When an officer believes that a suspect may be wearing body armor;

	f. When authorized or requested by a supervisor.										
Legal/Procedures Rules Governing Use	All applicable State, Federal and Local laws governing police use of force. Carlsbad Police Policies 208 (Training), 300 (Use of Force), 312 (Firearms), 313 (Firearms Qualification and Remediation)										
Costs	<table border="1"> <tr> <td>Initial Cost:</td> <td>\$32,758.68</td> </tr> <tr> <td>Recurring Cost:</td> <td>\$1000 every 5 years</td> </tr> <tr> <td>Maintenance:</td> <td>0</td> </tr> <tr> <td>Year Obtained:</td> <td>2022</td> </tr> <tr> <td>How was it budgeted:</td> <td>Department Funds</td> </tr> </table>	Initial Cost:	\$32,758.68	Recurring Cost:	\$1000 every 5 years	Maintenance:	0	Year Obtained:	2022	How was it budgeted:	Department Funds
Initial Cost:	\$32,758.68										
Recurring Cost:	\$1000 every 5 years										
Maintenance:	0										
Year Obtained:	2022										
How was it budgeted:	Department Funds										
Item Photograph											
Training Needed	80-Hour POST Certified SWAT Academy, CA POST Certified Sniper School, Quarterly ASA Sniper Qualification, Monthly Sniper Firearms Training and Qualification.										

AR-10 Rifle	
Description	Tactical Armament Technologies
Quantity	1
Capability	The AR-10 rifle is a magazine-fed, gas-operated rifle, and is designed for longer, more precise shots, and for intermediate barrier penetration.
Life Span	N/A
Manufacturer's description	A tactical workhorse, the AR10 is the perfect tool for duty and defense. An adjustable gas block also allows the rifle to be individually tuned for optimal performance for your choice of ammunition and/or suppressor use.
Purpose/Authorized Usage	<p>Officers may deploy the patrol rifle in any circumstance where the officer can articulate a reasonable expectation that the rifle may be needed. Examples of some general guidelines for deploying the patrol rifle may include, but are not limited to:</p> <ol style="list-style-type: none"> a. Situations where the officer reasonably anticipates an armed encounter; b. When an officer faced with a situation that may require the delivery of accurate and effective fire at long range; c. Situations where an officer reasonably expects the need to meet or exceed a suspect's firepower; d. When an officer reasonably believes that there may be a need to deliver fire on a barricaded suspect or a suspect with a hostage; e. When an officer believes that a suspect may be wearing body armor; f. When authorized or requested by a supervisor.

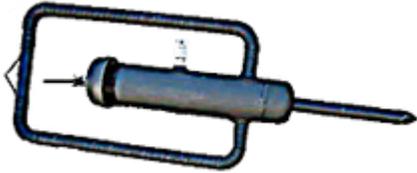
Legal / Procedural Rules Governing Use	All applicable State, Federal and Local laws governing police use of force. Carlsbad Police Policies 208 (Training), 300 (Use of Force) 312 (Firearms) 313 (Firearms Qualification and Remediation)	
Costs	Initial Cost:	0
	Recurring Cost:	0
	Maintenance:	Regular in-house cleaning
	Year Obtained:	Unknown, excess of 10 years ago
	How was it budgeted:	N/A- Asset Seized
Item Photograph		
Training Requirements	16-hour POST Patrol Rifle	

Simunition FX Marking Cartridges or Equivalent	
Description	Simunitions rounds are low-yield cartridges with a hollow, paint-filled "bullet" that allows Officers to engage in practical combat scenarios, both against each other and with designated role players, with a significantly reduced risk of injury.
Quantity	1000 (approx.)
Capability	Deployed via designated Simunition firearms or standard firearms equipped with Simunition conversion kits.
Life Span	5-year shelf life for cartridges
Manufacturer's description	The FX® marking cartridges, which come in six colors, are at the core of the FX® Training System known as "the world's most realistic close-range combat training system". The patented, reduced-energy, non-lethal cartridges leave a detergent-based, water-soluble color-marking compound. The visible impacts allow accurate assessment of simulated lethality. The cartridges are available in .38 cal. and 9mm and feature tactical accuracy up to 25 feet (7.6 meters). The 5.56mm is tactically accurate with ball cartridges to 100 feet (30 meters). No special ballistic facilities are required. They meet the need for a force-on-force and man-to-man training system that is realistic, effective, inexpensive, adaptable and fully portable.
Purpose /Authorized Usage	This department is committed to training and development of front line staff. Simunitions allow personnel to train in real-world scenarios with

	force-on-force and person-to-person live fire scenario training without the associated dangers to acclimate personnel to stress. This allows officers to use their own service weapons in safe, force-on-force exercises.										
Legal / Procedural Rules Governing Use	All applicable State, Federal and Local laws governing police use of force. Carlsbad Police Policies 208 (Training), 300 (Use of Force), 303 (De-escalation),										
Costs	<table border="0"> <tr> <td>Initial Cost:</td> <td>\$433</td> </tr> <tr> <td>Recurring Cost:</td> <td>As needed</td> </tr> <tr> <td>Maintenance:</td> <td>N/A</td> </tr> <tr> <td>Year Obtained:</td> <td>2017</td> </tr> <tr> <td>How was it budgeted:</td> <td>Operating budget</td> </tr> </table>	Initial Cost:	\$433	Recurring Cost:	As needed	Maintenance:	N/A	Year Obtained:	2017	How was it budgeted:	Operating budget
Initial Cost:	\$433										
Recurring Cost:	As needed										
Maintenance:	N/A										
Year Obtained:	2017										
How was it budgeted:	Operating budget										
Item Photograph											
Training Needed	Regional police academy, 24-hour Simunition Scenario Instructor and Safety Certification Course										

Chemical Agents/Diversiory Devices

Gas Ram	
Description	Custom Metal Concepts Gas Ram
Quantity	2
Capability	To safely deploy chemical agents through hard barriers or enclosed areas such as vehicles and building walls.
Life Span	N/A
Manufacturer's description	GasRam are multi-purpose tools. They enable tactical teams various ways to deal with barricaded suspects by delivering non-lethal chemical agents into hardened structures. The systems are designed so that a delivery team can deploy the tools into the structure with minimal risk of starting a fire.
Purpose/Authorized Usage	To deploy chemical agents into the structure with minimal risk of starting a fire and through hardened structures.

Legal / Procedural Rules Governing Use	Because these devices are used in conjunction with various tear gas (CS) agents, all applicable State, Federal and Local laws governing police use of force apply. (See tear gas (CS) guidelines for further details)	
Costs	Initial Cost: Recurring Cost: Maintenance: Year Obtained: How was it budgeted:	\$2370 N/A 0 2021 Operating funds
Item Photograph		
Training Requirements	80-hour POST Basic SWAT Academy, annual exposure, and training in the use of Chemical Agents.	

Burn Safe		
Description	Custom Metal Concepts Burn Safe	
Quantity	2	
Capability	Safely deploying incendiary chemical devices while reducing the risk of causing an unintended fire.	
Life Span	N/A	
Manufacturer's description	Burn Safes are multi-purpose tools. They enable tactical teams various ways to deal with barricaded suspects by delivering non-lethal chemical agents into structures. The systems are designed so that a delivery team can deploy the tools into the structure with minimal risk of starting a fire.	
Purpose/Authorized Usage	To safely resolve critical situations such as high-risk tactical operations by deploying chemical agents within a structure and reducing the risk of causing an unintended fire.	
Legal / Procedural Rules Governing Use	Because these devices are used in conjunction with various tear gas (CS) agents, all applicable State, Federal and Local laws governing police use of force apply. (See tear gas (CS) guidelines for further details)	
Costs	Initial Cost: Recurring Cost: Maintenance: Year Obtained: How was it budgeted:	\$1900 N/A 0 2021 Operating budget

Item Photograph	
Training Requirements	80-hour POST Basic SWAT Academy, annual exposure, and training in the use of Chemical Agents.

MINI Burn Safe											
Description	MINI Burn Safe										
Quantity	3										
Capability	Safely deploying incendiary chemical devices while reducing risk of causing an unintended fire.										
Life Span	N/A										
Manufacturer's description	Burn Safes are multi-purpose tools. They enable tactical teams' various ways to deal with barricaded suspects by delivering non-lethal chemical agents into hardened structures. The systems are designed so that a delivery team can deploy the tools into the structure with minimal risk of starting a fire.										
Purpose/Authorized Usage	To safely resolve critical situations such as high-risk tactical operations by deploying chemical agents within a structure and reducing the risk of causing an unintended fire.										
Legal / Procedural Rules Governing Use	Because these devices are used in conjunction with various tear gas (CS) agents, all applicable State, Federal and Local laws governing police use of force apply. (See tear gas (CS) guidelines for further details)										
Costs	<table border="0" style="width: 100%;"> <tr> <td style="padding-right: 20px;">Initial Cost:</td> <td>\$300</td> </tr> <tr> <td>Recurring Cost:</td> <td>0</td> </tr> <tr> <td>Maintenance:</td> <td>0</td> </tr> <tr> <td>Year Obtained:</td> <td>2021</td> </tr> <tr> <td>How was it budgeted:</td> <td>Operating budget</td> </tr> </table>	Initial Cost:	\$300	Recurring Cost:	0	Maintenance:	0	Year Obtained:	2021	How was it budgeted:	Operating budget
Initial Cost:	\$300										
Recurring Cost:	0										
Maintenance:	0										
Year Obtained:	2021										
How was it budgeted:	Operating budget										
Item Photograph											
Training Requirements	80-hour POST Basic SWAT Academy, annual exposure, and training in the use of Chemical Agents.										

Def-Tech Ferret 40mm Barricade Round (Liquid), CS	
Description	Def-Tech Ferret 40mm Barricade Round (Liquid), CS
Quantity	25

Capability	Deployed via 40mm Launcher	
Life Span	5 years from date of manufacture	
Manufacturer's description	The Ferret 40mm Round is non-burning and suitable for indoor use. Used primarily by tactical teams, it is designed to penetrate barriers, such as windows, hollow core doors, wallboard, and thin plywood. Upon impacting the barrier, the nose cone ruptures and instantaneously delivers a small chemical payload inside of a structure or vehicle. In a tactical deployment situation, the 40mm Ferret is primarily used to dislodge barricaded subjects from confined areas. Its purpose is to minimize the risks to all parties through pain compliance, temporary discomfort and/or incapacitation of potentially violent or dangerous subjects.	
Purpose/Authorized Usage	Used to deploy chemical agent into a specific location from a distance. Tear gas may be used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances. Only the Watch Commander, Incident Commander or Crisis Response Unit Commander may authorize the delivery and use of tear gas, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary.	
Legal / Procedural Rules Governing Use	All applicable State, Federal and Local laws governing police use of force. Carlsbad Police Policies 208 (Training), 300 (Use of Force), 303 (De-escalation), 308 (Control Devices and Techniques), 313 (Firearms Qualification and Remediation), 471 (First Amendment Assemblies).	
Costs	Initial Cost:	\$292
	Recurring Cost:	Replace as needed
	Maintenance:	Consumable item. Replace as used or expired.
	Year Obtained:	2019
	How was it budgeted:	Operating budget
Item Photograph		
Training Requirements	80-hour POST Basic SWAT Academy, 6-hour POST Certified Less Lethal Operator Course, annual exposure, and training in the use of Chemical Agents.	

Def-Tech Ferret 40mm Barricade Round (Liquid), CS

Description	Def-Tech Ferret 40mm Barricade Round (Liquid), CS
Quantity	31
Capability	Deployed via 40mm Launcher
Life Span	5 years from date of manufacture

Manufacturer's description	The Ferret 40mm Round is non-burning and suitable for indoor use. Used primarily by tactical teams, it is designed to penetrate barriers, such as windows, hollow core doors, wallboard and thin plywood. Upon impacting the barrier, the nose cone ruptures and instantaneously delivers a small chemical payload inside of a structure or vehicle. In a tactical deployment situation, the 40mm Ferret is primarily used to dislodge barricaded subjects from confined areas. Its purpose is to minimize the risks to all parties through pain compliance, temporary discomfort and/or incapacitation of potentially violent or dangerous subjects.	
Purpose/Authorized Usage	Used to deploy chemical agents into a specific location from a distance. Tear gas may be used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances. Only the Watch Commander, Incident Commander or Crisis Response Unit Commander may authorize the delivery and use of tear gas, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary.	
Legal / Procedural Rules Governing Use	All applicable State, Federal and Local laws governing police use of force. Carlsbad Police Policies 208 (Training), 300 (Use of Force), 303 (De-escalation), 308 (Control Devices and Techniques), 313 (Firearms Qualification and Remediation), 471 (First Amendment Assemblies).	
Costs	Initial Cost: Recurring Cost: Maintenance: Year Obtained: How was it budgeted:	\$814 Replace as needed Consumable item. Replace as used or expired. 2020 Operating budget
Item Photograph		
Training Requirements	80-hour POST Basic SWAT Academy, 6-hour POST Certified Less Lethal Operator Course, annual exposure and training in the use of Chemical Agents.	

Def-Tech Ferret 40mm Barricade Round (Powder), CS	
Description	Def-Tech Ferret 40mm Barricade Round (Powder), CS
Quantity	41
Capability	Can be hand thrown, deployed via robot, placed into a Gas Ram, Burn Safe and Munitions Pole
Life Span	5 years from date of manufacture
Manufacturer's description	The Ferret 40mm Round is non-burning and suitable for indoor use. Used primarily by tactical teams, it is designed to penetrate barriers,

	such as windows, hollow core doors, wallboard and thin plywood. Upon impacting the barrier, the nose cone ruptures and instantaneously delivers a small chemical payload inside of a structure or vehicle. In a tactical deployment situation, the 40mm Ferret is primarily used to dislodge barricaded subjects from confined areas. Its purpose is to minimize the risks to all parties through pain compliance, temporary discomfort and/or incapacitation of potentially violent or dangerous subjects.										
Purpose/Authorized Usage	Used to deploy chemical agents into a specific location from a distance. Tear gas may be used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances. Only the Watch Commander, Incident Commander or Crisis Response Unit Commander may authorize the delivery and use of tear gas, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary.										
Legal / Procedural Rules Governing Use	All applicable State, Federal and Local laws governing police use of force. Carlsbad Police Policies 208 (Training), 300 (Use of Force), 303 (De-escalation), 308 (Control Devices and Techniques), 313 (Firearms Qualification and Remediation), 471 (First Amendment Assemblies).										
Costs	<table border="1"> <tr> <td>Initial Cost:</td> <td>\$292</td> </tr> <tr> <td>Recurring Cost:</td> <td>Replace as needed</td> </tr> <tr> <td>Maintenance:</td> <td>Consumable item. Replace as used or expired</td> </tr> <tr> <td>Year Obtained:</td> <td>2019</td> </tr> <tr> <td>How was it budgeted:</td> <td>Operating budget</td> </tr> </table>	Initial Cost:	\$292	Recurring Cost:	Replace as needed	Maintenance:	Consumable item. Replace as used or expired	Year Obtained:	2019	How was it budgeted:	Operating budget
Initial Cost:	\$292										
Recurring Cost:	Replace as needed										
Maintenance:	Consumable item. Replace as used or expired										
Year Obtained:	2019										
How was it budgeted:	Operating budget										
Item Photograph											
Training Requirements	80-hour POST Basic SWAT Academy, 6-hours POST Certified Less Lethal Operator Course, annual exposure, and training in the use of Chemical Agents.										

Def-Tech Ferret 40mm Barricade Round (Powder), CS	
Description	Def-Tech Ferret 40mm Barricade Round (Powder), CS
Quantity	29
Capability	Can be hand thrown, deployed via robot, placed into a Gas Ram, Burn Safe and Munitions Pole
Life Span	5 years from date of manufacture
Manufacturer's description	The Ferret 40mm Round is non-burning and suitable for indoor use. Used primarily by tactical teams, it is designed to penetrate barriers, such as windows, hollow core doors, wallboard and thin plywood. Upon

	impacting the barrier, the nose cone ruptures and instantaneously delivers a small chemical payload inside of a structure or vehicle. In a tactical deployment situation, the 40mm Ferret is primarily used to dislodge barricaded subjects from confined areas. Its purpose is to minimize the risks to all parties through pain compliance, temporary discomfort and/or incapacitation of potentially violent or dangerous subjects.										
Purpose/Authorized Usage	Used to deploy chemical agents into a specific location from a distance. Tear gas may be used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances. Only the Watch Commander, Incident Commander or Crisis Response Unit Commander may authorize the delivery and use of tear gas, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary.										
Legal / Procedural Rules Governing Use	All applicable State, Federal and Local laws governing police use of force. Carlsbad Police Policies 208 (Training), 300 (Use of Force), 303 (De-escalation), 308 (Control Devices and Techniques), 313 (Firearms Qualification and Remediation), 471 (First Amendment Assemblies).										
Costs	<table border="1"> <tr> <td>Initial Cost:</td> <td>\$619</td> </tr> <tr> <td>Recurring Cost:</td> <td>Replace as needed</td> </tr> <tr> <td>Maintenance:</td> <td>Consumable item. Replace as used or expired</td> </tr> <tr> <td>Year Obtained:</td> <td>2020</td> </tr> <tr> <td>How was it budgeted:</td> <td>Operating budget</td> </tr> </table>	Initial Cost:	\$619	Recurring Cost:	Replace as needed	Maintenance:	Consumable item. Replace as used or expired	Year Obtained:	2020	How was it budgeted:	Operating budget
Initial Cost:	\$619										
Recurring Cost:	Replace as needed										
Maintenance:	Consumable item. Replace as used or expired										
Year Obtained:	2020										
How was it budgeted:	Operating budget										
Item Photograph											
Training Requirements	80-hour POST Basic SWAT Academy, 6-hour POST Certified Less Lethal Operator Course, annual exposure, and training in the use of Chemical Agents.										

Def-Tech Maximum Smoke HC, Smoke	
Description	Def-Tech Maximum Smoke HC, Smoke.
Quantity	26
Capability	Can be hand thrown, deployed via robot, and munitions pole.
Life Span	5 years from date of manufacture

Manufacturer's description	The Military-Style Maximum Smoke Grenade comes from the Defense Technology® #3 smoke grenade. It is a slow burning, high volume, continuous discharge grenade designed for outdoor use in crowd management situations. Emits grey-white smoke only for approximately 1.5 to 2 minutes.	
Purpose/Authorized Usage	To test wind direction prior to tear gas deployment or to aid in the dispersion of chemical agent in an open area environment. To provide concealment during movement or a distraction for officers during critical incidents.	
Legal / Procedural Rules Governing Use	All applicable State, Federal and Local laws governing police use of force. Carlsbad Police Policies 300 (Use of Force), 303 (De-escalation), 308 (Control Devices and Techniques), 471 (First Amendment Assemblies).	
Costs	Initial Cost:	\$400
	Recurring Cost:	Replace as needed
	Maintenance:	Consumable item. Replace as used or expired
	Year Obtained:	2020
	How was it budgeted:	Operating fund
Item Photograph		
Training Requirements	80-hour POST Basic SWAT Academy, annual exposure, and training in the use of Chemical Agents.	

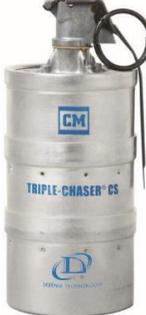
Def-Tech Pocket Tactical, CS	
Description	Def-Tech Pocket Tactical CS
Quantity	27
Capability	Can be hand thrown, deployed via robot, placed into a Gas Ram, Burn Safe and Munitions Pole
Life Span	5 years from date of manufacture
Manufacturer's description	The Pocket Tactical CS Grenade is small, and lightweight. The 0.9 oz. of active agent will burn approximately 20-40 seconds. At 4.75 in. by 1.4 inches in size, it easily fits in most tactical pouches. This is a launchable grenade; however, it is normally used as a signaling or covering device. Though this device is slightly over four inches in length, it produces a smoke cloud so fast it appears to be an enveloping screen produced by a full size tactical grenade.

Purpose/Authorized Usage	Tear gas may be used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances. Only the Watch Commander, Incident Commander or Crisis Response Unit Commander may authorize the delivery and use of tear gas, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary.	
Legal / Procedural Rules Governing Use	All applicable State, Federal and Local laws governing police use of force. Carlsbad Police Policies 300 (Use of Force), 303 (De-escalation), 308 (Control Devices and Techniques), 471 (First Amendment Assemblies).	
Costs	Initial Cost: Recurring Cost: Maintenance: Year Obtained: How was it budgeted:	\$692 Replace as needed Consumable item. Replace as used or expired 2020 Operating budget
Item Photograph		
Training Requirements	80-hour POST Basic SWAT Academy, annual exposure, and training in the use of Chemical Agents.	

Def-Tech Pocket Tactical Safe-Smoke	
Description	Def-Tech Pocket Tactical Saf-Smoke
Quantity	46
Capability	Can be hand thrown, deployed via robot, placed into a Gas Ram, Burn Safe and Munitions Pole
Life Span	5 years from date of manufacture
Manufacturer's description	The Pocket Tactical Saf-Smoke Grenade is small, and lightweight. The saf-smoke will burn approximately 20-40 seconds. At 4.75 in. by 1.4 inches in size, it easily fits in most tactical pouches. This is a launchable grenade, however it is normally used as a signaling or covering device. Though it is slightly over four inches in length, it produces a smoke cloud so fast it appears to be an enveloping screen produced by a full size tactical grenade.
Purpose/Authorized Usage	To test wind direction prior to tear gas deployment or to aid in the dispersion of chemical agent in an open area environment. To provide concealment during movement or a distraction for officers during critical incidents.
Legal / Procedural Rules Governing Use	All applicable State, Federal and Local laws governing police use of force. Carlsbad Police Policies 300 (Use of Force), 303 (De-

	escalation), 308 (Control Devices and Techniques), 471 (First Amendment Assemblies).	
Costs	Initial Cost:	\$413
	Recurring Cost:	Replace as needed
	Maintenance:	Consumable item. Replace as used or expired
	Year Obtained:	2020
	How was it budgeted:	Operating budget
Item Photograph		
Training Requirements	80-hour POST Basic SWAT Academy, annual exposure, and training in the use of Chemical Agents.	

Def-Tech Triple Chaser, CS	
Description	Def-Tech Triple Chaser, CS
Quantity	40
Capability	Can be hand thrown, deployed via robot, and Munitions Pole
Life Span	5 years from date of manufacture
Manufacturer's description	The Triple-Chaser® CS consists of three separate canisters pressed together with separating charges between each. When deployed, the canisters separate and land approximately 20 feet apart allowing increased area coverage in a short period of time. This grenade can be hand thrown or launched from a fired delivery system. The grenade is 6.5 in. by 2.7 in. and holds approximately 3.2 oz. of active agent payload. It has an approximate burn time of 20-30 seconds.
Purpose/Authorized Usage	<p>Specifically designed for better dispersion in an open-air environment. Can be used to disperse a crowd or deny access to a specific location. Tear gas may be used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances.</p> <p>Only the Watch Commander, Incident Commander or Crisis Response Unit Commander may authorize the delivery and use of tear gas, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary.</p>
Legal / Procedural Rules Governing Use	All applicable State, Federal and Local laws governing police use of force. Carlsbad Police Policies 300 (Use of Force), 303 (De-escalation), 308 (Control Devices and Techniques), 471 (First Amendment Assemblies).
Costs	Initial Cost: \$413
	Recurring Cost: Replace as needed
	Maintenance: Consumable item. Replace as used or expired

	Year Obtained: 2020 How was it budgeted: Operating budget
Item Photograph	
Training Requirements	80-hour POST Basic SWAT Academy, annual exposure, and training in the use of Chemical Agents.

First Defense 1.3% MC MK-9 Stream OC Aerosol											
Description	First Defense 1.3% MC MK-9 Stream OC Aerosol										
Quantity	2										
Capability	Hand deployment only										
Life Span	5 years from date of manufacture										
Manufacturer's description	The MK-9 features an easy-to-use trigger handle, is intended for use in crowd management and will deliver 14 short bursts of OC at an effective range of 18-20 ft. This 1.3% MC OC aerosol product utilizes a stream delivery method providing a target-specific, strong concentrated stream for greater standoff. Non-flammable / Electronic Discharge Weapon (EDW) safe.										
Purpose/Authorized Usage	As with other control devices, oleoresin capsicum (OC) spray and pepper projectiles may be considered for use to bring under control an individual or groups of individuals who are engaging in or are about to engage in violent behavior. Pepper projectiles and OC spray should not, however, be used against individuals or groups who merely fail to disperse or do not reasonably appear to present a risk to the safety of officers or the public.										
Legal / Procedural Rules Governing Use	All applicable State, Federal and Local laws governing police use of force. Carlsbad Police Policies 300 (Use of Force), 303 (De-escalation), 308 (Control Devices and Techniques), 471 (First Amendment Assemblies)										
Costs	<table border="0"> <tr> <td>Initial Cost:</td> <td>\$113</td> </tr> <tr> <td>Recurring Cost:</td> <td>Replace as needed</td> </tr> <tr> <td>Maintenance:</td> <td>Consumable item. Replace as used or expired</td> </tr> <tr> <td>Year Obtained:</td> <td>2013</td> </tr> <tr> <td>How was it budgeted:</td> <td>Operating funds</td> </tr> </table>	Initial Cost:	\$113	Recurring Cost:	Replace as needed	Maintenance:	Consumable item. Replace as used or expired	Year Obtained:	2013	How was it budgeted:	Operating funds
Initial Cost:	\$113										
Recurring Cost:	Replace as needed										
Maintenance:	Consumable item. Replace as used or expired										
Year Obtained:	2013										
How was it budgeted:	Operating funds										

Item Photograph	
Training Requirements	POST Certified Police Academy.

Flameless Tri-Chamber, CS	
Description	Flameless Tri-Chamber, CS
Quantity	27
Capability	Can be hand thrown, deployed via robot, placed into a Gas Ram, Burn Safe and Munitions Pole
Life Span	5 years from date of manufacture
Manufacturer's description	<p>The design of the Tri-Chamber Flameless CS Grenade allows the contents to burn within an internal can and disperse the agent safely with reduced risk of fire. The grenade is designed primarily for indoor tactical situations to detect and/or dislodge a barricaded subject. This grenade will deliver approximately .70 oz. of agent during its 20-25 seconds burn time. The Tri-Chamber Flameless Grenade can be used in crowd control as well as tactical deployment situations by Law Enforcement and Corrections but was designed with the barricade situation in mind. Its applications in tactical situations are primarily to detect and/or dislodge barricaded subjects. The purpose of the Tri-Chamber Flameless Grenade is to minimize the risks to all parties through pain compliance, temporary discomfort, and/or incapacitation of potentially violent or dangerous subjects. The Tri-Chamber Flameless Grenade provides the option of delivering a pyrotechnic chemical device indoors, maximizing the chemicals' effectiveness via heat and vaporization, while minimizing or negating the chance of fire to the structure.</p>
Purpose/Authorized Usage	<p>Can be used in a mobile field force environment or tactical situation. Can be deployed inside a structure with a reduced risk of fire. Tear gas may be used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances. Only the Watch Commander, Incident Commander or Crisis Response Unit Commander may authorize the delivery and use of tear gas, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary.</p>

Legal / Procedural Rules Governing Use	All applicable State, Federal and Local laws governing police use of force. Carlsbad Police Policies 300 (Use of Force), 303 (De-escalation), 308 (Control Devices and Techniques), 471 (First Amendment Assemblies).	
Costs	Initial Cost: Recurring Cost: Maintenance: Year Obtained: How was it budgeted:	\$178 Replace as needed Consumable item. Replace as used or expired 2015 Operating funds
Item Photograph		
Training Requirements	80-hour POST Basic SWAT Academy, annual exposure, and training in the use of Chemical Agents.	

Def-Tech Aerosol OC Vapor	
Description	Def-Tech Aerosol OC Vapor
Quantity	9
Capability	Can be hand thrown, deployed via robot, placed into a Gas Ram, Burn Safe and Munitions Pole
Life Span	5 years from date of manufacture
Manufacturer's description	The Defense Technology® OC Vapor Aerosol Grenade is for law enforcement and corrections use to deliver a high concentration of Oleoresin Capsicum (OC) in a powerful mist. The grenade is designed for indoor use in confined areas and, once deployed, inflames the mucous membranes and exposed skin resulting in an intense burning sensation. The incapacitating effect of the OC Vapor on the subject is dramatic, yet requires minimal decontamination. Removing the subject from the affected area to fresh air will resolve respiratory effects within minutes. The OC Vapor Aerosol Grenade is ideal for cell extractions or barricade situations where the use of pyrotechnic, powder or liquid devices is not practical or desired.
Purpose/Authorized Usage	Tear gas may be used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances. Only the Watch Commander, Incident Commander or Crisis Response Unit Commander may authorize the delivery and use of tear gas, and only

	after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary.	
Legal / Procedural Rules Governing Use	All applicable State, Federal and Local laws governing police use of force. Carlsbad Police Policies 300 (Use of Force), 303 (De-escalation), 308 (Control Devices and Techniques), 471 (First Amendment Assemblies).	
Costs	Initial Cost:	\$666
	Recurring Cost:	Replace as needed
	Maintenance:	Consumable item. Replace as used or expired
	Year Obtained:	2020
	How was it budgeted:	Operating budget
Item Photograph		
Training Requirements	80-hour POST Basic SWAT Academy, annual exposure, and training in the use of Chemical Agents	

OC Aerosol Grenade 1.3% Fogger, 1 oz. / 6 oz	
Description	OC Aerosol Grenade 1.3% Fogger, 1 oz. / 6 oz
Quantity	10
Capability	Can be hand thrown, deployed via robot, placed into a Gas Ram, Burn Safe and Munitions Pole
Life Span	5 years from date of manufacture
Manufacturer's description	The 1 oz. / 6 oz. OC Aerosol Grenade will deliver its payload of 1/3% MC% OC in 15-20 seconds. This is an anatomized mist which enhances the pungent 1.3% OC formulation. Ideal for area denial areas like attics, garages, etc. This device has minimum clean up. The canister may also be handheld to direct the spray pattern. This product is designed to provide room clearing ability with minimum clear up requirements.
Purpose/Authorized Usage	As with other control devices, oleoresin capsicum (OC) spray and pepper projectiles may be considered for use to bring under control an individual or groups of individuals who are engaging in, or are about to engage in violent behavior. Pepper projectiles and OC spray should not, however, be used against individuals or groups who merely fail to disperse or do not reasonably appear to present a risk to the safety of officers or the public.

Legal / Procedural Rules Governing Use	All applicable State, Federal and Local laws governing police use of force. Carlsbad Police Policies 300 (Use of Force), 303 (De-escalation), 308 (Control Devices and Techniques), 471 (First Amendment Assemblies)	
Costs	Initial Cost: Recurring Cost: Maintenance: Year Obtained: How was it budgeted:	\$216 Replace as needed Consumable item. Replace as used or expired 2021 Operating budget
Item Photograph		
Training Requirements	POST Certified Police Academy.	

Spede-Heat CS Gas		
Description	Speed-Heat Continuous Discharge Grenade, CS	
Quantity	49	
Capability	Can be hand thrown, deployed via robot, launched, placed into a Gas Ram, Burn Safe and Munitions Pole	
Life Span	5 years from date of manufacture	
Manufacturer's description	The Spede-Heat CS Grenade is a high-volume continuous burn device. It expels its payload in approximately 30-40 seconds. The payload is discharged through four gas ports on top of the canister, three on the side and one on the bottom. This launchable grenade is 6.12 inches by 2.62 inches and holds approximately 81.2g of CS chemical agent.	
Purpose/Authorized Usage	Tear gas may be used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances. Only the Watch Commander, Incident Commander or Crisis Response Unit Commander may authorize the delivery and use of tear gas, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary.	
Legal / Procedural Rules Governing Use	All applicable State, Federal and Local laws governing police use of force. Carlsbad Police Policies 300 (Use of Force), 303 (De-escalation), 308 (Control Devices and Techniques), 471 (First Amendment Assemblies).	
Costs	Initial Cost: Recurring Cost: Maintenance: Year Obtained:	\$700 Replace as needed Consumable item. Replace as used or expired 2018

	How was it budgeted:	SWAT operating budget
Item Photograph		
Training Requirements	80-hour POST Basic SWAT Academy, annual exposure, and training in the use of Chemical Agents.	

PepperBall LIVE-X, Mission Munitions, Byrna or Equivalent	
Description	Hollow spheres containing Oleoresin Capsicum (commonly known as OC), 2-Chlorobenzylidene Malononitrile (commonly known as CS) and other such irritants that, when exposed, causes minor to moderate irritation to the eyes, mouth, lungs, throat, and skin in order to temporarily incapacitate.
Quantity	6,500
Capability	Deployed via a APLS launcher
Life Span	5-year manufacturer's warranty
Manufacturer's description	<p>Our most powerful proprietary pepper and tear gas blend: OC, CS all in one shot, with quick-acting incapacitating effects, higher dispersion, and higher concentration of chemical irritants than any other round found on the market today, our Byrna Max projectiles are designed for maximum stopping power.</p> <p>Physical symptoms of chemical irritants often result in disorientation and agitation, which can lead to a state of fear, anxiety and panic in would-be attackers. Upon impact the projectiles burst, creating a cloud of chemical irritant that rapidly disperses into the air to quickly incapacitate an attacker. Within seconds, the saturation area extends in all directions around the point of impact</p>
Purpose/Authorized Usage	<p>This department is committed to reducing the potential for violent confrontations. Kinetic energy projectiles, when used properly, are less likely to result in death or serious physical injury and can be used in an attempt to de-escalate a potentially deadly situation.</p> <p>Circumstances appropriate for deployment include, but are not limited to, situations in which: The suspect is armed with a weapon and the tactical circumstances allow for the safe application of approved munitions. The suspect has made credible threats to harm him/herself or others. The suspect is engaged in riotous behavior or is throwing rocks, bottles or other dangerous projectiles at people and/or officers. There is probable cause to believe that the suspect has already</p>

	<p>committed a crime of violence and is refusing to comply with lawful orders.</p> <p>TEAR GAS (CS) Tear gas may be used for crowd control, crowd dispersal or against barricaded suspects based on the circumstances. Only the Watch Commander, Incident Commander or Crisis Response Unit Commander may authorize the delivery and use of tear gas, and only after evaluating all conditions known at the time and determining that such force reasonably appears justified and necessary.</p> <p>OLEORESIN CAPSICUM (OC) As with other control devices, oleoresin capsicum (OC) spray and pepper projectiles may be considered for use to bring under control an individual or groups of individuals who are engaging in, or are about to engage in violent behavior. Pepper projectiles and OC spray should not, however, be used against individuals or groups who merely fail to disperse or do not reasonably appear to present a risk to the safety of officers or the public.</p>										
Legal / Procedural Rules Governing Use	All applicable State, Federal and Local laws governing police use of force. Carlsbad Police Policies 208 (Training), 300 (Use of Force), 303 (De-escalation), 308 (Control Devices and Techniques), 313 (Firearms Qualification and Remediation) 471 (First Amendment Assemblies)										
Costs	<table border="1"> <tr> <td>Initial Cost:</td> <td>\$1810</td> </tr> <tr> <td>Recurring Cost:</td> <td>Replace as needed</td> </tr> <tr> <td>Maintenance:</td> <td>N/A</td> </tr> <tr> <td>Year Obtained:</td> <td>2020</td> </tr> <tr> <td>How was it budgeted:</td> <td>Operating budget</td> </tr> </table>	Initial Cost:	\$1810	Recurring Cost:	Replace as needed	Maintenance:	N/A	Year Obtained:	2020	How was it budgeted:	Operating budget
Initial Cost:	\$1810										
Recurring Cost:	Replace as needed										
Maintenance:	N/A										
Year Obtained:	2020										
How was it budgeted:	Operating budget										
Item Photograph											
Training Needed	6-hour POST Certified Less Lethal Operator Course, Qualification every 6 months.										

PepperBall Glass Breaker, Mission Munitions, Byrna or Equivalent	
Description	Solid spheres that, when launched from a APLS launcher, are intended to break glass from a distance in order for Law Enforcement to access the interior of a building or vehicle.
Quantity	125
Capability	Deployed via a APLS launcher
Life Span	5-year manufacturer's warranty
Manufacturer's description	A solid polymer projectile used for breaking out residential windows and side-glass of automobiles. Not for use on humans or animals.

Purpose/ Authorized Usage	Used in conjunction with OC, CS, or other less-lethal equipment to safely resolve critical situations such as high-risk tactical operations. Glass breaker rounds are designed to break glass to enable vision into vehicles or buildings, or to deploy gas into an area.	
Legal / Procedural Rules Governing Use	All applicable State, Federal and Local laws governing police use of force. Carlsbad Police Policies 208 (Training), 300 (Use of Force), 303 (De-escalation), 308 (Control Devices and Techniques), 313 (Firearms Qualification and Remediation) 471 (First Amendment Assemblies)	
Costs	Initial Cost: Recurring Cost: Maintenance: Year Obtained: How was it budgeted:	\$400 As needed N/A 2019 Operating budget
Item Photograph		
Training Needed	6-hour POST Certified Less Lethal Operator Course, Qualification every 6 months.	

Defense Technology Low Roll Reloadable Distraction Device Body											
Description	Reloadable low-roll noise flash diversionary device body										
Quantity	72										
Capability	Can be thrown, deployed via robot, munitions pole										
Life Span	5 years										
Manufacturer's description	The Low Roll™ reloadable steel body is the newest version of the original Multi-Port Plus™, reusable, non-bursting canister body.										
Purpose/ Authorized Usage	<p>Coupled with a Distraction Device Reload, the purpose of this Distraction Device is to draw or direct someone's attention to a different object or location during a high-risk tactical operation. The device accomplishes this by producing a loud noise and bright light when deployed. This bright light and loud noise create a physiological and psychological response also intended to create lag time in an individual's reaction. The Distraction Device can be used to arouse or awaken unresponsive individuals during dangerous critical incidents.</p> <p>Devices are deployed at the discretion of the SWAT Commander/Incident Commander or by a trained individual if it is determined exigent circumstance exists.</p>										
Legal / Procedural Rules Governing Use	Carlsbad Police Policies 300 (Use of Force) and 303 (De-escalation)										
Costs	<table border="0"> <tr> <td>Initial Cost:</td> <td>\$2995.23</td> </tr> <tr> <td>Recurring Cost:</td> <td>Replacement after 5 years per manufacturer or 25 deployments</td> </tr> <tr> <td>Maintenance:</td> <td>Replaced as damaged. Maintenance cost is equivalent to fuse price. Reloadable with replacement fuses upon use.</td> </tr> <tr> <td>Year Obtained:</td> <td>2019</td> </tr> <tr> <td>How was it budgeted:</td> <td>Departmental savings from FY18</td> </tr> </table>	Initial Cost:	\$2995.23	Recurring Cost:	Replacement after 5 years per manufacturer or 25 deployments	Maintenance:	Replaced as damaged. Maintenance cost is equivalent to fuse price. Reloadable with replacement fuses upon use.	Year Obtained:	2019	How was it budgeted:	Departmental savings from FY18
Initial Cost:	\$2995.23										
Recurring Cost:	Replacement after 5 years per manufacturer or 25 deployments										
Maintenance:	Replaced as damaged. Maintenance cost is equivalent to fuse price. Reloadable with replacement fuses upon use.										
Year Obtained:	2019										
How was it budgeted:	Departmental savings from FY18										
Item Photograph											
Training Needed	Completion of an 80-hour POST Certified SWAT Academy.										

Distraction Device 12-gram Reload with Safety Clip

Description	Distraction Device® 12-Gram Reload with Safety Clip	
Quantity	35	
Capability	The 12-Gram Distraction Device® Reload w/ Safety Clip utilizes an M201A1 type fuze that was designed for use with the Distraction Device reloadable steel body. The safety clip is designed to keep the pull-pin against the device body to prevent the pin from protruding and possibly snagging on other objects. The 12-Gram Distraction Device Reload w/ Safety Clip is only to be used when properly inserted and tightened into the Distraction Device body	
Life Span	5 years of date of manufacture	
Manufacturer's description	The Distraction Device® Reload utilizes a standard military-style M201A1 type fuze and produces 175 dB of sound output at 5 feet and 6-8 million candelas for 10 milliseconds.	
Purpose/ Authorized Usage	<p>When coupled with a Reloadable low-roll noise flash diversionary device body, the purpose of this Distraction Device is to draw or direct someone's attention to a different object or location during a high-risk tactical operation. The device accomplishes this by producing a loud noise and bright light when deployed. This bright light and loud noise create a physiological and physiological response also intended to create lag time in an individual's reaction. The Distraction Device can be used to arouse or awaken unresponsive individuals during dangerous critical incidents.</p> <p>Devices are deployed at the discretion of the SWAT Commander/Incident Commander or by a trained individual if it is determined exigent circumstance exists.</p>	
Legal / Procedural Rules Governing Use	Carlsbad Police Policies 300 (Use of Force) and 303 (De-escalation)	
Costs	Initial Cost: \$2,432.56 Recurring Cost: n/a Maintenance: Consumable item. Replaced as used or expiration. Maintenance cost is equivalent to new device. Year Obtained: 2019 How was it budgeted: Departmental savings from FY18	
Item Photograph		

Training Needed	Completion of an 80-hour POST Certified SWAT Academy.
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Defense Technology Low Roll Reloadable Distraction Device Training Body											
Description	Reloadable low-roll noise flash diversionary device training body										
Quantity	8										
Capability	Can be thrown, deployed via robot, munitions pole during training										
Life Span	5 years										
Manufacturer's description	The Defense Technology Low Roll™ Training Body is a replica of the Low Roll™ Distraction Device® body.										
Purpose/ Authorized Usage	Used for training.										
Legal / Procedural Rules Governing Use	Training Only.										
Costs	<table border="0"> <tr> <td>Initial Cost:</td> <td>\$</td> </tr> <tr> <td>Recurring Cost:</td> <td>Replacement after 5 years per manufacturer</td> </tr> <tr> <td>Maintenance:</td> <td>Replaced as damaged. Maintenance cost is equivalent to new device. Reloadable with replacement fuses upon use.</td> </tr> <tr> <td>Year Obtained:</td> <td>2019</td> </tr> <tr> <td>How was it budgeted:</td> <td>Departmental savings from FY18</td> </tr> </table>	Initial Cost:	\$	Recurring Cost:	Replacement after 5 years per manufacturer	Maintenance:	Replaced as damaged. Maintenance cost is equivalent to new device. Reloadable with replacement fuses upon use.	Year Obtained:	2019	How was it budgeted:	Departmental savings from FY18
Initial Cost:	\$										
Recurring Cost:	Replacement after 5 years per manufacturer										
Maintenance:	Replaced as damaged. Maintenance cost is equivalent to new device. Reloadable with replacement fuses upon use.										
Year Obtained:	2019										
How was it budgeted:	Departmental savings from FY18										
Item Photograph											
Training Needed	Completion of an 80-hour POST Certified SWAT Academy.										

Combined Systems (CTS) 7290T Flash Bang Training Body	
Description	A durable 360-degree camera designed to see into unknown locations.
Quantity	2
Capability	Can be thrown, deployed via robot, munitions pole during training
Life Span	N/A
Manufacturer's description	The Model 7290T training system makes for excellent training scenarios. The system is built and weighs exactly the same as the Model 7290 Flash-Bang, but has no flash charge. The 7290T body is painted with a bright, blue coating and can be used an unlimited number of times.

Purpose/ Authorized Usage	Used for training to simulate the deployment of duty issue distraction devices.	
Legal / Procedural Rules Governing Use	Training Only.	
Costs	Initial Cost: Recurring Cost: Maintenance: Year Obtained: How was it budgeted:	\$ n/a Replaced as damaged. Maintenance cost is equivalent to new device. Department funds
Item Photograph		
Training Needed	Completion of an 80-hour POST Certified SWAT Academy.	

Low Roll Distraction Device Training Fuze

Description	Reloadable training fuze for Low Roll Distraction Device® Training Body.	
Quantity	48	
Capability	The Defense Technology Low Roll Distraction Device Training Fuze offers a reliable and safe way to introduce students to the proper deployment protocols used by your department.	
Life Span	5 years of date of manufacture	
Manufacturer's description	The Distraction Device® Reload utilizes a standard military-style M201A1 type fuze and produces 175 dB of sound output at 5 feet and 6-8 million candelas for 10 milliseconds.	
Purpose/ Authorized Usage	Used for training to simulate the deployment of duty issue distraction devices.	
Legal / Procedural Rules Governing Use	Training Only.	
Costs	Initial Cost: Recurring Cost: Maintenance: Year Obtained: How was it budgeted:	\$2,432.56 n/a Consumable item. Replaced as used or expiration. Maintenance cost is equivalent to new device. 2019 Departmental savings from FY18

Item Photograph	
Training Needed	Completion of an 80-hour POST Certified SWAT Academy.

Forcible Entry (Breaching) Equipment

KINETIC BREACHING TOOL											
Description	Breaching tool designed to safely open doors										
Quantity	1										
Capability	Used to safely breach different types of residential and commercial doors										
Life Span	N/A										
Manufacturer's description	A tool that bridges the gap of mechanical breaching, shotgun breaching, and explosive breaching. The KBT tool uses a .45 caliber handgun blank to force the attached ram head into the door to defeat a lock and door. No projectile or explosive energy leaves the device except for the force of the ram which is permanently attached to the tool.										
Purpose/ Authorized Usage	Used to safely breach different types of residential and commercial doors in a rapid fashion without the use of a projectile.										
Legal / Procedural Rules Governing Use	Must comply with 844 PC and 1531 PC (Knock and Notice Requirement)										
Costs	<table border="0"> <tr> <td>Initial Cost:</td> <td>\$10,482.88</td> </tr> <tr> <td>Recurring Cost:</td> <td>Varies</td> </tr> <tr> <td>Maintenance:</td> <td>In-house cleaning</td> </tr> <tr> <td>Year Obtained:</td> <td>2021</td> </tr> <tr> <td>How was it budgeted:</td> <td>SWAT operating budget</td> </tr> </table>	Initial Cost:	\$10,482.88	Recurring Cost:	Varies	Maintenance:	In-house cleaning	Year Obtained:	2021	How was it budgeted:	SWAT operating budget
Initial Cost:	\$10,482.88										
Recurring Cost:	Varies										
Maintenance:	In-house cleaning										
Year Obtained:	2021										
How was it budgeted:	SWAT operating budget										

Item Photograph	
Training Needed	80-Hour POST Certified Basic SWAT Academy and recurring training provided by SWAT certified breachers. Certified Breachers must complete a 40-Hour Manual, Mechanical, Ballistic, Thermal, and Hydraulic Breacher Certification Course.

HURST TOOL											
Description	Jaws of Life StrongArm HURST Tool										
Quantity	2										
Capability	Rescue tool used gain entry into vehicles, to safely breach different types of residential and commercial doors, and to cut heavy locks and chain										
Life Span	N/A										
Manufacturer's description	The HURST tool provides a portable hydraulic power system to use anywhere. The purpose of the tool is to breach doors, cut through rebar and security bars, break locks, and pry open car doors										
Purpose/ Authorized Usage	Rescue tool used gain entry into vehicles, to safely breach different types of residential and commercial doors, and to cut heavy locks and chains.										
Legal / Procedural Rules Governing Use	Must comply with 844 PC and 1531 PC (Knock and Notice Requirement)										
Costs	<table border="0"> <tr> <td>Initial Cost:</td> <td>\$1,673.08</td> </tr> <tr> <td>Recurring Cost:</td> <td>n/a</td> </tr> <tr> <td>Maintenance:</td> <td>In-house</td> </tr> <tr> <td>Year Obtained:</td> <td>2020</td> </tr> <tr> <td>How was it budgeted:</td> <td>SWAT operational budget</td> </tr> </table>	Initial Cost:	\$1,673.08	Recurring Cost:	n/a	Maintenance:	In-house	Year Obtained:	2020	How was it budgeted:	SWAT operational budget
Initial Cost:	\$1,673.08										
Recurring Cost:	n/a										
Maintenance:	In-house										
Year Obtained:	2020										
How was it budgeted:	SWAT operational budget										
Item Photograph											

Training Needed	80-Hour POST Certified Basic SWAT Academy and recurring training provided by SWAT certified breachers. Certified Breachers must complete a 40-Hour Manual, Mechanical, Ballistic, Thermal, and Hydraulic Breacher Certification Course.
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BREACHING ROUNDS											
Description	Defense Technology Safariland 3105 breaching rounds										
Quantity	185										
Capability	Used to defeat locks, deadbolts, hinges										
Life Span	5 years from manufacturing date										
Manufacturer's description	A 12-gauge shotgun breaching round loaded with compressed zinc, utilizing smokeless powder as a propellant. This round is a widely used method to breach door locks or hinges for entry during tactical operations. Upon impact with the target, the zinc slug disintegrates into a fine powder eliminating fragmentation.										
Purpose/ Authorized Usage	Used to defeat locks, deadbolts, hinges in a rapid fashion. Used during crisis entry when speed is of the utmost importance or when its use appears necessary to defeat a specific breaching problem.										
Legal / Procedural Rules Governing Use	Must comply with 844 PC and 1531 PC (Knock and Notice Requirement)										
Costs	<table border="0"> <tr> <td style="padding-right: 20px;">Initial Cost:</td> <td>Approximately \$20/box of 5</td> </tr> <tr> <td>Recurring Cost:</td> <td>Varies</td> </tr> <tr> <td>Maintenance:</td> <td>n/a</td> </tr> <tr> <td>Year Obtained:</td> <td>2017</td> </tr> <tr> <td>How was it budgeted:</td> <td>SWAT operating budget</td> </tr> </table>	Initial Cost:	Approximately \$20/box of 5	Recurring Cost:	Varies	Maintenance:	n/a	Year Obtained:	2017	How was it budgeted:	SWAT operating budget
Initial Cost:	Approximately \$20/box of 5										
Recurring Cost:	Varies										
Maintenance:	n/a										
Year Obtained:	2017										
How was it budgeted:	SWAT operating budget										
Item Photograph											
Training Needed	80-Hour POST Certified Basic SWAT Academy and recurring training from SWAT certified breachers. Certified Breachers must complete a 40-Hour Manual, Mechanical, Ballistic, Thermal, and Hydraulic Breacher Certification Course.										

BREACHING SHOTGUN											
Description	Royal Arms Breaching Shotgun										
Quantity	1										
Capability	Used to defeat locks, deadbolts, hinges										
Life Span	N/A										
Manufacturer's description	<ul style="list-style-type: none"> • POSITIVE PLACEMENT • DEFLECT DEBRIS AND GASES AWAY FROM SHOOTER • 100% KINETIC ENERGY & MUZZLE BLAST • SIGNIFICANT RECOIL REDUCTION • ELIMINATES MOST OR ALL MUZZLE LIFT 										
Purpose/ Authorized Usage	Used to defeat locks, deadbolts, hinges in a rapid fashion. Used during crisis entry when speed is of the utmost importance or when its use appears necessary to defeat a specific breaching problem.										
Legal / Procedural Rules Governing Use	Must comply with 844 PC and 1531 PC (Knock and Notice Requirement)										
Costs	<table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Initial Cost:</td> <td>\$900.00</td> </tr> <tr> <td>Recurring Cost:</td> <td>N/A</td> </tr> <tr> <td>Maintenance:</td> <td>In-house cleaning</td> </tr> <tr> <td>Year Obtained:</td> <td>Estimated Pre-2010</td> </tr> <tr> <td>How was it budgeted:</td> <td>SWAT operating budget</td> </tr> </table>	Initial Cost:	\$900.00	Recurring Cost:	N/A	Maintenance:	In-house cleaning	Year Obtained:	Estimated Pre-2010	How was it budgeted:	SWAT operating budget
Initial Cost:	\$900.00										
Recurring Cost:	N/A										
Maintenance:	In-house cleaning										
Year Obtained:	Estimated Pre-2010										
How was it budgeted:	SWAT operating budget										
Item Photograph											
Training Needed	80-Hour POST Certified Basic SWAT Academy and recurring training provided by SWAT certified breachers. Certified Breachers must complete a 40-Hour Manual, Mechanical, Ballistic, Thermal, and Hydraulic Breacher Certification Course.										

Breaching Shotguns											
Description	Remington Breaching Shotgun										
Quantity	3										
Capability	Used to defeat locks, deadbolts, hinges										
Life Span	N/A										
Manufacturer's description	<ul style="list-style-type: none"> • POSITIVE PLACEMENT • DEFLECT DEBRIS AND GASES AWAY FROM SHOOTER • 100% KINETIC ENERGY & MUZZLE BLAST • SIGNIFICANT RECOIL REDUCTION • ELIMINATES MOST OR ALL MUZZLE LIFT 										
Purpose/ Authorized Usage	Used to defeat locks, deadbolts, hinges in a rapid fashion. Used during crisis entry when speed is of the utmost importance or when its use appears necessary to defeat a specific breaching problem.										
Legal / Procedural Rules Governing Use	Must comply with 844 PC and 1531 PC (Knock and Notice Requirement)										
Costs	<table border="0" style="width: 100%;"> <tr> <td style="width: 50%;">Initial Cost:</td> <td>\$900.00</td> </tr> <tr> <td>Recurring Cost:</td> <td>N/A</td> </tr> <tr> <td>Maintenance:</td> <td>In-house cleaning</td> </tr> <tr> <td>Year Obtained:</td> <td>Estimated Pre- 2010</td> </tr> <tr> <td>How was it budgeted:</td> <td>SWAT operating budget</td> </tr> </table>	Initial Cost:	\$900.00	Recurring Cost:	N/A	Maintenance:	In-house cleaning	Year Obtained:	Estimated Pre- 2010	How was it budgeted:	SWAT operating budget
Initial Cost:	\$900.00										
Recurring Cost:	N/A										
Maintenance:	In-house cleaning										
Year Obtained:	Estimated Pre- 2010										
How was it budgeted:	SWAT operating budget										
Item Photograph											
Training Needed	80-Hour POST Certified Basic SWAT Academy and recurring training provided by SWAT certified breachers. Certified Breachers must complete a 40-Hour Manual, Mechanical, Ballistic, Thermal, and Hydraulic Breacher Certification Course.										

RESCUE CHAINSAW	
Description	STIHL MS 461 Rescue Chainsaw
Quantity	1
Capability	Rescue chainsaw made to gain entry through fortified doors and walls
Life Span	N/A
Manufacturer's description	Made specially for rescue operations. A high-speed wood cutting tool.

Purpose/ Authorized Usage	Rescue chainsaw made to gain entry through fortified doors and walls.	
Legal / Procedural Rules Governing Use	Must comply with 844 PC and 1531 PC (Knock and Notice Requirement)	
Costs	Initial Cost:	\$1,309.99
	Recurring Cost:	N/A
	Maintenance:	In-house cleaning
	Year Obtained:	2019
	How was it budgeted:	SWAT operating budget
Item Photograph		
Training Needed	80-Hour POST Certified Basic SWAT Academy and recurring training provided by SWAT certified breachers. Certified Breachers must complete a 40-Hour Manual, Mechanical, Ballistic, Thermal, and Hydraulic Breacher Certification Course.	

CIRCULAR SAW		
Description	STIHL TS 700 Circular Saw	
Quantity	1	
Capability	Rescue saw to gain entry through fortified doors and walls	
Life Span	N/A	
Manufacturer's description	Designed for handling the toughest cutting jobs	
Purpose/ Authorized Usage	Rescue saw to gain entry through fortified doors and walls	
Legal / Procedural Rules Governing Use	Must comply with 844 PC and 1531 PC (Knock and Notice Requirement)	
Costs	Initial Cost:	\$1,549.99
	Recurring Cost:	N/A
	Maintenance:	In-house cleaning
	Year Obtained:	2019
	How was it budgeted:	SWAT operating budget

Item Photograph	
Training Needed	<p>80-Hour POST Certified Basic SWAT Academy and recurring training provided by SWAT certified breachers. Certified Breachers must complete a 40-Hour Manual, Mechanical, Ballistic, Thermal, and Hydraulic Breacher Certification Course.</p>

Vehicles

Lenco Bearcat	
Description	Lenco Bearcat Armored Rescue Vehicle
Quantity	1
Capability	The primary function of an armored rescue vehicle is to provide protection against ballistic threats.
Life Span	N/A
Manufacturer's description	<p>The Lenco BearCat is the standard tactical armored vehicle for special operations units within the US Law Enforcement community. Since the early 2000s, agencies such as LAPD, LASD SEB, NYPD ESU, Boston PD and hundreds of Federal, State and Local Law Enforcement agencies have made the BearCat G2 part of their standard operating procedure. The G2 has excellent on-road driving characteristics and maneuverability in tight urban settings. The large floor plan seats 10 – 12 fully equipped officers with a long list of tactical features only found on the Lenco BearCat line of armored SWAT vehicles for Police and Government.</p>
Purpose/ Authorized Usage	<p>The Lenco BearCat will improve the ability to mobilize personnel and equipment to provide tactical support during critical incidents anywhere in the City and County, including but not limited to weapons of mass destruction, chemical, biological, explosive (CBRNE) incidents, active shooter situations, terrorist and fugitive suspects, hostage rescue</p>

	situations, barricaded suspect, high-risk warrant service, dignitary protection, and other illegal activities. The BearCat will also greatly increase our ability to protect our critical infrastructure within the city.	
Legal / Procedural Rules Governing Use	Carlsbad Police Policies 704 (Vehicle Maintenance), 706 (Vehicle Usage)	
Costs	Initial Cost:	\$254,000.00
	Recurring Cost:	None
	Maintenance:	Routine vehicle maintenance
	Year Obtained:	2011
	How was it budgeted:	Grant funded
Item Photograph		
Training Requirements	California class C license. Reoccurring department Emergency Vehicles Operation Course.	

SWAT Tactical Command/Equipment Vehicle		
Description	Ford Ambulance (Conversion)	
Quantity	1	
Capability	The SWAT Command Vehicle provides a forward operating location and equipment transport platform.	
Life Span	Due to mechanical challenges, vehicle needs replacement in a future budget cycle (Previously retired fire ambulance)	
Manufacturer's description	Quality is a priority when lives are on the line. Rely on the dependable, durable Ambulance Chassis, 24-7.	
Purpose/ Authorized Usage	The SWAT command vehicle is dedicated to ensuring the storage and transport of equipment needed to resolve a tactical situation that requires adaptability and changing needs during the progression of the incident. The vehicle is equipped with adequate storage and electrical capabilities and can be used jointly as a "Tactical Command" vehicle for dispatchers and SWAT supervisors.	
Legal / Procedural Rules Governing Use	Carlsbad Police Policies 704 (Vehicle Maintenance), 706 (Vehicle Usage)	
Costs	Initial Cost:	\$0 (Retired CFD Ambulance)
	Recurring Cost:	None
	Maintenance:	Routine vehicle maintenance.
	Year Obtained:	2015

	How was it budgeted:	Re-purposed vehicle/existing department funds
Item Photograph		
Training Requirements	California class C license. Reoccurring department Emergency Vehicles Operation Course.	

Mobile Command Post		
Description	Mobile Command Post (CP)	
Quantity	1	
Capability	Mobile Emergency Operations Center	
Life Span	20 years	
Manufacturer's description	<p>"Leveraging our 45 years of experience and our second-to-none craftsmanship, we go to great lengths to ensure spot-on performance of mission-critical communications and technology. Not to mention, we do so with an eye on the future, extending the life of your mobile command center by strategically designing interiors for easy, cost-effective upgrades."</p>	
Purpose/Authorized Usage	<p>The Mobile Command Post (CP) program supports the mission of public safety through the provision of mobile, on-site platforms for command, control and communications during critical incidents, natural disasters, special events and other similar occurrences. Mobile Command Post Team (Class B licensed drivers required)</p>	
Legal / Procedural Rules Governing Use	<p>Carlsbad Police Policies 704 (Vehicle Maintenance), 706 (Vehicle Usage)</p>	
Costs	<p>Initial Cost: \$744,756.00 Recurring Cost: \$2,000 (DirecTV) Maintenance: \$5,000 (Estimated) Year Obtained: 2018</p>	<p>How was it budgeted: Departmental savings</p>
Item Photograph		

Training Needed	CA DMV Class B license and quarterly driver training.
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CARLSBAD POLICE DEPARTMENT
2023 ANNUAL MILITARY EQUIPMENT USE REPORT

The acquisition and use of military equipment by the City of Carlsbad has a direct impact on the public's safety and welfare. The community has a right to know about any funding, acquisition, or use of military equipment by the Carlsbad Police Department (CPD), as well as a right to participate in the local government's decision to fund, acquire or use such equipment.

California law and the CPD's military equipment use policy (Policy Section 708) require the CPD to publish an annual military equipment report. California Government Code Section 7072 requires this annual report to include the following information for the immediately preceding calendar year for each type of military equipment:

1. A summary of how the military equipment was used and the purpose of its use.
2. A summary of any complaints or concerns received concerning the military equipment.
3. The results of any internal audits or information about violations of the military equipment use policy, and any actions taken in response.
4. The total annual cost for each type of military equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade and other ongoing costs, and from what source funds will be provided for the military equipment in the calendar year following submission of the annual military equipment report.
5. The quantity possessed for each type of military equipment.
6. If the CPD intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.

1. Summary of how the military equipment was used and the purpose of its use.

The CPD primarily utilizes its military equipment through the CPD Special Weapons and Tactics (SWAT) Team. The SWAT Team is tasked with several responsibilities within the CPD. Those responsibilities include:

- Responding to callouts for critical incidents
- Serving high-risk search warrants, arrest warrants and other high-risk searches (e.g., parole/probation searches)
- VIP security/protection details
- Mobile Field Force/crowd control
- Quick Reaction Force for special events (Street Faire, Marathon, Carlsbad 5000, etc.)
- Security for sensitive evidence transportation

In addition to handling those tasks, the SWAT Team also serves as a training cadre for tactical concepts and strategic planning for the entire police department. They provide instruction for both officers and citizens in areas like active shooter response ("Run, Hide, Fight"), close-quarter clearings and search and rescue operations, among others. Members of the SWAT Team also perform site surveys to help community partners preemptively develop safe plans for potential critical incidents. Many of the items

contained within the military equipment inventory are used to ensure the safest standards are employed while carrying out these tasks.

The following section provides a summary of how each type of military equipment was used by CPD during 2023 and the purpose of its use:

High-Risk Warrant Services (search and arrest)

Number of incidents: **Nine** (Incident Numbers: 23001759; 230059436; 230062360; 230068059; 230073357; 230084388; 230084502; 230091187; and 230093040)

Type of Military Equipment Utilized: Armored rescue vehicle, unmanned aerial systems, mobile command center, equipment ambulance and the Throwbot were utilized. Optics, including night vision and weapon-mounted scopes/red dot sighting systems, and noise/flash diversionary devices were utilized during several missions. Standard-issued rifles, precision rifles, 40mm launchers and appropriate ammunition and accessories (e.g., noise suppressors) were deployed, but not used against a person during these operations.

Complaints Related to the Deployment: None

Internally Known Violations: None

Dignitary Protection Detail

Number of Incidents: **One** (Incident Number: 230033645, Secret Service protection detail for First Lady at La Costa Resort)

Type of military Equipment Utilized: Armored rescue vehicles, unmanned aerial systems, mobile command center and equipment ambulance were utilized. Optics, including night vision and weapon-mounted scopes/red dot sighting systems. Standard-issued rifles, precision rifles, 40mm launchers and appropriate ammunition and accessories (e.g., noise suppressors, DBAL, magnifiers) were deployed, but not used against a person during these operations.

Complaints Related to the Deployment: None

Internally Known Violations: None

Call-Out for Critical Incidents

Number of Incidents: **Four** (Incident Numbers: 230033645; 230064757; 230069066; and 230093772)

Type of Military Equipment Utilized: Armored rescue vehicles, unmanned aerial systems, mobile command center and equipment ambulance were utilized. Optics, including night vision and weapon-mounted scopes/red dot sighting systems. Standard-issued rifles, precision rifles, 40mm launchers and appropriate ammunition and accessories (e.g., noise suppressors) were deployed, but not used against a person during these operations.

Complaints Related to the Deployment: None

Internally Known Violations: None

Mobile Field Force/Crowd Control

Number of Incidents: None

Type of Military Equipment Utilized: None

Complaints Related to the Deployment: None

Internally Known Violations: None

Quick Reaction Force for Special Events

Number of Incidents: **Nine** (Carlsbad 5k, Carlsbad Marathon, Spring Street Faire, Fall Street Faire, State of the City Address, Carlsbad High School Graduation, Sage Creek High School Graduation, La Costa Canyon High School Graduation, and City of Carlsbad Concert in the Park [final session])

Type of Military Equipment Utilized: Armored rescue vehicles, unmanned aerial systems, various robotic platforms, mobile command center and equipment ambulance were utilized. Optics, including night vision and weapon-mounted scopes/red dot sighting systems. Standard-issued rifles, precision rifles, 40mm launchers and appropriate ammunition and accessories (e.g., noise suppressors) were deployed, but not used against a person during these operations.

Complaints Related to the Deployment: None

Internally Known Violations: None

UAV Deployment Log Summary

Number of Incidents: 168 (SWAT Team assists, open area searches, high-risk contacts, large events, Homeless Outreach Team encampment checks, missing persons search, and agency assists)

Unmanned Aerial Platform Utilized: Mavic Enterprise, Mavic Enterprise Advance, Mavic Zoom, Phantom4.

Complaints Related to the Deployment: None

Internally Known Violations: None

2. Summary of complaints or concerns received concerning military equipment.

During calendar year 2023, there were no internally generated complaints for policy violations related to the use of military equipment and no external complaints or concerns were received related to the use

of military equipment by CPD. For all use-of-force reviews and internal affairs investigations, officers were found to be operating the equipment in a manner that met or exceeded department standards. In summary, there were no internal or external complaints or concerns related to military equipment during calendar year 2023.

3. Results of any internal audits or information about violations of the military use policy, including any actions taken in response.

All incidents involving the use of force are reviewed by assigned supervisors and Watch Commanders, regardless of the equipment used. In addition, our Professional Standards Unit is tasked with conducting thorough investigations of any allegations of misconduct, including the application of military equipment that falls outside of the guidelines set by department policy and applicable law. These reviews and internal affairs audits provide the department with opportunities to reflect on their actions, policies, procedures, legislation and best practices within the law enforcement profession. Internal audits may also highlight opportunities for future growth while aiding the constant evaluation of practices related to training and daily operations.

For all 2023 use-of-force reviews and internal affairs investigations, no policy violations related to the use of military equipment were discovered and officers were found to be operating the equipment in a manner that met or exceeded department standards.

4. Total annual cost for each type of military equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade and other ongoing costs, and from what source funds will be provided for the military equipment in the calendar year following submission of the annual military equipment report.

The total annual cost for the military equipment can be found in the 2023 Carlsbad Police Department Military Equipment Inventory, which is Appendix A to the 2023 Military Equipment Policy Section 708 and incorporated herein by reference. The 2023 Military Equipment Inventory covers the initial cost, recurring and maintenance costs and the original funding source for each item.

The use of military equipment primarily falls under the SWAT Team. The SWAT Team’s training and personnel budget for FY 2023-24 is as follows:

SWAT expense category	Amount budgeted
Overtime (Training, operational missions)	\$175,000
Software maintenance	\$950
Dues and subscriptions	\$750
Shooting range supplies	\$8,000
Misc. supplies (Diversionary devices, smoke, uniform accessories)	\$11,000
Training/training-related travel	\$6,500
Misc. meals/miles	\$2,500

In addition to the above SWAT personnel budget, the CPD SWAT Team utilized a federal grant fund award from the San Diego Urban Areas Security Initiative (UASI) FY21 to participate in a week-long close quarters combat course designed specifically for SWAT personnel. The grant award value was \$40,000.

5. Quantity possessed for each type of military equipment.

The total numbers for each piece of military equipment in CPD's possession can be found in the in *Carlsbad Police Department Military Equipment Inventory* which is Appendix A to the 2023 Military Equipment Policy Section 708 and incorporated herein by reference.

6. If CPD intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.

Along with seeking authorization to use preexisting equipment, CPD will seek authorization to acquire, fund and use replacement equipment and supplies that meet the definition of military equipment. At this time, forecasted acquisitions of military equipment for the CPD in 2024 include:

1. Items needed to maintain the current inventory of expendable items approved through the military equipment policy.
2. Items that need to be repaired or replenished after being used in either the field or training environments. All items needing to be repaired or replenished are included in the 2024 Military Equipment Policy Section 708 and Military Equipment Inventory which is being submitted to the City Council for approval concurrently with this annual report. The department will replace, as needed, any existing approved military equipment with either the same make and model, or if unavailable, with substantially similar equipment that will be subject to the same requirements as the replaced equipment. Replacements will be accounted for in each annual report. The CPD's military equipment inventory and all costs associated with the use of this equipment is believed to be consistent with the 2024 Military Equipment Policy Section 708 and Military Equipment Inventory and department budget previously approved by the City Council. It should be noted, these operating costs are good faith estimates that are subject to change made by vendors and/or manufacturers based on variables related to availability, shipping and general market increases.
3. The CPD is seeking the purchase of four new Unmanned Aerial Vehicles (UAVs). These new UAVs are upgraded models, intended to replace current inventories that have become obsolete. The total number of UAVs in the Carlsbad inventory would not exceed 12, as several current UAVs would be retired. One of the sought-after UAVs is capable of being tethered, a technique used to provide continuous power in a fixed location (designed to be deployed at a special event or other static scene) for long durations. This is a capability not possessed by the current inventory.
4. To bolster de-escalation practices, the CPD intends to outfit more field personnel with highly accurate less-lethal 40mm Tactical Single Launchers, replacing less-lethal bean bag shotguns. The CPD is seeking to add 16 40mm single launchers to the current inventory of eight.
5. The CPD SWAT Team will be exchanging their current issued rifles (Sig MCX .300) for an AR-15 platform. The exchange of these rifles will reduce ammunition costs by switching to a caliber currently used by the rest of the department. This change will remove 24 Sig MCX rifles from the inventory, replacing them with 24 AR-15s (actual make and model to be determined).

6. CPD submitted a proposal to the San Diego Urban Areas Security Initiative (UASI) federal grant program in 2023 to purchase a new Bearcat armored rescue vehicle (previously disclosed in the 2022 Annual Report). The UASI Board approved the funding for the acquisition of a Lenco Bearcat Armored Rescue Vehicle and classified the approval as *Priority 3*. The *Priority 3* classification means the release of funds for this project would only be realized if enough higher-priority projects were abandoned. Should the grant awards be released for this equipment, the CPD would not take receipt of the equipment until several years later. The CPD currently maintains one Lenco Bearcat Armored Rescue Vehicle within its inventory. The current Bearcat was originally purchased in 2011 and is approaching the end of its normal lifecycle.
7. If an unforeseen need for new types of military equipment arises, CPD will adhere to the procedures required by California law and our Military Equipment policy, including a public hearing and City Council approval before acquisition.

For future acquisitions of additional equipment currently held in the department's inventory, the CPD recommends amending the current military equipment policy (Policy Section 708) to add the following section:

708.5.1 – REPLACEMENT OF APPROVED EQUIPMENT

The Police Department may acquire additional equipment and munitions of the types (or substantially similar types) contained in Appendix A. The quantity for each type of equipment and munition in Appendix A is not intended as a cap on the number that may be acquired.

Public Hearing

The CPD strongly considers the public's welfare, safety, civil rights and civil liberties. In a continued effort for greater transparency, the department places high regard on meaningful public input related to the use of military equipment in the community. Department policy requires the agency to hold at least one well-publicized and conveniently located community engagement meeting where community members may discuss and ask questions regarding the annual military equipment report. Meetings must be held within thirty days of submitting and publicly releasing this annual report. The CPD will be meeting with the public at the City of Carlsbad Safety Training Center on March 21, 2024, at 1700 hours to discuss this report. The meeting is open to everyone and will provide an opportunity for all to read the report, ask questions of SWAT personnel, view the equipment and provide feedback regarding the use of military equipment.

Conclusion

The CPD places great value on input from the community. The CPD, through the SWAT Team, frequently hosts public events encouraging interaction between members of the community and the officers. These events are designed to promote education and community engagement while fostering positive relationships with the citizens of Carlsbad. In accordance with The Military Equipment Policy Section 708, members of the public can submit feedback, questions or complaints regarding the use of military equipment by emailing police@carlsbadca.gov or by submitting a personnel complaint form. In addition, they can directly contact the department's military equipment representative, Lieutenant Ryan Opeka via email at ryan.opeka@carlsbadca.gov.

Definition of military equipment

California Government Code Section 7070 defines the following items as military equipment:

1. Unmanned, remotely piloted, powered aerial or ground vehicles.
2. Mine-resistant ambush-protected vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded.
3. High mobility multipurpose wheeled vehicles, commonly referred to as Humvees, two and one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached. However, unarmored all-terrain vehicles and motorized dirt bikes are specifically excluded.
4. Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.
5. Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
6. Weaponized aircraft, vessels, or vehicles of any kind.
7. Battering rams, slugs, and breaching apparatuses that are explosive in nature. However, items designed to remove a lock, such as bolt cutters, or a handheld ram designed to be operated by one person, are specifically excluded.
8. Firearms of .50 caliber or greater. However, standard issue shotguns are specifically excluded.
9. Ammunition of .50 caliber or greater. However, standard issue shotgun ammunition is specifically excluded.
10. Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Sections 30510 and 30515 of the California Penal Code, with the exception of standard issue service weapons and ammunition of less than .50 caliber that are issued to officers, agents, or employees of a law enforcement agency or a state agency.
11. Any firearm or firearm accessory that is designed to launch explosive projectiles.
12. "Flashbang" grenades and explosive breaching tools, "tear gas," and "pepper balls," excluding standard, service-issued handheld pepper spray.
13. Taser Shockwave, microwave weapons, water cannons, and the Long Range Acoustic Device.
14. The following projectile launch platforms and their associated munitions: 40mm projectile launchers, "bean bag," rubber bullet, and specialty impact munition weapons.
15. Any other equipment as determined by a governing body or a state agency to require additional oversight.
16. Notwithstanding paragraphs (1) through (15), "military equipment" does not include general equipment not designated as prohibited or controlled by the federal Defense Logistics Agency.



CITY COUNCIL
Staff Report

Meeting Date: April 9, 2024
To: Mayor and City Council
From: Scott Chadwick, City Manager
Staff Contact: Jason Goff, Senior Planner
jason.goff@carlsbadca.gov, 442-339-2643
Subject: Legoland California Project 2025 (SDP 2023-0012/CDP 2023-0022)
District: 2

Recommended Action

1. Hold a public hearing; and
2. Adoption of a resolution approving a site development plan (SDP 2023-0012) and coastal development permit (CDP 2023-0022) to replace an existing Driving School and Junior Driving School attraction with a new space-themed attraction within the Inner Park Area of Legoland California on property located at One Legoland Drive, Assessor Parcel Number 211-100-09-00, within Planning Area 4 of the Carlsbad Ranch Specific Plan, the Mello II Segment of the Local Coastal Program and the Local Facilities Management Zone 13 (Exhibit 1)

Executive Summary

The City Council is being asked to approve a proposal by the Legoland California Theme Park to replace the existing Driving School and Junior Driving School attraction with a new space-themed attraction with an indoor roller coaster, a rotating ride, a children's play structure and a play area for younger children.

The project is being presented to the City Council because the Carlsbad Ranch Specific Plan requires that any development permit that includes structures above 35 feet be reviewed and decided upon by the City Council. One of the proposed structures is to be 43 feet high.

Explanation & Analysis

Legoland California Theme Park, a 132-acre amusement park located near the northeast corner of Palomar Airport Road and Armada Drive, is proposing to replace an existing driving-school themed attraction with a new spaced-themed attraction that is to include:

- An indoor roller coaster within a new single story, 32,319 square foot, 43-foot-tall pre-manufactured steel building
- A secondary ride consisting of three cantilevered arms that go up and down with four rotating gondolas at each end
- A children's play structure with an alien spaceship theme

- A play area designed for toddlers, with LEGO DUPLO play features, shade cover and seating area

The current and proposed attractions are on 2.38-acres in the inner portion of the park. Considering their location within the park, the improvements are not easily visible from outside the park borders.

The Legoland California Theme Park is governed by the Carlsbad Ranch Specific Plan, and the proposed new attractions are located within Planning Area 4 of the specific plan. A location map is included as Exhibit 2. In keeping with the specific plan, a site development permit and coastal development permit are required to authorize the improvements.

The proposed improvements meet all required development standards listed in the specific plan. Typically, the required permits for these types of improvements are considered and approved by the Planning Commission or City Planner, depending upon their location. However, proposed structures that exceed 35 feet or three levels (namely the 43-foot-tall indoor roller coaster) requires the approval of the City Council, provided that:

- The building does not exceed 45 feet in height and contains no more than three levels
- All required setbacks are increased at a ratio of one horizontal foot for every one foot of vertical construction beyond thirty-five feet
- The additional setback area is maintained as landscaped open space

The proposed 43-foot-tall indoor roller coaster meets all of these criteria. The proposed building is one level, provides a 55-foot setback where only a 43-foot minimum setback is required¹ and the entire setback area will be landscaped.

The Planning Commission considered the proposed project at a public hearing on Jan. 17, 2024, and voted 6-0-1 (Lafferty; recused), to recommend the City Council approve the project. No community members spoke at the hearing.

A complete description of the project and the staff analysis that supports the requested permit approvals is included in the Planning Commission staff report (Exhibit 3). The Planning Commission's actions and decisions are included in the attached minutes (Exhibit 4) and resolution (Exhibit 5).

Public notification

A public notice of this meeting, as well as for the Planning Commission hearing, was mailed to both property owners within 600 feet of the project site and occupants of property within 100 feet of the project site and posted consistent with the requirements of the Ralph M. Brown Act, California's open meeting law.

Information regarding public notification of this item such as mailings, public hearing notices posted in a newspaper of general circulation and on the city's website are available in the Office of the City Clerk.

¹ The Specific Plan requires a 35-foot standard landscape setback from the eastern curb line of Legoland Drive. Since the proposed structure is eight feet taller than the 35-foot height limit, an additional eight-foot of landscaped setback is required, resulting in a 43-foot minimum setback requirement.

The project is also subject to City Council Policy No. 84 - Development Project Public Involvement Policy. The applicant posted a notice of project application sign at a conspicuous location on the site on June 14, 2023. On June 15, 2023, the applicant also mailed the early public notice to property owners located within 600 feet of the project site and to occupants of property located within 100 feet. No comments were received in opposition to this project.

Fiscal Analysis

There is no anticipated fiscal impact from this action.

Next Steps

The applicant will need to submit applications to the city for the review of grading and building permits consistent with all project conditions, applicable regulations and laws. It is anticipated that construction will begin in the final quarter of 2024.

Environmental Evaluation

In accordance with the California Environmental Quality Act and the CEQA Guidelines, the City Planner has determined that the project qualified for an exemption under CEQA Guidelines Section 15332, In-fill Development Projects. A notice of determination was published on Nov. 30, 2023. No comment letters or appeals were received and consistent with Carlsbad Municipal Code Chapter 21.54, Procedures, Hearings, Notices, and Fees, the City Planner's written decision is final.

Exhibits

1. City Council resolution
2. Location map
3. [Planning Commission staff report dated Jan. 17, 2024](#) (on file in the Office of the City Clerk)
4. [Planning Commission minutes dated Jan. 17, 2024](#) (on file in the Office of the City Clerk)
5. [Planning Commission Resolution No. 7505](#) (on file in the Office of the City Clerk)

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, APPROVING A SITE DEVELOPMENT PLAN AND COASTAL DEVELOPMENT PERMIT TO REPLACE AN EXISTING DRIVING SCHOOL AND JUNIOR DRIVING SCHOOL ATTRACTION WITH A NEW SPACE-THEMED ATTRACTION WITHIN THE INNER PARK AREA OF LEGOLAND CALIFORNIA ON PROPERTY LOCATED AT ONE LEGOLAND DRIVE, ASSESSOR PARCEL NUMBER 211-100-09-00, WITHIN PLANNING AREA 4 OF THE CARLSBAD RANCH SPECIFIC PLAN, THE MELLO II SEGMENT OF THE LOCAL COASTAL PROGRAM AND THE LOCAL FACILITIES MANAGEMENT ZONE 13

CASE NAME: LEGOLAND CALIFORNIA PROJECT 2025
 CASE NO.: SDP 2023-0012 / CDP 2023-0022 (DEV 2023-0061)

WHEREAS, the City Council of the City of Carlsbad, California has determined that pursuant to the provisions of the Municipal Code, the Planning Commission did, on Jan. 17, 2024, hold a duly noticed public hearing as prescribed by law to consider Site Development Plan, SDP 2023-0012, and Coastal Development Permit, CDP 2023-0022, as referenced in Planning Commission adopted Resolution No. 7505 recommending to the City Council that they be approved; and

WHEREAS, the City Council of the City of Carlsbad held a duly noticed public hearing to consider said site development plan and coastal development permit; and

WHEREAS, at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, the City Council considered all factors relating to the site development plan and coastal development permit.

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 recommendation of the Planning Commission for the approval of Site Development Plan, SDP 2023-0012, and Coastal Development Permit, CDP 2023-0022, are adopted and approved, and that the findings and conditions of the Planning Commission contained in the Planning Commission adopted Resolution No. 7505 on file with the City Clerk and incorporated herein by reference, are the findings and conditions of the City Council.
3. This action is final the date this resolution is adopted by the City Council. The Provisions of Chapter 1.16 of the Carlsbad Municipal Code, "Time Limits for Judicial Review" shall apply:

“NOTICE”

The time within which judicial review of this decision must be sought is governed by Code of Civil Procedure, Section 1094.6, which has been made applicable in the City of Carlsbad by Carlsbad Municipal Code Chapter 1.16. Any petition or other paper seeking review must be filed in the appropriate court not later than the ninetieth day following the date on which this decision becomes final; however, if within ten days after the decision becomes final a request for the record is filed with a deposit in an amount sufficient to cover the estimated cost or preparation of such record, the time within which such petition may be filed in court is extended to not later than the thirtieth day following the date on which the record is either personally delivered or mailed to the party, or his attorney of record, if he has one. A written request for the preparation of the record of the proceedings shall be filed with the City Clerk, City of Carlsbad, 1200 Carlsbad Village Drive, Carlsbad, CA 92008.

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

AYES:

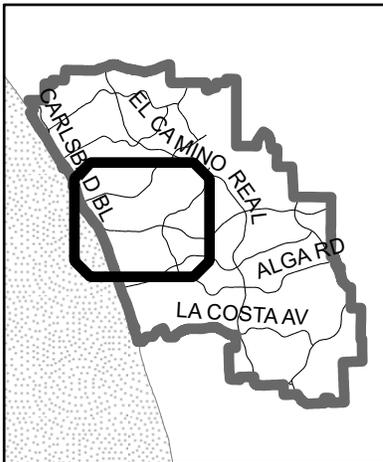
NAYS:

ABSTAIN:

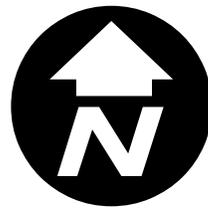
ABSENT:

KEITH BLACKBURN, Mayor

SHERRY FREISINGER, City Clerk
(SEAL)



SITE MAP



NOT TO SCALE

LEGOLAND CALIFORNIA PROJECT 2025 SDP 2023-0012 / CDP 2023-0022

[Planning Commission Staff Report dated Jan. 17, 2024](#)
(on file in the Office of the City Clerk)

[Planning Commission Minutes dated Jan. 17, 2024](#)
(on file in the Office of the City Clerk)

[Planning Commission Resolution No. 7505](#)
(on file in the Office of the City Clerk)



CITY COUNCIL
Staff Report

Meeting Date: April 9, 2024

To: Mayor and City Council

From: Scott Chadwick, City Manager

Staff Contact: Jennifer Jesser, Senior Planner
 jennifer.jesser@carlsbadca.gov, 442-339-2637

Subject: California Coastal Commission’s suggested modifications to Amendments to Carlsbad Municipal Code Title 21 for Housing Element Program Implementation and the 2022 Zoning Ordinance Cleanup

Districts: All

Recommended Action

1. Hold a public hearing; and
2. Introduction of an ordinance acknowledging receipt of and approving the California Coastal Commission’s suggested modifications to the Local Coastal Program (Zoning Ordinance) for ZCA 2022-0001/LCPA 2022-0013 and ZCA 2022-0002/LCPA 2022-0014.

Executive Summary

Carlsbad Municipal Code Title 21 contains the city’s Zoning Ordinance, which establishes the regulations for properties in Carlsbad, and the Local Coastal Program, which establishes the regulations for properties in the Coastal Zone. Any amendment to the Zoning Ordinance is also an amendment to the Local Coastal Program and must be certified by the California Coastal Commission.

This report relates to two amendments to the Zoning Ordinance and the Local Coastal Program that the City Council approved in 2022:

Housing Element Program implementation (Ordinance No. CS-422, May 10, 2022)

Implemented certain housing programs required under the 2021-2029 Housing Element of the city’s General Plan (Housing Element Programs 1.6.f., 1.6.g., and 1.8.c, as detailed in Exhibit 2).

2022 Zoning Ordinance cleanup (Ordinance No. CS-432, Sept. 27, 2022)

Made various cleanup amendments to the Zoning ordinance and the Local Coastal program (Exhibit 3).

Staff submitted the two amendments to the Coastal Commission for approval as a package in December 2022 and the commission approved the amendments on Feb. 8, 2024, with three suggested modifications, asking the city to:

- Clarify that the basis for approval of coastal development permits for affordable multifamily housing projects is not limited to objective standards.

- Clarify that residential uses in mixed use projects must be accessory to nonresidential uses on commercial properties.
- Clarify that mobile home projects and small wireless communication facilities must comply with the city’s certified Local Coastal Program.

The city now has until Aug. 8, 2024, to consider and approve these modifications. Only the City Council has the authority to approve amendments to the Local Coastal Program.

Explanation & Analysis

Housing Element Program implementation (ZCA 2022-0001/ LCPA 2022-0013)

Every city in California is required to have a current Housing Element in its General Plan. The Housing Element is a plan that provides an analysis of a community’s housing needs for all income levels, along with strategies to respond to and provide for those housing needs.

The City Council voted on May 10, 2022, to amend the Zoning Ordinance and the Local Coastal Program to implement three Housing Element program objectives (Ordinance No. CS-422):

- Program 1.6.f – Expand options for “self-certification” in certain aspects of the building permit application and building inspection processes for qualifying projects. This would allow applicants to move forward on limited revisions without the need for an additional cycle of staff review.
- Program 1.6.g – Evaluate and recommend changes to the guidance for site development plans to the Planning Commission and City Council related to all housing projects and remove requirements that could reduce allowed density and create uncertainty. Amend requirements for affordable housing requirements accordingly.
- Program 1.8.c – Update Zoning Ordinance to define and allow both horizontal and vertical mixed-use projects.

The following section summarizes the city’s adopted municipal code language followed by the Coastal Commission’s suggested modifications, which are highlighted in Exhibit 4. Staff have reviewed and considered the modifications and recommend that the City Council adopt the Coastal Commission’s suggested changes.

City Council-adopted code language

As part of the City Council’s May 2022 action, amendments were adopted clarifying that city staff, the Planning Commission and City Council shall only use objective standards when deciding on permits for affordable multifamily housing, as required by state housing laws (California Government Code Section 65589.5) and to implement Program 1.6.g of the Housing Element.

Coastal Commission’s ’s suggested modifications

The Coastal Commission contends that this particular provision of state housing law does not apply in areas governed by the California Coastal Act. While Section 65589.5, the Housing Accountability Act, may require jurisdictions to base its decision-making on affordable housing projects only upon objective standards , the same code section also requires jurisdictions to comply with the California Coastal Act (California Government Code Section 65589.5(e)).

The Coastal Act includes specific policies – listed in Division 20 of the Public Resources Code – that address issues such as shoreline public access and recreation, lower cost visitor accommodations, terrestrial and marine habitat protection, visual resources, landform alteration, water quality, transportation, and development design.

It is the Coastal Commission’s position that for projects to show compliance with the city’s certified Local Coastal Program and the California Coastal Act, compliance with subjective standards is still required.

For example, Carlsbad Municipal Code Chapter 21.204 requires shoreline development to comply with the following subjective design criteria, which in part implement the Coastal Act’s Section 30251 requirement to protect the scenic and visual qualities of coastal areas.

- Buildings and structures must be located on a site to create a generally attractive appearance and be agreeably related to surrounding development and the natural environment (Municipal Code Section 21.201.100.B).
- Buildings, structures, and landscaping must be located to preserve, to the degree feasible, any ocean views visible from the nearest public street (Municipal Code Section 21.201.100.C).

Given the Coastal Commission’s position on this code interpretation, the suggested modifications clarify that the city’s decision-making on affordable housing projects shall be based only on objective standards for all required permits except coastal development permits, those that apply to the Coastal Zone. In addition, the commission suggested another modification, a minor text correction, to clarify residential uses must be accessory to nonresidential uses on commercial properties.

Program completed

With the recommended edits to modify the requirement, Program 1.6.g of the Housing Element is considered complete: The City Council approved and submitted language modifying standards for affordable housing to objective standards consistent with state housing laws and specific direction of the California Department of Housing and Community Development, and the recommendation was then modified by the Coastal Commission to satisfy state coastal laws.

Staff will continue to provide recommendations to both implement state housing law and the Coastal Act based on the latest guidance from state agencies.

2022 Zoning Ordinance cleanup (ZCA2022-0002/LCPA 2022-0014)

The City Council amended the Zoning Ordinance and the Local Coastal Program on Sept. 27, 2022 (Ordinance No. CS-432) to make various “cleanup” amendments, including the following, which are the subject of the Coastal Commission’s suggested modifications:

- Update the zoning regulations for mobile homes to be consistent with state law
- Establish a building permit approval process for small wireless communication facilities located on public and private property, consistent with City Council Policy No. 64

The following summarizes the city's adopted code language, followed by the Coastal Commission's suggested modifications, which are reflected in track changes format in Exhibit 4. Staff has reviewed and considered the modifications and recommend that the City Council adopt the CCC's suggested changes.

City Council-adopted code language

As part of the City Council's September 2022 action, various amendments were adopted to reflect state law, correct errors, resolve ambiguities and inconsistencies, and add clarifications.

Coastal Commission's suggested modifications

The Coastal Commission's suggested the following to clarify existing requirements of state law and the city's Local Coastal Program:

- Clarify that mobile home projects are required to comply with the city's certified Local Coastal Program.
- Minor correction to the citation to the Health and Safety Code regarding mobile homes.
- Clarify that small wireless communication facilities must comply with the city's certified Local Coastal Program.

The Coastal Commission's primary concerns regarding mobile home projects and small wireless communication facilities are the potential impacts to coastal resources associated with public access to the coast, community character, visual resources, public views, and sensitive biological resources such as wetlands and environmentally sensitive habitat. Therefore, the suggested modifications clarify that mobile home development and small wireless facilities shall be consistent with the coastal resource protection and public access requirements of the certified Local Coastal Program.

Housing Element and state restrictions

Staff recommend approval of the Coastal Commission's suggested modifications. If the City Council does not approve the Coastal Commission's suggested modifications, Ordinances No. CS-422 and CS-432 will not become effective in the Coastal Zone.

Adoption of the Housing Element on April 6, 2021, and subsequent certification from the California Department of Housing and Community Development requires the amendments approved in Ordinance No. CS-422.

Assembly Bill 72, which passed in 2017, authorized the state Housing and Community Development Department to review "any action or failure to act" by a city that it determines "inconsistent" with the city's adopted housing element or Government Code Section 65583 (part of the Housing Element Law), including any failure to implement any programs included in the jurisdiction's housing element.

If Housing and Community Development determines that the city's action or failure to act does not "substantially comply" with the state Housing Element Law, or the city's adopted Housing Element as certified by the state, then the department may revoke that certification until it determines that the city has come into compliance.

In carrying out this exercise, Housing and Community Development may "consult with any local government, public agency, group, or person, and shall receive and consider any written

comments from any public agency, group, or person.” Once the department supplies its written findings to the city, a 30-day timeline begins, by the conclusion of which the city must respond to the findings. Additionally, the department may also notify the California Office of the Attorney General that the city is in violation of state law for further action. It may also decertify a jurisdiction’s housing element if it finds that a city has taken or failed to take action in violation of the state Housing Accountability Act, or the state’s prohibition on discrimination against affordable housing found in Government Code Section 65008.

Should Housing and Community Development decertify a city’s housing element, the city is then subject to Government Code section 65589.5(d)(5), known as the "builder's remedy." This is a provision of California's Housing Accountability Act that prevents jurisdictions without a substantially compliant housing element from denying approval for certain housing projects, even if such projects do not comply with the jurisdiction's zoning ordinance or general plan.

Fiscal Analysis

There is no anticipated fiscal impact from this action.

Next Steps

Staff will present the ordinance (Exhibit 1) for second reading and the City Council’s approval at the next City Council meeting. Staff will then submit evidence to the California Coastal Commission that the suggested modifications were received and acted on by the City Council.

At the next regularly scheduled Coastal Commission hearing, the Executive Director of the Coastal Commission will report its determination that the suggested modifications have been implemented. The amendments to the Zoning Ordinance and Local Coastal Program amendments, as approved by Ordinances No. CS-422 and CS-432 and amended by the suggested modifications, will become effective immediately following the Executive Director’s report to the Coastal Commission.

Environmental Evaluation

The City Planner has determined that the amendments are exempt from the California Environmental Quality Act under the commonsense exemption, Section 15061(b)(3) of the CEQA Guidelines, since there would be no possibility of a significant effect on the environment because the proposed amendments do not directly or indirectly authorize or approve any actual changes in the physical environment.

Exhibits

1. City Council ordinance
2. City Council Ordinance No. CS-422
3. City Council Ordinance No. CS-432
4. Coastal Commission’s suggested modifications
5. Coastal Commission staff report dated Jan. 25, 2024 (Housing Element program implementation)
6. Coastal Commission staff report dated Jan. 25, 2024 (Zoning cleanup 2022)

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, ACKNOWLEDGING RECEIPT OF AND APPROVING THE CALIFORNIA COASTAL COMMISSION'S SUGGESTED MODIFICATIONS TO THE LOCAL COASTAL PROGRAM (ZONING ORDINANCE) FOR ZCA 2022-0001/LCPA 2022-13 AND ZCA 2022-0002/LCPA 2022-14

WHEREAS, on May 10, 2022, the City Council adopted Ordinance No. CS-422, approving ZCA 2022-0001/LCPA 2022-0013 – Housing Element Program Implementation; and

WHEREAS, on Sept. 13, 2022, the City Council adopted Ordinance No. CS-432, approving ZCA 2022-0002/LCPA 2022-0014 –2022 Zoning Ordinance Cleanup; and

WHEREAS, the Carlsbad Zoning Ordinance is the implementing ordinance of the Carlsbad Local Coastal Program, and therefore, an amendment to the Zoning Ordinance also constitutes an amendment to the Local Coastal Program; and

WHEREAS, the California Coastal Act requires Coastal Commission certification of any local coastal program amendment; and

WHEREAS, on Feb. 8, 2024, the California Coastal Commission approved the city's Local Coastal Program Amendments (LCPA 2022-0013 and LCPA 2022-0014) with suggested modifications; and

WHEREAS, the California Coastal Commission's approval of LCPA 2022-0013 and LCPA 2022-0014 will not become effective until the Commission certifies that the city has amended its Local Coastal Program pursuant to the Commission's suggested modifications; and

WHEREAS, on April 9, 2024, the City Council held a duly noticed public hearing as prescribed by law to consider the Coastal Commission's suggested modifications.

NOW, THEREFORE, the City Council of the City of Carlsbad, California, ordains as follows that:

1. The above recitations are true and correct.
2. Carlsbad Municipal Code Section 21.26.015.A is amended to read as follows:
 - A. Residential uses are allowed either vertically, meaning within the same building, or horizontally, meaning within a separate building on the same site. Residential uses must be accessory to the nonresidential uses permitted by Section 21.26.010 of this title.
3. Carlsbad Municipal Code Section 21.28.015.A is amended to read as follows:

- A. Residential uses are allowed either vertically, meaning within the same building, or horizontally, meaning within a separate building on the same site. Residential uses must be accessory to the nonresidential uses permitted by Section 21.26.010 of this title.
4. Carlsbad Municipal Code Section 21.31.065.A is amended to read as follows:
- B. Residential uses are allowed either vertically, meaning within the same building, or horizontally, meaning within a separate building on the same site. Residential uses must be accessory to the nonresidential uses permitted by Section 21.26.010 of this title.
5. Carlsbad Municipal Code Section 21.37.010.A is amended to read as follows:
- A. The intent and purpose of the mobile home park zone is to:
 - 1. Provide locations where mobile homes and mobile home parks may be established, maintained and protected;
 - 2. Provide a means to regulate and control the conversion of existing mobile home parks to another use;
 - 3. Promote and encourage an orderly residential environment with appropriate physical amenities; and
 - 4. Implement the goals and objectives of the general plan, including all residential land use designations and the housing element, consistent with the coastal resource policies set forth in the certified Local Coastal Program.
6. Carlsbad Municipal Code Section 21.37.090.A is amended to read as follows:
- A. The following design criteria shall apply to all mobile home parks to the extent permitted according to California Health and Safety Code Section 18200, et seq. and Section 18860 et seq., respectively:
 - 1. The overall plan shall be comprehensive, embracing land, buildings for common use or park service and maintenance, landscaping and their interrelationships, and shall conform to adopted plans for all governmental agencies for the area in which the proposed development is located;
 - 2. The plan shall provide for adequate circulation, off-street parking, open recreational areas and other pertinent amenities. Buildings, structures and facilities for common use in the park or for service and maintenance of the park shall be well integrated, oriented and related to the topographic and natural landscape features of the site;
 - 3. The proposed development shall be compatible with existing and planned land use and with circulation patterns on adjoining properties. It shall not constitute a disruptive element to the neighborhood or community; and

4. Common areas and recreational facilities shall be located so as to be readily accessible to the occupants of the dwelling units and shall be well related to any common open spaces provided.
7. Carlsbad Municipal Code Section 21.53.120.B is amended to read as follows:
 - B. Development Standards.
 1. The development (both for multi-family residential and affordable housing) shall be subject to the development standards of the zone in which the development is located and/or any applicable specific or master plan except for affordable housing projects as expressly modified by the site development plan. The site development plan for affordable housing projects may allow less restrictive development standards than specified in the underlying zone or elsewhere provided that the project is in conformity with the general plan and adopted policies and goals of the city, it would have no detrimental effect on public health, safety and welfare, and, in the coastal zone, any project processed pursuant to this chapter shall be consistent with all certified local coastal program provisions, with the exception of density. The decision-making authority for the site development plan and any other associated permits, other than coastal development permits, shall require only objective requirements that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal. These standards shall be consistent with the Zoning Ordinance, General Plan, any applicable Master or Specific Plan, certified Local Coastal Program, and the Government Code of the State of California.
8. Carlsbad Municipal Code Section 21.53.260 is amended to read as follows:

21.53.260 Small wireless facilities (SWF).

 - A. Small wireless facilities shall comply with all applicable city requirements and the certified Local Coastal Program. An application for a SWF located on public or private property may be processed as a building permit, and an application for a SWF located within the public right-of-way of roads may be processed as a right-of-way permit pursuant to Title 11 of the Carlsbad Municipal Code. For a SWF located in the Coastal Zone, a coastal development permit may be required pursuant to Chapter 21.201.
 - B. Small wireless facilities between the first public roadway and the ocean or lagoons shall not create significant impacts to public views from scenic corridors, scenic public view areas, public paths, bikeways, beaches and public recreational facilities, and shall not require the construction of shoreline protective devices. If there is no feasible alternative that can comply with this requirement without resulting in a significant gap in communication coverage, then the alternative

that would result in the fewest or least significant impacts to public views, public access and recreation, and shoreline processes shall be selected.

EFFECTIVE DATE: This ordinance shall be effective either thirty days after its adoption, or upon the date the Executive Director of the California Coastal Commission certifies that implementation of LCPA 2022-0013 and LCPA 2022-0014 will be consistent with the Coastal Commission's approval of the Local Coastal Program amendments with suggested modifications, whichever occurs later. The City Clerk shall certify the adoption of this ordinance and cause the full text of the ordinance or a summary of the ordinance prepared by the City Attorney to be published at least once in a newspaper of general circulation in the City of Carlsbad within fifteen days after its adoption.

INTRODUCED AND FIRST READ at a Regular Meeting of the Carlsbad City Council on the _____ day of _____, 2024, and thereafter

PASSED, APPROVED AND ADOPTED at a Regular 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:

APPROVED AS TO FORM AND LEGALITY:

CINDIE K. McMAHON, City Attorney

KEITH BLACKBURN, Mayor

SHERRY FREISINGER, City Clerk
(SEAL)

ORDINANCE NO. CS-422

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, ADOPTING AMENDMENTS TO THE CARLSBAD MUNICIPAL CODE TITLE 18 (BUILDING CODE) AND TITLE 21 (ZONING ORDINANCE) IMPLEMENTING CERTAIN HOUSING PROGRAMS REQUIRED UNDER THE 2021-2029 HOUSING ELEMENT

WHEREAS, on Aug. 6, 2021 the City Council approved the city's Housing Element, and subsequently on July 13, 2021 the California Department of Housing and Community Development found the adopted Housing Element to be in substantial compliance with applicable laws; and

WHEREAS, the Housing Element includes Goals, Policies, Programs and Objectives that are required to be implemented to ensure continued compliance throughout the sixth cycle of the Housing Element to cover the period from 2021 to 2029; and

WHEREAS, the City Planner, has prepared a proposed amendment to the Zone Code and Local Coastal Program pursuant to Chapter 21.52 of the Carlsbad Municipal Code to implement three programs approved in the Housing Element of the General Plan; and

WHEREAS, on March 2, 2022, the Planning Commission held a duly noticed public hearing as prescribed by law to consider ZCA 2022-0001/ LCPA 2022-0013; and

WHEREAS, the Planning Commission adopted Planning Commission Resolution No. 7441 recommending to the City Council that ZCA 2022-0001/ LCPA 2022-0013 be approved; and

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

1. The above recitations are true and correct.
2. The findings in Planning Commission Resolution No. 7441 shall also constitute the findings of the City Council.
3. Carlsbad Municipal Code Section 18.04.045

Section 110.4 of the California Building Code is amended to read as follows:

INSPECTION AGENCIES. The building official is authorized to accept reports of approved inspection agencies, licensed Engineers, licensed contractors or other qualified individuals, provided that such agencies, licensed professionals or individuals satisfy the requirements as to qualifications and reliability.

4. Carlsbad Municipal Code Section 18.20.050 is amended to read as follows:

Section 109.2 of the California Residential Code is amended to read as follows:

INSPECTION AGENCIES. The building official is authorized to accept reports of approved inspection agencies, licensed Engineers, licensed contractors or other qualified individuals, provided such agencies, licensed Engineers, licensed contractors or qualified individuals satisfy the requirements as to qualifications and reliability.

5. Carlsbad Municipal Code Section 21.26.015 is amended to read as follows:

Mixed use developments that propose residential uses in combination with commercial uses shall comply with the following requirements.

- A. Residential uses are allowed either vertically, meaning within the same building, or horizontally, meaning within a separate building on the same site. Residential uses must be Accessory to the nonresidential uses permitted by Section 21.26.010 of this title.
- B. Residential uses shall be subject to the requirements of the chapters of this title, which include but are not limited to, Chapter 21.26, Chapter 21.44, and in the case of airspace subdivisions, Chapter 21.47.
- C. Residential uses shall be constructed at a minimum density of 15 dwelling units per acre, per Table 2-4 of the general plan land use and community design element, subject to approval of a site development plan processed in accordance with Chapter 21.06 of this title.
 - 1. Density and yield of residential uses shall be determined consistent with the residential density calculations and residential development restrictions in Section 21.53.230 of this title and shall be based on 25% of the developable area. Unit yield in excess of the minimum shall be subject to the finding in subsection 2 below. In no case shall the calculation preclude the development of at least one dwelling unit in a mixed use development.
 - 2. Residential uses shall be accessory to the primary commercial use of the site. Compliance with this provision shall be evaluated as part of the site development plan.
- D. Residential uses shall include residential care facilities (serving six or fewer persons), supportive housing, and transitional housing.

6. Carlsbad Municipal Code Section 21.28.015 is amended to read as follows:

Mixed use developments that propose residential uses in combination with commercial uses shall comply with the following requirements.

- A. Residential uses are allowed either vertically, meaning within the same building, or horizontally, meaning within a separate building on the same site. Residential uses must be Accessory to the nonresidential uses permitted by Section 21.28.010 of this title.
- B. Residential uses shall be subject to the requirements of the chapters of this title, which include but are not limited to, Chapter 21.28, Chapter 21.44, and in the case of airspace subdivisions, Chapter 21.47.
- C. Residential uses shall be constructed at a minimum density of 15 dwelling units per acre, per Table 2-4 of the general plan land use and community design element, subject to approval of a site development plan processed in accordance with Chapter 21.06 of this title.
 - 1. Density and yield of residential uses shall be determined consistent with the residential density calculations and residential development restrictions in Section 21.53.230 of this title and shall be based on 25% of the developable area. Unit yield in excess of the minimum shall be subject to the finding in subsection 2 below. In no case shall the calculation preclude the development of at least one dwelling unit in a mixed use development.

2. Residential uses shall be accessory to the primary commercial use of the site. Compliance with this provision shall be evaluated as part of the site development plan.
- D. Residential uses shall include residential care facilities (serving six or fewer persons), supportive housing, and transitional housing.

7. Carlsbad Municipal Code Section 21.31.015 is amended to read as follows:

Mixed use developments that propose residential uses in combination with commercial uses shall comply with the following requirements.

- A. Residential uses are allowed either vertically, meaning within the same building, or horizontally, meaning within a separate building on the same site. Residential uses must be Accessory to the nonresidential uses permitted by Section 21.31.030 of this title.
- B. Residential uses shall be subject to the requirements of the chapters of this title, which include but are not limited to, Chapter 21.31, Chapter 21.44, and in the case of airspace subdivisions, Chapter 21.47.
- C. Residential uses shall be constructed at a minimum density of 15 dwelling units per acre, per Table 2-4 of the general plan land use and community design element, subject to approval of a site development plan processed in accordance with Chapter 21.06 of this title.
 1. Density and yield of residential uses shall be determined consistent with the residential density calculations and residential development restrictions in Section 21.53.230 of this title and shall be based on 25% of the developable area. Unit yield in excess of the minimum shall be subject to the finding in subsection 2 below. In no case shall the calculation preclude the development of at least one dwelling unit in a mixed use development.
 2. Residential uses shall be accessory to the primary commercial use of the site. Compliance with this provision shall be evaluated as part of the site development plan.
- D. Residential uses shall include residential care facilities (serving six or fewer persons), supportive housing, and transitional housing.

8. Carlsbad Municipal Code Section 21.53.120 is amended to read as follows:

- A. Site Development Plan Requirement.
 1. Notwithstanding anything to the contrary in this code, no building permit or other entitlement shall be issued for any multi-family residential development having more than four dwelling units or an affordable housing project of any size unless a site development plan has been approved for the project. The site development plan shall be processed pursuant to the provisions of Chapter 21.06 of this title.
 2. A site development plan for a multi-family residential project (not affordable) shall not be required for any project processed pursuant to the provisions of Chapter 21.45 of this title.
- B. Development Standards.
 1. The development (both for multi-family residential and affordable housing) shall be subject to the development standards of the zone in which the development is located and/or any applicable specific or master plan except for affordable housing projects as expressly modified by the site development plan. The site development plan for affordable housing projects may allow less restrictive development standards than specified in the underlying zone or elsewhere provided that the project is in conformity with the general plan and adopted policies and goals of the city, it would have no detrimental effect on public health, safety and welfare, and, in the coastal zone, any project processed pursuant to this chapter

shall be consistent with all certified local coastal program provisions, with the exception of density. The decision making authority for the site development plan and any other associated permits can only require objective requirements that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal. These standards were published in advance and consistent with *The Zoning Ordinance, General Plan*, any applicable Master or Specific Plan, and the Government Code of the State of California.

EFFECTIVE DATE OF THIS ORDINANCE APPLICABLE TO PROPERTIES OUTSIDE THE COASTAL ZONE: This ordinance shall be effective thirty days after its adoption; and the City Clerk shall certify the adoption of this ordinance and cause the full text of the ordinance or a summary of the ordinance prepared by the City Attorney to be published at least once in a newspaper of general circulation in the City of Carlsbad within fifteen days after its adoption.

EFFECTIVE DATE OF THIS ORDINANCE APPLICABLE TO PROPERTIES INSIDE THE COASTAL ZONE: This ordinance shall be effective thirty days after its adoption or upon Coastal Commission approval of LCPA 2022-0013, whichever occurs later; and the City Clerk shall certify the adoption of this ordinance and cause the full text of the ordinance or a summary of the ordinance prepared by the City Attorney to be published at least once in a newspaper of general circulation in the City of Carlsbad within fifteen days after its adoption.

INTRODUCED AND FIRST READ at a Regular Meeting of the Carlsbad City Council on the 19th day of April, 2022, and thereafter

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the 10th day of May, 2022, by the following vote, to wit:

AYES: Hall, Blackburn, Bhat-Patel, Acosta, Norby.

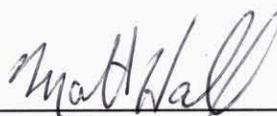
NAYS: None.

ABSENT: None.

APPROVED AS TO FORM AND LEGALITY:



CELIA A. BREWER, City Attorney



MATT HALL, Mayor



for

FAVIOLA MEDINA, City Clerk Services Manager

(SEAL)



ORDINANCE NO. CS-432

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA ADOPTING AMENDMENTS TO CARLSBAD MUNICIPAL CODE TITLE 15 (GRADING AND DRAINAGE ORDINANCE) AND TITLE 21 (ZONING ORDINANCE) TO COMPLETE VARIOUS MISCELLANEOUS CLEANUP AMENDMENTS TO THE CARLSBAD MUNICIPAL CODE. THE AMENDMENTS ALSO INCLUDE A LOCAL COASTAL PROGRAM AMENDMENT
CASE NAME: 2022 ZONING ORDINANCE CLEANUP
CASE NO: MCA2022-0004/ZCA2022-0002/LCPA 2022-0014

WHEREAS the City Planner has prepared amendments to the Carlsbad Municipal Code and Local Coastal Program (MCA 2022-0004/ZCA 2022-0002/LCPA 2022-0014)) pursuant to Chapter 21.52 of the Carlsbad Municipal Code, Section 30514 of the Public Resources Code, and Section 13551 of California Code of Regulations Title 14, Division 5.5; and

WHEREAS the Carlsbad Municipal Code Title 21 (Zoning Ordinance) and Section 15.16 of Title 15 (Grading and Drainage Ordinance) are part of the Carlsbad Local Coastal Program Implementation Plan, and therefore, amendments to Title 21 and Section 15.16 also constitute amendments to the Local Coastal Program; and

WHEREAS, pursuant to California Coastal Commission Regulations, a six-week public review period for the Local Coastal Program Amendment began May 20, 2022 and ending on July 1, 2022; and

WHEREAS, on June 10, 2022, the Airport Land Use Commission reviewed and found that the proposed amendments are consistent with the adopted McClellan-Palomar Airport Land Use Compatibility Plan; and

WHEREAS, on June 15, 2022, the Planning Commission held a duly noticed public hearing as prescribed by law to consider ZCA 2022-0002/LCPA 2022-0014; and

WHEREAS the Planning Commission adopted Planning Commission Resolution No. 7452 recommending to the City Council that ZCA 2022-0002/LCPA 2022-0014 be approved; and

WHEREAS the City Council of the City of Carlsbad held a duly noticed public hearing as prescribed by law to consider MCA2022-0004/ZCA 2022-0002/LCPA 2022-0014; and

WHEREAS at said public hearing, upon hearing and considering all testimony and arguments, if any, of all persons desiring to be heard, the City Council considered all factors, including written public comments, if any, related to MCA2022-0004/ZCA 2022-0002/LCPA 2022-0014; and

NOW, THEREFORE, the City Council of the City of Carlsbad, California, ordains as follows:

1. The above recitations are true and correct.
2. The findings of the Planning Commission in Planning Commission Resolution No. 7452 shall also constitute the findings of the City Council.
3. That Section 15.16.060 of the Carlsbad Municipal Code is amended as shown below:

15.16.060 Work exempt from grading permit.

- A. A grading permit shall not be required for the following:
1. Cemetery graves.
 2. Refuse disposal sites controlled by other regulations.
 3. Excavations for wells, tunnels, utilities, or swimming pools/spas.
 4. Exploratory excavations under the direction of soil engineers or engineering geologists.
 5. Clearing and grubbing of vegetation done for the purpose of routine landscape maintenance, the removal of dead or diseased trees or shrubs or the removal of vegetation done upon order of the fire marshal to eliminate a potential fire hazard or for the abatement of weeds.
 6. Clearing and grubbing of vegetation done preparatory to agricultural operations on land which has been used for agricultural purposes within the previous five years.
 7. Grading on a site where the city engineer finds that the following conditions exist:
 - a. The amount of soil material moved does not exceed 200 cubic yards (excluding excavation for basements, foundations and footings);
 - b. No fill material is placed on an existing slope steeper than five units horizontal to one vertical;
 - c. No cut or fill material exceeds four feet in vertical depth at its deepest point, measured from the existing ground surface.
 8. Grading in an isolated, self-contained area.
 9. Grading associated with stem wall construction.
 10. Retaining walls with a maximum height of 6 feet and the soil material moved does not to exceed 200 cubic yards.

4. That Chapter 21.04 of the Carlsbad Municipal Code is amended by the addition of a new section as shown below:

21.04.140.6 Employee housing, small.

Pursuant to Cal. Health and Safety Code § 17008, employee housing, small means any portion of any housing accommodation, or property upon which a housing accommodation is located, maintained in connection with any work or place where work is being performed, whether or not rent is involved, where such housing provides accommodations for six or fewer persons.

5. That Section 21.04.145 of the Carlsbad Municipal Code is amended as shown below:

21.04.145 Family.

“Family” means one or more persons living together in a dwelling unit, with common access to, and common use of all living, kitchen, and eating areas within the dwelling unit. Residents and operators of a residential care facility or employee housing serving six or fewer persons shall be considered a family for purposes of any zoning regulation relating to residential use of such facilities.

6. That Section 21.04.147 of the Carlsbad Municipal Code is amended as shown below:

21.04.147 Family day care home, large.

“Large family day care home” means a dwelling which provides family day care for seven to fourteen children, inclusive, including children under the age of ten years who reside at the home as defined by Section 1596.78 of the California Health and Safety Code and permitted by the licensing agency.

7. That Section 21.04.148 of the Carlsbad Municipal Code is amended as shown below:

21.04.148 Family day care home, small.

“Small family day care home” means a dwelling which provides family day care for eight or fewer children, including children under the age of ten years who reside at the home as defined in Section 1596.78 of the California Health and Safety Code and permitted by the licensing agency.

8. That Section 21.04.281 of the Carlsbad Municipal Code is amended as shown below:

21.04.281 Nonconforming residential use.

“Nonconforming residential use” means a residential use which was lawfully established and maintained, but which exceeds the maximum density range of the underlying general plan land use designation.

9. That Chapter 21.04 of the Carlsbad Municipal Code is amended by the addition of a new section as shown below:

21.04.291.1 Personal services.

“Personal Services” means uses that include but are not limited to dry cleaners, beauty and barber shops, day spas, cosmetic services, nail salons, shoe/garment repair, massage therapy, etc.

10. That Chapter 21.04 of the Carlsbad Municipal Code is amended by the addition of a new section as shown below:

21.04.305.5 Small wireless facilities.

Small wireless facilities (SWF), consistent with FCC regulations in 47 C.F.R. §§ 1.6002(l), are wireless communication facilities that meet each of the following conditions:

- A. The facilities—
 - 1. Are mounted on structures 50 feet or less in height including their antennas as defined in section 1.1320(d), or
 - 2. Are mounted on structures no more than 10 percent taller than other adjacent structures, or
 - 3. Do not extend existing structures on which they are located to a height of more than 50 feet or by more than 10 percent, whichever is greater;
- B. Each antenna associated with the deployment, excluding associated antenna equipment (as defined in the definition of antenna in section 1.1320(d)), is no more than three cubic feet in volume;
- C. All other wireless equipment associated with the structure, including the wireless equipment associated with the antenna and any pre-existing associated equipment on the structure, is no more than 28 cubic feet in volume;
- D. The facilities do not require antenna structure registration under 47 CFR Part 17;
- E. The facilities are not located on Tribal lands, as defined under 36 CFR 800.16(x); and
- F. The facilities do not result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in section 1.1307(b).

- 11. The permitted use tables in each of the following sections are amended by the addition of the new use listing as shown below:

- 21.08.020 Permitted uses, Table A.
- 21.09.020 Permitted uses, Table A.
- 21.10.020 Permitted uses, Table A.
- 21.12.020 Permitted uses, Table A.
- 21.16.020 Permitted uses, Table A.
- 21.18.020 Permitted uses, Table B.
- 21.20.010 Permitted uses, Table A.
- 21.22.020 Permitted uses, Table A.
- 21.24.020 Permitted uses, Table A.
- 21.37.020 Permitted uses, Table A.

Use	P	CUP	Acc
Employee housing (serving six or fewer persons)	X		

12. That Section 21.10.050 of the Carlsbad Municipal Code is amended as shown below:

21.10.050 Building height.

In the R-1 zone no building shall exceed a height of thirty feet and two stories if a minimum roof pitch of 3:12 is provided or twenty-four feet and two stories if less than a 3:12 roof pitch is provided for lots under twenty thousand square feet. Single-family residences on lots with a lot area of twenty thousand square feet or greater and within a R-1 zone and specifying a -20 or greater area zoning symbol shall not exceed thirty-five feet and three stories with a minimum roof pitch of 3:12 provided, or twenty-nine feet and three stories if less than a 3:12 roof pitch is provided.

13. That the following sections of the Carlsbad Municipal Code are amended as shown below:

21.08.060 Placement of buildings

21.10.080 Placement of buildings

21.12.060 Placement of buildings

21.16.060 Placement of buildings

- A. Placement of buildings on any lot shall conform to the following, except as otherwise permitted for accessory dwelling units (or junior accessory dwelling units where permitted) pursuant to Section 21.10.030:
1. Interior Lots.
 - a. No building shall occupy any portion of a required yard;
 - b. Any building, any portion of which is used for human habitation, shall observe a distance from any side lot line the equivalent of the required side yard on such lot and from the rear property line the equivalent of twice the required side yard on such lot;
 - c. All accessory structures shall comply with the following development standards:
 - i. The lot coverage shall include accessory structures in the lot coverage calculations for the lot,
 - ii. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department,
 - iii. Buildings shall not exceed one story,
 - iv. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided;
 - d. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks;
 - e. Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:

- i. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet,
 - ii. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet and an alley setback of five feet,
 - iii. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures,
 - iv. The additional development standards listed above (subsections (A)(1)(g)(i) through (iii) of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area; and
 - f. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.
- 2. Corner Lots and Reversed Corner Lots.
 - a. No building shall occupy any portion of a required yard;
 - b. Any building, any portion of which is used for human habitation, shall observe a distance from the rear property line the equivalent of twice the required interior side yard on such lot;
 - c. All accessory structures shall comply with the following development standards:
 - i. The lot coverage shall include accessory structures in the lot coverage calculations for the lot,
 - ii. When proposed on a lot adjoining native vegetation, accessory structures within a fire suppression zone must be reviewed and approved by the fire department,
 - iii. Buildings shall not exceed one story,
 - iv. Building height shall not exceed fourteen feet if a minimum roof pitch of 3:12 is provided or ten feet if less than a 3:12 roof pitch is provided;
 - d. Habitable detached accessory structures shall comply with all requirements of the zone applicable to placement of a dwelling unit on a lot including setbacks;
 - e. Detached accessory structures which are not dwelling units and contain no habitable space, including, but not limited to, garages, workshops, tool sheds, decks over thirty inches above grade and freestanding patio covers shall comply with the following additional development standards when located within a lot's required setback areas:
 - i. The maximum allowable building area per structure shall not exceed a building coverage of four hundred forty square feet,
 - ii. The following setbacks shall apply: a front yard setback of twenty feet, a rear yard setback of five feet, a side yard setback of five feet, a street side yard setback of five feet and an alley setback of five feet,
 - iii. The maximum plumbing drain size shall be one and one-half inches in diameter so as to prohibit toilets, showers, bathtubs and other similar fixtures,

- iv. The additional development standards listed above (subsections (A)(2)(g)(i) through (iii) of this section) shall apply to the entire subject accessory structure, not just the portion encroaching into a lot's setback area; and
- f. The provisions of this section are applicable notwithstanding the permit requirements contained in Section 18.04.015.

14. That Table A of Section 21.18.020 is amended by the addition of a new use listing for "Personal services..." as shown below, and by the deletion of the use listing for "Services, provided directly to consumers...":

Use	P	CUP	Acc
Personal services (defined: section 21.04.291.1)		1	

15. That Table A of Section 21.26.010 is amended to read as follows:

Use	P	CUP	Acc
Accountants	X		
Adult and/or senior daycare and/or recreation facility (private/non-private)		1	
Alcoholic treatment centers		2	
Amusement parks		3	
Arcades—coin-operated (subject to Section 21.42.140(B)(15); defined: Section 21.04.091)		1	
Athletic clubs, gymnasiums, health clubs, and physical conditioning businesses	X		
Attorneys	X		
Banks and other financial institutions without drive-thru facilities	X		
Bakeries	X		
Biological habitat preserve (subject to Section 21.42.140(B)(30); defined: Section 21.04.048)		2	
Book or stationery stores	X		
Child day care centers, subject to the provisions of Chapter 21.83 of this title	X		
Churches, synagogues, temples, convents, monasteries, and other places of worship		2	
Clubs—nonprofit, business, civic, professional, etc. (defined: Section 21.04.090)		1	
Columbariums, crematories, and mausoleums (not within a cemetery)		2	
Delicatessen (defined: Section 21.04.106)	X		
Doctors, dentists, optometrists, chiropractors and others practicing the healing arts for human beings, and related uses such as oculists, pharmacies (prescription only), biochemical laboratories and x-ray laboratories	X		
Dressmaking or millinery shops	X		
Drive-thru facility (not restaurants)		1	
Drugstores	X		
Dry goods or notion stores	X		
Educational facilities, other (defined: Section 21.04.137)	X		
Educational institutions or schools, public/private (defined: Section 21.04.140)		2	

Use	P	CUP	Acc
Engineers, architects and planners	X		
Fairgrounds		3	
Farmworker housing complex, small (subject to Section <u>21.10.125</u> ; defined: Section <u>21.04.148.4</u>)		1	
Florist shops	X		
Fortunetellers, as defined in Section <u>5.50.010</u>	X		
Gas stations (subject to Section <u>21.42.140(B)(65)</u>)		2	
Greenhouses > 2,000 square feet (subject to Section <u>21.42.140(B)(70)</u>)		1	
Grocery or fruit stores	X		
Hardware stores	X		
Hospitals (defined: Section <u>21.04.170</u>)		2	
Hospitals (mental) (defined: Section <u>21.04.175</u>)		2	
Hotels and motels (subject to Section <u>21.42.140(B)(80)</u>)		3	
Institutions of a philanthropic or eleemosynary nature, except correctional or mental	X		
Jewelry stores	X		
Laundries or clothes cleaning agencies	X		
Liquor store (subject to Section <u>21.42.140(B)(85)</u> ; defined: Section <u>21.04.203</u>)		2	
Meat markets	X		
Mobile buildings (subject to Section <u>21.42.140(B)(90)</u> ; defined: Section <u>21.04.265</u>)		1	
Outdoor dining (incidental) (subject to Section <u>21.26.013</u> ; defined: Section <u>21.04.290.1</u>)			X
Packing/sorting sheds > 600 square feet (subject to Section <u>21.42.140(B)(70)</u>)		1	
Paint stores	X		
Parking facilities (primary use) (i.e., day use, short-term, nonstorage)		1	
Pawnshops (subject to Section <u>21.42.140(B)(105)</u>)		3	
Personal services (defined: section <u>21.04.291.1</u>)	X		
Pet supply shops	X		
Pool halls, billiards parlors (subject to Section <u>21.42.140(B)(110)</u> ; defined: Section <u>21.04.292</u>)		2	
Private clubs, fraternities, sororities and lodges, excepting those the chief activity of which is a service customarily carried on as a business	X		
Public meeting halls, exhibit halls, and museums		2	
Public/quasi-public buildings and facilities and accessory utility buildings/facilities (defined: Section <u>21.04.297</u>)		2	
Racetracks		3	
Radio/television/microwave/broadcast station/tower		2	
Realtors	X		
Recreation facilities		1	
Recycling collection facilities, large (subject to Chapter <u>21.105</u> of this title; defined: Section <u>21.105.015</u>)		2	
Recycling collection facilities, small (subject to Chapter <u>21.105</u> of this title; defined: Section <u>21.105.015</u>)		1	
Religious reading room (separate from church)		1	
Residential uses (subject to Section <u>21.26.015</u> of this title)	X		
Restaurants (bona fide public eating establishment) (defined: Section <u>21.04.056</u>)	X		
Restaurants (excluding drive-thru restaurants), tea rooms or cafes (excluding dancing or entertainment and on-sale liquor)	X		

Use	P	CUP	Acc
Satellite television antennae (subject to Section <u>21.53.130—21.53.150</u> ; defined: Section <u>21.04.302</u>)			X
Shoe, clothing or wearing apparel stores	X		
Signs (subject to Chapter <u>21.41</u>)			X
Stadiums		3	
Tattoo parlors (subject to Section <u>21.42.140(B)(140)</u>)		3	
Theaters (motion picture or live) — Indoor		2	
Theaters, stages, amphitheaters — Outdoor		3	
Thrift shops (subject to Section <u>21.42.140(B)(150)</u>)		1	
Transit passenger terminals (bus and train)		2	
Veterinary clinic/animal hospital (small animals) (defined: Section <u>21.04.378</u>)		1	
Welfare and charitable service (private or semi-private) with no permanent residential uses (i.e., Goodwill, Red Cross, Traveler’s Aid)		1	
Windmills (exceeding height limit of zone) (subject to Section <u>21.42.140(B)(160)</u>)		2	
Wireless communication facilities (subject to Section <u>21.42.140(B)(165)</u> ; defined: Section <u>21.04.379</u>)		1 / 2	
Youth organizations (e.g., Boy Scouts, Girl Scouts, Boys and Girls Clubs, YMCA, YWCA, except lodgings)		1	

Note:

1. Any use meeting the definition of an entertainment establishment, as defined in Section 8.09.020 of the Carlsbad Municipal Code (CMC), shall be subject to the requirements of CMC Chapter 8.09.

16. That Table A of Section 21.28.010 is amended by the addition of a new use listing for “Personal services...” as shown below:

Use	P	CUP	Acc
Personal services (defined: section 21.04.291.1)	X		

17. That Table A of Section 21.29.030 is amended by the addition of a new use listing for “Personal services...” as shown below, and by the deletion of the use listing for “Services (personal), limited to...”:

Use	P	CUP	Acc
Personal services (defined: section 21.04.291.1)	X		

18. That Table A of Section 21.31.020 is amended by the addition of a new use listing for “Personal services...” as shown below, and by the deletion of the use listing for “Services, provided directly to consumers ...”:

Use	P	CUP	Acc
Personal services (defined: section 21.04.291.1)	X		

19. That subsection A.1 of Section 21.31.060 is amended as shown below:

1. Required eating areas for employees (subject to Section 21.31.080(K));

20. That Section 21.37.090 is amended as shown below:

21.37.090 Design criteria.

A. The following design criteria shall apply to all mobile home parks to the extent permitted according to California Health and Safety Code §18200, et seq. and §18665 et seq., respectively:

1. The overall plan shall be comprehensive, embracing land, buildings for common use or park service and maintenance, landscaping and their interrelationships, and shall conform to adopted plans for all governmental agencies for the area in which the proposed development is located;
2. The plan shall provide for adequate circulation, off-street parking, open recreational areas and other pertinent amenities. Buildings, structures and facilities for common use in the park or for service and maintenance of the park shall be well integrated, oriented and related to the topographic and natural landscape features of the site;
3. The proposed development shall be compatible with existing and planned land use and with circulation patterns on adjoining properties. It shall not constitute a disruptive element to the neighborhood or community; and
4. Common areas and recreational facilities shall be located so as to be readily accessible to the occupants of the dwelling units and shall be well related to any common open spaces provided.

21. That Section 21.37.100 is amended as shown below:

21.37.100 Development standards.

A. A mobile home park shall comply with the following development standards and any applicable standards under state law:

1. A mobile home park shall be not less than five acres for a condominium or planned unit development park and fifteen acres for a rental park;
2. Parking shall be provided subject to the provisions of Chapter 21.44 of this title;
3. Mobile home park streets shall be provided in such a pattern as to provide convenient traffic circulation within the mobile home park. Such streets shall be built to the following standards:
 - a. No roadway shall be less than thirty-four feet in width,
 - b. There shall be concrete curbs on each side of the streets,
 - c. The mobile home park streets shall be paved according to standards established by the city engineer,
 - d. Mobile home park streets shall be lighted in accordance with the standards established by the city engineer;

4. The city council may permit decentralization of the recreational facilities in accordance with principles of good planning;
 5. Common trash-bin enclosures shall be provided. They shall be of masonry construction and compatible with the mobile home park;
 6. Service buildings and facilities shall be strategically located throughout the park for convenient access from mobile homes. No service building shall be closer than twenty feet to any property adjacent to the mobile home park;
 7. Mobile home parks shall be enclosed by solid masonry fences, six feet in height, subject to city planner approval, along dedicated street frontages; and
 8. All new mobile homes shall bear a valid insignia of approval issued by the State Department of Housing and Community Development.
22. That within Table A of Section 21.44.020, the number of off-street parking spaces for the Residential Care Facility use is amended as follows:

Use		Number of Off-Street Parking Spaces
Residential Uses	Residential Care Facilities	Two spaces per unit, provided as either: <ul style="list-style-type: none"> • A two-car garage (minimum interior 20 feet x 20 feet); or • Two separate one-car garages (minimum interior 12 feet x 20 feet each);

23. That Section 21.42.110 of the Carlsbad Municipal Code is amended as shown below:

21.42.110 Expiration, extensions and amendments.

- A. Expiration of Permit if Not Exercised. The expiration period for an approved minor conditional use permit or conditional use permit shall be as specified in Section 21.58.030 of this title.
- B. Extension of Permit if Not Exercised. The expiration period for an approved minor conditional use permit or conditional use permit may be extended pursuant to Section 21.58.040 of this title.
- C. Expiration of Permit. Such rights and privileges granted under a minor conditional use permit or conditional use permit shall also expire at such time as the city planner/planning commission/city council may designate in the approval of the minor conditional use permit or conditional use permit.
- D. All existing conditional use permits, which include an expiration date and a requirement to extend the permit, may be hereby approved administratively by the city planner in perpetuity without the requirement to extend the conditional use permit.
- E. An approved minor conditional use permit or conditional use permit may be amended pursuant to the provisions of Section 21.54.125 of this title.

24. That Table F of Section 21.45.090 is amended as shown below:

Table F
Residential Additions and Accessory Uses to One-Family Dwellings and Twin-Homes on Small Lots

Addition/Accessory Use	Minimum Front Yard Setback	Minimum Side and Rear Yard Setbacks
Attached/detached patio covers ⁽²⁾	10 feet to posts (2-foot overhang permitted)	5 feet to posts (2-foot overhang permitted)
Non-habitable detached accessory buildings/structures (e.g., garages, workshops, decks over 30 inches in height) ^{(1),(2),(3)}	20 feet	5 feet
Habitable detached accessory buildings (i.e. guest houses and accessory dwelling units) ^{(2), (3), (4)}	Same setbacks as required for the primary dwelling	
Additions to dwelling (attached)	Same setbacks as required for the dwelling	

Notes:

- (1) Maximum building height is 1 story and 14 feet with a 3:12 roof pitch or 10 feet with less than a 3:12 roof pitch.
- (2) Minimum 10-foot separation required between a habitable building and any other detached accessory building/structure.
- (3) Must be architecturally compatible with the existing structure.
- (4) Except as otherwise permitted for accessory dwelling units pursuant to Section 21.10.030.

25. That Chapter 21.53 of the Carlsbad Municipal Code is amended by the addition of a new section as shown below:

21.53.260 Small wireless facilities (SWF).

Small wireless facilities shall comply with City Council Policy Statement No. 64. An application for an SWF located on public or private property may be processed as a building permit, and an application for an SWF located within the public right-of-way of roads may be processed as a right-of-way permit pursuant to Title 11 of the Carlsbad Municipal Code.

26. That subsection (b) of Section 21.53.230 of the Carlsbad Municipal Code is amended as shown below:

(b) Undevelopable Lands.

- (1) The following lands are undevelopable and shall be excluded from density calculation:
 - (A) Beaches;
 - (B) Permanent bodies of water;
 - (C) Floodways;
 - (D) Natural slopes with an inclination of greater than 40% except as permitted pursuant to Section 21.95.140.B of this code;
 - (E) Significant wetlands;
 - (F) Significant riparian or woodland habitats;

- (G) Land subject to major power transmission easements;
- (H) Railroad track beds;
- (2) The following lands are undevelopable but may be included in density calculation, unless such lands meet any of the criteria listed Section 21.53.230(b)(1).
 - (A) Land upon which other significant environmental features as determined by the environmental review process for a project are located;
 - (B) Hardlined habitat preserve areas as identified in the Carlsbad Habitat Management Plan.

27. That subsection C of Section 21.54.125 is amended as follows:

- C. If an approved development permit was issued pursuant to the provisions of Section 21.54.040 of this title, any amendment to said permit shall be acted on by the decision-making authority that approved the original permit, except that if the city council approved the original permit, the planning commission shall have the authority to act upon the amendment.

28. That subsection F of Section 21.83.020 of the Carlsbad Municipal Code is amended as shown below:

- F. "Family day care home" means a dwelling which regularly provides nonmedical care, protection, and supervision of fourteen or fewer children, in the provider's own home, for periods of less than twenty-four hours per day, while the parents or guardians are away. The actual number of children permitted in a family day care home is based on age composition as determined by the permitting agency. Family day care homes include either of the following:
 1. "Large family day care home," means a dwelling which provides family day care for seven to fourteen children, inclusive, including children under the age of ten years who reside at the home as defined in Section 1596.78 of the California Health and Safety Code and as permitted by the licensing agency;
 2. "Small family day care home," means a dwelling which provides family day care for eight or fewer children, including children under the age of ten years who reside at the home as defined in Section 1596.78 of the California Health and Safety Code and as permitted by the licensing agency.

29. That Section 21.83.040 of the Carlsbad Municipal Code is amended as shown below:

21.83.040 Use chart.

The following use chart indicates the zones where small and large family day care homes and child day care centers are permitted, subject to the requirements of this chapter.

"P" indicates that the use is permitted in the zone.

"MCUP" indicates that the use is permitted subject to approval of a minor conditional use permit (process one) processed in accordance with Chapter 21.42 of this title.

“CUP” indicates that the use is permitted subject to approval of a conditional use permit (process two) processed in accordance with Chapter 21.42 of this title.

“X” indicates that the use is prohibited in the zone.

Zoning	Small Family Day Care Home (8 or fewer children)	Large Family Day Care Home (14 or fewer children)	Child Day Care Center
R-A, R-E, E-A	P	P	X
R-1	P	P	X
R-2	P	P	X
R-3, RD-M, R-P	P	P	MCUP(1)(2)
R-T, R-W, RMHP	P	P	X
O	X	X	MCUP(1)(2)
H-O	X	X	P(1)
C-F	X	X	MCUP(1)(2)
C-1, C-2, C-L	X	X	P(1)
P-M, C-M	X	X	CUP(4)
M, P-U, O-S, L-C, T-C, C-T	X	X	X
V-B, P-C	(3)	(3)	(1)(2)(3)

Notes:

- (1) Permitted subject to the provisions of Section 21.83.080 of this chapter.
- (2) Child day care centers are allowed as a permitted use (no conditional use permit or minor conditional use permit required) within existing buildings on developed church or school sites, subject to the provisions of Section 21.83.080 of this chapter.
- (3) Permitted subject to the standards of the controlling document (Village and Barrio master plan or designated master plan).
- (4) Permitted subject to the provisions of Sections 21.83.060 and 21.83.080 of this chapter.

30. That Section 21.83.050 is amended as shown below:

21.83.050 Requirements for large family day care homes.

- A. The applicant shall obtain all licenses and permits required by state law for operation of the facility and shall keep all state licenses or permits valid and current.
- B. Development Standards.
 1. The facility shall comply with all zoning standards otherwise applicable to other residences, however, the use of a dwelling for the purposes of this section shall not constitute a change of occupancy for purposes of Title 18 of this code.
 2. The facility shall comply with all standards relating to fire and life safety applicable to residences established by the state fire marshal contained in Title 24 of the California Code of Regulations as amended from time to time.
 3. An outdoor play area which satisfies the requirements of the state, community care licensing division shall be provided in the rear yard and shall be enclosed by a natural barrier, wall, solid fence, or other solid structure a minimum of five feet in height. The provider shall ensure that outdoor play times do not begin until after nine a.m. and end before five p.m. The provider shall stagger the number of children playing outdoors at any one time to reduce noise impacts on surrounding residences.

4. All outdoor play areas shall be adequately separated from vehicular circulation and parking areas by a strong fence such as chain link, wood or masonry.
5. Required garages shall be prohibited for use as a family day care home and shall be utilized for parking two of the applicant's onsite vehicles during the daily operation of the day care home rather than parking the vehicles on the street or in the driveway.
6. The applicant shall designate the onsite driveway as the official drop-off and pick-up area for children and shall notify parents of this requirement. Said driveway shall remain free and clear of parked cars.
7. The applicant shall require that employees park in locations which will not inconvenience nearby residents. To disrupt the neighborhood as little as possible, best efforts shall be made by the applicant to require employees to park as close as possible to the family day care home.

31. That subsection E.1.b of Section 21.210.070 is amended as shown below:

b. HMP Permit.

- i. An application for a HMP permit may be approved, conditionally approved or denied by the planning commission or city council, as specified in Section 21.54.040 of this title.
- ii. The decision on a HMP permit shall be based upon the decision-making authority's review of the facts as set forth in the application, of the circumstances of the particular case, and evidence presented at the public hearing.
- iii. The decision-making authority shall hear the matter and may approve or conditionally approve the HMP permit if all of the findings of fact in subsection F of this section are found to exist.

32. That the following list of sections are amended by the substitution of the 1994 General Plan Land Use designation titles with the updated titles from the 2015 General Plan as shown in the table below:

21.08.010 Intent and purpose
21.10.010 Intent and purpose.
21.12.010 Intent and purpose.
21.16.010 Intent and purpose.
21.18.010 Intent and purpose.
21.22.010 Intent and purpose.
21.24.010 Intent and purpose.
21.29.010 Intent and purpose.
21.43.020 Definitions.

1994 General Plan Land Use Designation Titles	2015 General Plan Land Use Designation Titles
Residential Low Density (RL)	R-1.5 (Residential 0-1.5 du/ac)
Residential Low-Medium Density (RLM)	R-4 (Residential 0-4 du/ac)
Residential Medium Density (R-M)	R-8 (Residential 4-8 du/ac)
Residential Medium-High Density (RMH)	R-15 (Residential 8-15 du/ac)
Residential High Density (RH)	R-23 (Residential 15-23 du/ac)
Travel/Recreational Commercial (T-R)	Visitor Commercial (V-C)

33. That the following list of sections are amended by the substitution of the 1994 General Plan Land Use designation labels with updated labels from the 2015 General Plan as shown in the table below:

- 21.08.070 Minimum lot area.
- 21.10.090 Minimum lot area.
- 21.18.020 Permitted uses.
- 21.24.020 Permitted uses.
- 21.24.100 Lot area.
- 21.45.040 Permitted zones and uses.
- 21.45.060 General development standards.
- 21.45.070 Development standards for one-family dwellings and twin-homes on small lots.
- 21.45.080 Development standards for condominium projects.
- 21.90.045 Growth management residential control point established.

1994 General Plan Land Use Designation Title Symbols	2015 General Plan Land Use Designation Title Symbols
RL	R-1.5
RLM	R-4
R-M	R-8
RMH	R-15
RH	R-23
T-R	V-C

EFFECTIVE DATE OF THIS ORDINANCE APPLICABLE TO PROPERTIES OUSTIDE THE COASTAL ZONE: This ordinance shall be effective thirty days after its adoption; and the City Clerk shall certify the adoption of this ordinance and cause the full text of the ordinance or a summary of the ordinance prepared by the City Attorney to be published at least once in a newspaper of general circulation in the City of Carlsbad within fifteen days after its adoption.

EFFECTIVE DATE OF THIS ORDINANCE APPLICABLE TO PROPERTIES INSIDE THE COASTAL ZONE:
This ordinance shall be effective thirty days after its adoption or upon Coastal Commission approval of LCPA 2022-0014, whichever occurs later; and the City Clerk shall certify the adoption of this ordinance and cause the full text of the ordinance or a summary of the ordinance prepared by the City Attorney to be published at least once in a newspaper of general circulation in the City of Carlsbad within fifteen days after its adoption.

INTRODUCED AND FIRST READ at a Regular Meeting of the Carlsbad City Council on the 13th day of September, 2022, and thereafter

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the 27th day of September, 2022, by the following vote, to wit:

- AYES: Hall, Blackburn, Bhat-Patel, Acosta, Norby.
- NAYS: None.
- ABSENT: None.

APPROVED AS TO FORM AND LEGALITY:

Cindie K. McMahon
CINDIE McMAHON, CITY ATTORNEY

Matt Hall
MATT HALL, Mayor

for *KM*
FAVIOLA MEDINA, City Clerk Services Manager
(SEAL)



Strikeout/Underline

California Coastal Commission's Suggested Modifications Housing Element Program Implementation (ZCA 2022-0001/LCPA 2022-0013) 2022 Zoning Ordinance Cleanup (ZCA 2022-0002/LCPA 2022-0014)

A. Housing Element Program Implementation (ZCA2022-0001/LCPA 2022-0013)

1. Modify Zoning Ordinance Section 21.26.015.A as follows:
 - A. Residential uses are allowed either vertically, meaning within the same building, or horizontally, meaning within a separate building on the same site. Residential uses must be ~~Accessory~~ accessory to the nonresidential uses permitted by Section 21.26.010 of this title.
2. Modify Zoning Ordinance Section 21.28.015.A as follows:
 - A. Residential uses are allowed either vertically, meaning within the same building, or horizontally, meaning within a separate building on the same site. Residential uses must be ~~Accessory~~ accessory to the nonresidential uses permitted by Section 21.26.010 of this title.
3. Modify Zoning Ordinance Section 21.31.065.A as follows:
 - A. Residential uses are allowed either vertically, meaning within the same building, or horizontally, meaning within a separate building on the same site. Residential uses must be ~~Accessory~~ accessory to the nonresidential uses permitted by Section 21.26.010 of this title.
4. Modify Zoning Ordinance Section 21.53.120.B as follows:
 - B. Development Standards.
 1. The development (both for multi-family residential and affordable housing) shall be subject to the development standards of the zone in which the development is located and/or any applicable specific or master plan except for affordable housing projects as expressly modified by the site development plan. The site development plan for affordable housing projects may allow less restrictive development standards than specified in the underlying zone or elsewhere provided that the project is in conformity with the general plan and adopted policies and goals of the city, it would have no detrimental effect on public health, safety and welfare, and, in the coastal zone, any project processed pursuant to this chapter shall be consistent with all certified local coastal program provisions, with the exception of density. The decision-making authority for the site development plan and any other associated permits, other than coastal development permits, ~~can only~~ shall require only objective requirements that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal. These standards shall be ~~were published in advance and~~ consistent with *The Zoning Ordinance, General Plan, any applicable Master or Specific Plan, certified Local Coastal Program,* and the Government Code of the State of California.

B. 2022 Zoning Ordinance Cleanup (ZCA2022-0002/LCPA 2022-0014)

1. Modify Zoning Ordinance Section 21.37.010.A as follows:

A. The intent and purpose of the mobile home park zone is to:

1. Provide locations where mobile homes and mobile home parks may be established, maintained and protected;
2. Provide a means to regulate and control the conversion of existing mobile home parks to another use;
3. Promote and encourage an orderly residential environment with appropriate physical amenities; and
4. Implement the goals and objectives of the general plan, including all residential land use designations and the housing element, consistent with the coastal resource policies set forth in the certified Local Coastal Program.

2. Modify Zoning Ordinance Section 21.37.090.A as follows:

A. The following design criteria shall apply to all mobile home parks to the extent permitted according to California Health and Safety Code §18200, et seq. and ~~§1886018665~~ et seq., respectively:

1. The overall plan shall be comprehensive, embracing land, buildings for common use or park service and maintenance, landscaping and their interrelationships, and shall conform to adopted plans for all governmental agencies for the area in which the proposed development is located;
2. The plan shall provide for adequate circulation, off-street parking, open recreational areas and other pertinent amenities. Buildings, structures and facilities for common use in the park or for service and maintenance of the park shall be well integrated, oriented and related to the topographic and natural landscape features of the site;
3. The proposed development shall be compatible with existing and planned land use and with circulation patterns on adjoining properties. It shall not constitute a disruptive element to the neighborhood or community; and
4. Common areas and recreational facilities shall be located so as to be readily accessible to the occupants of the dwelling units and shall be well related to any common open spaces provided.

3. Modify Zoning Ordinance Section 21.53.260 as follows:

21.53.260 Small wireless facilities (SWF).

A. Small wireless facilities shall comply with all applicable city requirements and the certified Local Coastal Program City Council Policy Statement No. 64. An application for an SWF located on public or private property may be processed as a building permit, and an application for an SWF located within the public right-of-way of roads may be processed as a right-of-way permit pursuant to Title 11 of the Carlsbad Municipal Code. For a SWF located in the Coastal Zone, a coastal development permit may be required pursuant to Chapter 21.201.

B. Small wireless facilities between the first public roadway and the ocean or lagoons shall not create significant impacts to public views from scenic corridors, scenic public view areas, public paths, bikeways, beaches and public recreational facilities, and shall not require the construction of shoreline protective devices. If there is no feasible alternative that can comply with this requirement without resulting in a significant gap in communication coverage, then the alternative that would result in the fewest or least significant impacts to public views, public access and recreation, and shoreline processes shall be selected.

CALIFORNIA COASTAL COMMISSION

SAN DIEGO DISTRICT OFFICE
 7575 METROPOLITAN DRIVE, SUITE 103
 SAN DIEGO, CA 92108-4402
 VOICE (619) 767-2370
 FAX (619) 767-2384



Th18c

Date: January 25, 2024

To: COMMISSIONERS AND INTERESTED PERSONS

From: KARL SCHWING, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT
 KAITLIN CARNEY, DISTRICT SUPERVISOR, SAN DIEGO COAST DISTRICT
 CHELSEA JANDER, COASTAL PLANNER, SAN DIEGO COAST DISTRICT

Subject: STAFF RECOMMENDATION ON CITY OF CARLSBAD MAJOR
 AMENDMENT NO. LCP-6-CAR-22-0053-2 (Housing Element Program
 Implementation) for Commission Meeting of February 7-9, 2024

SYNOPSIS

The subject LCP implementation plan amendment was submitted and filed as complete on December 23, 2022. A one-year time extension was granted on March 9, 2023. As such, the last date for Commission action on this item is March 23, 2024. This amendment affects the City's certified Implementation Plan only.

The subject request was submitted with LCP Amendment No. LCP-6-CAR-22-0052-2, which relates to zoning code clean up and is also scheduled for the Commission's February 2024 meeting.

SUMMARY OF AMENDMENT REQUEST

The City of Carlsbad is requesting an amendment to the City's Zoning Ordinance, part of the certified LCP Implementation Plan, to make the City's LCP consistent with state law. Specifically, the proposed amendment would amend Chapters 21.26 (C-1 Neighborhood Commercial Zone), 21.28 (C-2 General Commercial Zone), 21.31 (C-L Local Shopping Center Zone) of the Municipal Code, to clarify the authority for affordable housing projects and update definitions of what can be considered mixed-use in commercially designated properties.

These sections of the LCP implement the state's affordable housing law as found in Government Code sections 65913.4 and 66300 (a)(7) and establish the definition of Objective Design for Senate Bill 35 and Senate Bill 330 applications, which include affordable housing requirements. The subject request was submitted to implement Senate Bill (SB) 35, which became effective on January 1, 2018, and Senate Bill (SB) 330, which became effective on January 1, 2020.

First, the proposed amendment clarifies that the decision-making authority may only require objective design standards for multi-family residential and affordable housing projects. This change is intended to encourage multi-family and mixed-use housing production by creating clear standards applicable to all such projects. The objective design standards as already outlined throughout the IP within the different zone chapters are maintained; however, the ability for local decisionmakers to impose subjective design standards are removed from the IP in the proposed amendment. The City's proposed amendment is intended to make the City's LCP consistent with state law (SB 35 and SB 330) and the City's Housing Element.

Second, the amendment would allow horizontal and vertical mixed-use housing to occur on the ground floor of buildings located within the C-1 Neighborhood Commercial Zone, C-2 General Commercial Zone, and C-L Local Shopping Center Zone. The City's LCP currently allows mixed-use residential in commercial zones as a secondary use. Residential uses must be located above the ground floor of a multi-storied commercial building with the non-residential use on the ground floor. The proposed amendment will allow both vertical and horizontal mixed-use housing projects. Of note, the proposed amendment does not include any changes to Chapter 21.29 (C-T Commercial Tourist Zone), which provides visitor-serving commercial uses in the City. Therefore, while these changes affect particular land use types, they do not change any existing coastal resource protection requirements.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending denial of the Implementation Plan (IP) amendment as submitted, and approval of the amendment as modified in this staff report.

The Commission may reject IP amendments only if the amendment would be inconsistent with the certified Land Use Plan (LUP) or render the IP inadequate to carry out the LUP. The primary concern regarding the proposed amendment is that it would allow only objective design standards to be applied to new multi-family and affordable housing, which may not adequately protect coastal resources that may include subjective evaluation, such as community character, visual resources, and public views.

Staff is therefore recommending suggested modifications to clarify that the restriction on the ability to impose only subjective design standards for multi-family housing does not apply to coastal development permits and only applies to site development plans and other local permits. Consequently, while multi-family housing projects located outside the coastal zone would have objective design standards apply, other proposed development within the coastal zone would still have to meet all coastal resource protection and public access standards of the certified LUP. Therefore, the proposed amendment will encourage affordable housing projects within the coastal zone while minimizing adverse impacts to community character, visual resources, public views, sensitive biological resources such as wetlands or ESHA, and public access to the coast. **Suggested Modification #1** clarifies that multi-family housing projects are required to comply with LUP policies and provisions. **Suggested Modifications #2, #3, and #4** address an administrative correction to ensure that the correct annotations are included in the IP.

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In sum, the amendment should provide guidance on new objective development standards, and in a manner that respects and protects coastal resources. As modified, the proposed amendment is consistent with and adequate to carry out the Land Use Plan (LUP), the standard of review for this IP amendment. City staff has indicated it is in agreement with the staff recommendation. Therefore, staff recommends that the Commission approve the amendment with the suggested modifications below.

The appropriate motions and resolutions begin on page 5. The suggested modifications begin on page 6. The findings for denial of the Implementation Plan Amendment as submitted begin on page 10. The findings for approval of the plan, if modified, begin on page 11.

BACKGROUND

There are six geographic segments in the City's LCP. The City's LCP has a unique history in that special legislation directed the Commission to draft the initial LCP. One segment, the Village Redevelopment Area LCP, was certified in 1988 and the City has been issuing coastal development permits there since that time. On October 21, 1977, the City assumed permit jurisdiction and has been issuing coastal development permits for all of the remaining segments, except Agua Hedionda. The Agua Hedionda Lagoon LCP segment is a deferred certification area until an implementation plan for that segment is certified.

ADDITIONAL INFORMATION

Further information on the City of Carlsbad LCP amendment LCP-6-CAR-22-0053-2 may be obtained from Chelsea Jander, Coastal Planner, at (619) 767-2370 or SanDiegoCoast@coastal.ca.gov.

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EXHIBITS

- [Exhibit 1 – Proposed IP Amendment](#)
- [Exhibit 2 – City Council Resolution No. 2022-091](#)
- [Exhibit 3 – City Council Ordinance No. CS-422](#)
- [Exhibit 4 – Planning Commission Resolution No. 7441](#)

I. OVERVIEW

A. LCP HISTORY

The City of Carlsbad’s certified LCP contains six geographic segments as follows: Agua Hedionda, Mello I, Mello II, West Batiquitos Lagoon/Sammis Properties, East Batiquitos Lagoon/Hunt Properties, and Village-Barrio. Pursuant to Sections 30170(f) and 30171 of the Public Resources Code, the Coastal Commission prepared and approved two portions of the LCP, the Mello I and II segments in 1980 and 1981, respectively. The West Batiquitos Lagoon/Sammis Properties segment was certified in 1985. The East Batiquitos Lagoon/Hunt Properties segment was certified in 1988. The Village Redevelopment Area LCP was certified in 1988; the City has been issuing coastal development permits there since that time. The Village LCP segment was expanded and renamed the Village-Barrio in 2019. On October 21, 1997, the City assumed permit jurisdiction and has been issuing coastal development permits for all segments except Agua Hedionda. The Agua Hedionda Lagoon LCP segment is a deferred certification area until an implementation plan for that segment is certified. This amendment modifies the City’s implementation plan.

B. STANDARD OF REVIEW

Pursuant to Section 30513 of the Coastal Act, the Commission may only reject zoning ordinances or other implementing actions, as well as their amendments, on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. The Commission shall take action by a majority vote of the Commissioners present.

C. PUBLIC PARTICIPATION

The City has held Planning Commission and City Council meetings with regard to the subject amendment request. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

II. MOTIONS AND RESOLUTIONS

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation are provided just prior to each resolution.

1. MOTION:

I move that the Commission reject the Implementation Program Amendment No. LCP-6-CAR-22-0053-2 as submitted.

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Program and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:

The Commission hereby denies certification of the Implementation Program Amendment submitted for City of Carlsbad and adopts the findings set forth below on grounds that the Implementation Program as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plans. Certification of the Implementation Program would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program as submitted.

2. MOTION:

I move that the Commission certify the Implementation Program Amendment No. LCP-6-CAR-22-0053-2 if it is modified pursuant to the staff recommendation.

STAFF RECOMMENDATION:

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Implementation Program Amendment with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO CERTIFY THE IMPLEMENTATION PROGRAM AMENDMENT WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the Implementation Program Amendment for the City of Carlsbad if modified as suggested and adopts the findings set forth below on grounds that the Implementation Program Amendment, with the suggested modifications, conforms with and is adequate to carry out the certified Land Use Plans. Certification of the Implementation Program Amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

III. SUGGESTED MODIFICATIONS

Staff recommends the following suggested revisions to the proposed Implementation Plan be adopted. Text in ~~cross-out~~ and underline format denotes text that the Commission suggests be deleted/added.

1. Modify IP Section 21.53.120 (Affordable housing multi-family residential projects) subsection B (Development Standards) as follows:

The decision making authority for the site development plan and any other associated permits, other than coastal development permits, can only shall require only objective requirements that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal. These standards shall be were ~~published in advance and~~ consistent with *The Zoning Ordinance, General Plan*, any applicable Master or Specific Plan, certified Local Coastal Program and the Government Code of the State of California.

2. Modify IP Section 21.26.015 (Residential uses) Subsection A as follows:

- A. Residential uses are allowed either vertically, meaning within the same building, or horizontally, meaning within a separate building on the same site. Residential uses must be Accessory accessory to the nonresidential uses permitted by Section 21.26.010 of this title.

3. Modify IP Section 21.28.015 (Residential uses in the C-2 zone) Subsection A as follows:

- A. Residential uses are allowed either vertically, meaning within the same building, or horizontally, meaning within a separate building on the same site. Residential uses must be Accessory accessory to the nonresidential uses permitted by Section 21.26.010 of this title.

4. Modify IP Section 21.31.065 (Residential uses) Subsection A as follows:

- A. Residential uses are allowed either vertically, meaning within the same building, or horizontally, meaning within a separate building on the same site. Residential uses must be Accessory accessory to the nonresidential uses permitted by Section 21.26.010 of this title.

IV. FINDINGS FOR REJECTION OF THE CITY OF CARLSBAD IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED, AND APPROVAL IF MODIFIED

A. AMENDMENT DESCRIPTION

The City proposes to amend the Implementation Plan (IP) component of its certified Local Coastal Program (LCP) to clarify the decisionmaking authority for multi-family residential and affordable housing projects and update definitions of what can be considered mixed-use in commercially designated properties.

Specifically, the proposed amendment clarifies that the decisionmaking authority may only require objective design standards for multi-family residential and affordable housing

projects. The proposed amendment is intended to encourage multi-family and mixed-use housing production by creating clear standards applicable to all such projects. Similar to other LCPs, the City's existing IP includes a set of objective site design standards that all development must meet depending on the type of project and its zoning district/location, including for height, setback, floor area ratio, density, and parking. These objective standards are then augmented with a series of other more subjective ones, including overall aesthetics and performance standards for neighborhood compatibility and community design. Subjective design standards could include additional provisions for parking standards, setbacks, height and bulk of buildings, and other conditions as deemed necessary to ensure conformity with the general plan and other adopted policies, goals, or objectives of the City. The proposed amendment removes the existing authority to impose special conditions or requirements that are more restrictive than the development standards in the underlying zone. The objective design standards, as already outlined throughout the IP within the different zone chapters, are maintained; however, the ability for local decision makers to impose subjective design standards is removed from the IP in the proposed amendment.

Over the past several years, many bills have been passed that revise the authority of local governments to impose "subjective" standards. Government Code sections 65913.4 and 66300 (a)(7) establish the definition of Objective Design for Senate Bill 35 and Senate Bill 330 applications, which include affordable housing requirements. Objective Design requirements are defined by these codes as requirements that "involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and the public official before submittal." Government Code section 65913.4(a)(6) specifically provides clarification that development within the coastal zone is precluded from the solely-objective requirements. The City's proposed amendment is intended to make the City's LCP consistent with state law and the City's Housing Element.

The proposed amendment does not include an updated set of objective design standards; however, Commission staff have received a separate LCP amendment that would add additional objective design standards to the City's LCP. That amendment will be processed separately from the subject LCPA at a future date. The subject amendment removes the subjective design standards and removes the ability to impose subjective design standards, relying wholly on the objective design standards of the underlying zones.

Lastly, the proposed amendment includes changes to Chapters 21.26 (C-1 Neighborhood Commercial Zone), 21.28 (C-2 General Commercial Zone), 21.31 (C-L Local Shopping Center Zone) to clarify that housing may occur on the ground floor of buildings located within these zones. The City's LCP currently allows mixed-use residential in commercial zones as a secondary use and residential uses must be located above the ground floor of a multi-storied commercial building with the non-residential use on the ground floor. The proposed amendment will allow both vertical and horizontal mixed-use projects. Vertical mixed use is defined as residential uses being allowed in the same building as commercial uses, and horizontal mixed use is defined as separate buildings on the same site. The amendment would also replace the term "secondary uses" with "accessory uses" as there is no definition of "secondary use" in the City's LCP. Of note, the proposed amendment does not include any changes to Chapter 21.29 (C-T Commercial Tourist Zone), which

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provides visitor-serving commercial uses in the city. Therefore, these changes affect particular land use types, but do not change any existing coastal resource protection requirements.

Please see **Exhibit 1** for the proposed IP amendment text.

B. CONFORMANCE WITH THE CERTIFIED LAND USE PLAN

The standard of review for LCP implementation plan submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP. The certified LUP has a number of goals and policies relevant to the proposed amendment; the most applicable LUP standards are as follows:

Mello II

Policy 1-1 Allowable Land Uses states: Allowable uses are those that are consistent with both the General Plan and the Local Coastal Program.

Policy 6-5 Need For 200 Additional Hotel-Motel Rooms, And Visitor-Serving Uses states, in relevant part: [...] additional visitor-serving (hotel-motel and restaurant) uses should be established [...] and other visitor-serving facilities also need to be provided.

Policy 8-1 Site Development Review states: The Scenic Preservation Overlay Zone should be applied where necessary throughout the Carlsbad coastal zone to assure the maintenance of existing views and panoramas. Sites considered for development should undergo individual review to determine if the proposed development will obstruct views or otherwise damage the visual beauty of the area. The Planning Commission should enforce appropriate height limitations and see-through construction, as well as minimize any alterations to topography.

Policy 8-3 Infill Development Design Review states: While the Scenic Preservation Overlay Zone can be used to enhance the character of new development, the City of Carlsbad should adopt a policy whereby the unique characteristics of older communities (especially the Elm Street corridor) can be protected through their redevelopment scheme. This policy should reflect design standards which are in accordance with the flavor of the existing neighborhood.

East Batiquitos Lagoon

Policy 6 Scenic and Visual Qualities states, in relevant part: The scenic and visual qualities of the area are of great value to the region. Again, the focal point for these qualities is Batiquitos Lagoon. The viewshed to the lagoon and from the lagoon shoreline are important resources. Many of the requirements previously established by this document address visual quality components [...]

The City of Carlsbad's certified LUP concludes with the following policy:

III. IMPLEMENTATION: The Policy/Implementation Connection

The Local Coastal Program Land Use Element is the long range guide for the City, its citizens and property owners, and other regulatory agencies relative to

conservation, management, and development within the Carlsbad Coastal zone. The City assumes primary responsibility for implementing the plan as it affects private land use. The LCP will be used as the standard for evaluating and making decisions on land use proposals in the Coastal zone. The policies of the Land Use Element are implemented by the City's codes, policies and procedures.

1. FINDINGS FOR DENIAL

The Commission and the City are tasked with encouraging affordable housing while ensuring that coastal resources and public access are protected. The intent of the proposed amendment is to make the certified LCP consistent with state law by removing subjective development standards that could potentially discourage the creation of new affordable housing.

SB 35 specifically allows a development proponent to submit an application for a streamlined, ministerial (no public hearing) approval process when the proposed development is eligible and meets specific objective standards. The intent and purpose of this law is to streamline affordable housing projects. Government Code 65913.4(a)(6) specifically provides clarification that development within the coastal zone is precluded from the purely objective requirements.

SB 330 expands or amends State legislation, including the Permit Streamlining Act and Housing Accountability Act, with the broad goals of facilitating increased production of new residential units, protecting existing units, and providing for an expedited review and approval process for housing development projects through submittal of a preliminary application. This law authorizes local agencies to require a housing development project to comply with objective, quantifiable, written development standards, conditions, and policies appropriate to, and consistent with, meeting the jurisdiction's share of the regional housing need, as specified. Importantly, Government Code Section 66300(h)(2) provides clarification that nothing supersedes, limits, or otherwise changes the requirements of the Coastal Act. Therefore, projects within the coastal zone are still required to comply with the Coastal Act and any certified LCP.

Overall, these state laws are important for affordable housing and provide important incentives for development of housing units through the increase of multi-family and mixed-use housing. The proposed amendment removes the City's ability to impose subjective standards. The goal would be to make design standards objective and therefore more readily discernible to developers and the general public. The intent of the proposed language would in turn help facilitate more streamlined review and processing for multi-family housing projects.

The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP. The City's proposed language lacks clarity regarding the situations in which a multi-family housing project is required to only be evaluated on objective design standards, especially for proposed development within the coastal zone. As proposed, the language fails to require that all multi-family and affordable housing projects shall be consistent with the certified LUP and Coastal Act policies, where applicable. Therefore, the proposed amendment as submitted potentially allows for coastal resource impacts.

The Commission is concerned about the use of only objective design standards for multi-family housing projects located within the coastal zone, as the provisions set forth in the LUP are both subjective and objective. An example of such subjective analysis includes the protection of public views. While an objective analysis may require multi-family housing projects to comply with a certain setback, this minimum setback alone may not adequately protect public views as is required by the LUP. As proposed, the City's language removes the ability to apply subjective design standards to all multi-family housing projects, and thus does not sufficiently protect coastal resources. While the City is not proposing to amend any existing development standards or any certified resource protection measures in the LCP, the proposed amendment fails to adequately protect coastal resources.

Lastly, the amendment includes changes to Chapters 21.26 (C-1 Neighborhood Commercial Zone), 21.28 (C-2 General Commercial Zone), 21.31 (C-L Local Shopping Center Zone). As described above, the amendment proposes to update these commercial zones to clarify that residential uses may occur either vertically or horizontally on the ground floor of buildings located within these zones. Policy 6-5 of the Mello II LUP requires that visitor-serving uses be established and provided within the Implementation Plan. The City's Commercial Tourist (C-T) zone implements this policy and provides for the visitor-serving developments. Because the proposed amendment does not include any changes to Chapter 21.29 (C-T Commercial Tourist Zone), the amendment is consistent with and adequately carries out the goals of the LUP.

2. FINDINGS FOR APPROVAL IF MODIFIED

As described above, the City's proposed amendment regarding objective design standards for multi-family and mixed-use housing projects is not adequate to carry out the certified LUP policies as submitted. As such, the suggested modifications are required to clarify that multi-family and affordable housing projects shall be consistent with the coastal resource protection and, if applicable, the public access requirements of the LUP.

In regard to multi-family housing, **Suggested Modification #1** revises Section 21.53.120 (Affordable housing multi-family residential projects) to clarify that the restriction on the ability to impose only objective design standards does not apply to coastal development permits and only applies to site development plans and other local permits. Thus, the City will still be able to impose subjective requirements when necessary to implement the coastal resource protection, and where applicable, the public access requirements of the certified Carlsbad LUP. Multi-family housing projects that require a CDP will be subject to the objective design standards as well as the subjective design standards required by the LUP.

Consequently, while multi-family housing projects located outside the coastal zone would only have objective design standards apply, development within the coastal zone would still have to meet all coastal resource protection and public access standards of the certified LUP, including those that may be subjective. Therefore, as modified, the proposed amendment will encourage affordable housing projects within the coastal zone while minimizing adverse impacts to community character, visual resources, public views, sensitive biological resources such as wetlands or ESHA, and public access to the coast. This revision will ensure that all coastal resource protections in the City of Carlsbad remain protected, and it is consistent with the LUP.

Suggested Modifications #2, #3, and #4 revise Section 21.26.015 (Residential uses), Section 21.28.015 (Residential uses in the C-2 zone), and Section 21.31.065 (Residential uses) respectively to address the administrative error of submitting the amendment without correct annotation. The proposed amendment submittal did not include the correct underline format, and therefore without such modifications, the amendment will not have complete sentences. No modifications are proposed to alter any content from the originally proposed amendment. Therefore, **Suggested Modifications #2, #3, and #4** address an administrative correction to ensure that the correct annotations are included in the IP.

Therefore, as modified and in conjunction with other objective standards already present in the LUP, the proposed amendment will not result in any adverse coastal resource impacts and will result in consistency with state law. Through the inclusion of these suggested modifications, multi-family housing projects will be required to avoid significant coastal resources impacts. Thus, the modified language will enable multi-family housing projects to be implemented in the coastal zone while avoiding impacts to coastal resources and public access. In sum, the amendment as modified will provide for objective design standards, and in a manner that respects and protects coastal resources, and with an aim to encourage and facilitate multi-family and mixed-use housing development. The Commission thus finds the proposed amendment as modified with the four suggested modifications to be consistent with and adequate to carry out the policies of the LUP.

V. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 21080.9 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP submission.

The City determined that the subject LCP amendment is exempt from further CEQA review (Cal. Code of Regs., tit. 14, § 15162(a)). Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended, does conform with CEQA. In this particular case, the LCP amendment as modified will not have any significant effects on the environment and no significant coastal resource impacts are anticipated. The suggested modifications will ensure that multi-family housing projects are consistent with LCP provisions related to the protection of sensitive habitats, water quality management, and safety from geologic hazards. Therefore, the Commission finds that the subject IP, as amended, confirms with the CEQA provisions.

CALIFORNIA COASTAL COMMISSION

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Th18b

Date: January 25, 2024

To: COMMISSIONERS AND INTERESTED PERSONS

From: KARL SCHWING, DEPUTY DIRECTOR, SAN DIEGO COAST DISTRICT
 KAITLIN CARNEY, DISTRICT SUPERVISOR, SAN DIEGO COAST DISTRICT
 CHELSEA JANDER, COASTAL PLANNER, SAN DIEGO COAST DISTRICT

Subject: STAFF RECOMMENDATION ON CITY OF CITY OF CARLSBAD MAJOR
 AMENDMENT NO. LCP-6-CAR-22-0052-2 (Zoning Cleanup 2022) for
 Commission Meeting of February 7-9, 2024

SYNOPSIS

The subject LCP implementation plan amendment was submitted and filed as complete on December 23, 2022. A one-year time extension was granted on March 9, 2023. As such, the last date for Commission action on this item is March 23, 2024. This amendment affects the City's certified Implementation Plan only.

The subject request was submitted with LCP Amendment No. LCP-6-CAR-22-0053 which relates to affordable housing provisions and is also scheduled for the February 2024 hearing.

SUMMARY OF AMENDMENT REQUEST

The City of Carlsbad is requesting an amendment to the City's Zoning Ordinance, part of the certified LCP Implementation Plan, in order to bring the City's zoning code into compliance with state and federal law. Specifically, the proposed amendment would amend various sections of Chapter 15 and Chapter 21 in order to complete the following: expand work exempt from obtaining a grading permit; remove outdated references for density definitions; clarify allowable roof height and pitch for maximum building height; remove building separation requirements in residential zones; clarify street side yard setback requirements; create a new definition for personal services, remove redundant uses and replace with personal services; amend expiration requirements for conditional use permits; remove pool setbacks for one-family dwellings and twin-homes on small lots; amend the undevelopable lands definition to be consistent with the certified Habitat Management Plan; create a definition for "employee housings, small" and specifying permitted use; modify family day care home definitions to be consistent with state law; update mobile home policies to be consistent with state law; create a definition for "small wireless facilities" and provide guidance on applicable regulations; update incorrect code

references; and remove outdated land use designation terms and replace with updated terms that reflect the current General Plan.

The small wireless facilities component of the proposed amendment is the most substantive part of the subject LCP amendment. The LCP implementation plan amendment proposes to add a new reference to the City Council Policy Statement No. 64, which provides review and operation guidelines for proposed small wireless facilities. Through reference to this policy statement, the amendment addresses the possible impacts small wireless facilities might have on the aesthetics, safety, or welfare of the City. Currently, the City's LCP does not contain any provisions specifically addressing these types of facilities.

The proposed changes to mobile home policies bring the certified LCP into compliance by removing development standards that may be in conflict with state law. By removing these development standards within the IP, the City reduces possible code conflicts with the requirements set forth by the state. The amendment maintains several development standards such as parking, roadway designs, exterior walls, and service building locations.

Lastly, as noted above, the proposed amendment touches a handful of other miscellaneous IP sections, none of which raise any substantive coastal resource or LUP consistency concern.

SUMMARY OF STAFF RECOMMENDATION

Staff is recommending denial of the Implementation Plan (IP) amendment as submitted, and approval of the amendment as modified in this staff report.

The Commission may reject IP amendments only if the amendment would be inconsistent with the certified Land Use Plan (LUP) or render the IP inadequate to carry out the LUP. As proposed by the City, the IP amendment would modify one aspect of Chapter 15 Grading and Drainage and various elements located within Chapter 21 Zoning Code. With the exception of the small wireless facilities and mobile home policies, the proposed changes are minor and would not have adverse impacts to coastal resources or public access.

The primary concerns regarding mobile home policies and small wireless facilities are the potential impacts to coastal resources associated with community character, visual resources, public views, sensitive biological resources such as wetlands or ESHA, or public access to the coast. Staff is therefore recommending suggested modifications to clarify that mobile home development shall be consistent with the coastal resource protection, and where applicable, the public access requirements of the certified Carlsbad LCP. Therefore, the proposed amendment will ensure that mobile home development within the coastal zone will minimize adverse impacts to community character, visual resources, public views, sensitive biological resources such as wetlands or ESHA, or public access to the coast. **Suggested Modification #1** clarifies that mobile home development are required to comply with the certified LCP policies and provisions. **Suggested Modification #2** makes a minor correction to the citation to the Health and Safety Code regarding mobile homes.

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The amendment also proposes a new definition of small wireless facilities and provides implementation policy regarding this new land use designation through incorporation of a City Council Policy statement. As proposed, the LCPA does not adequately protect coastal resources in the siting and design of small wireless facilities, lacks clarity when a CDP is required, and adds in a City Council policy reference. The Commission disfavors incorporation by reference in LCPs as potentially the referred document would be amended outside the context of LCPA review. Staff is therefore recommending suggested modifications to remove a section that was not intended to be incorporated by reference, provide clarification regarding when a CDP is required, and clarify that small wireless facilities within the coastal zone must be consistent with the city's certified LCP.

Suggested Modification #3 addresses these concerns to clarify that small wireless facilities must comply with the certified LCP.

In sum, the amendment should provide guidance in a manner that respects and protects coastal resources. As modified, the proposed amendment is consistent with and adequate to carry out the Land Use Plan (LUP), the standard of review for this IP amendment, and the City has indicated it is in agreement with the staff recommendation. Therefore, staff recommends that the Commission approves the amendment with the suggested modifications below.

The appropriate motions and resolutions begin on page 5. The suggested modifications begin on page 6. The findings for denial of the Implementation Plan Amendment as submitted begin on page 10. The findings for approval of the plan, if modified, begin on page 12.

BACKGROUND

There are six geographic segments in the City's LCP. The City's LCP has a unique history in that special legislation directed the Commission to draft the initial LCP. One segment, the Village Redevelopment Area LCP, was certified in 1988 and the City has been issuing coastal development permits there since that time. On October 21, 1977, the City assumed permit jurisdiction and has been issuing coastal development permits for all of the remaining segments, except Agua Hedionda. The Agua Hedionda Lagoon LCP segment is a deferred certification area until an implementation plan for that segment is certified.

ADDITIONAL INFORMATION

Further information on the City of Carlsbad LCP amendment 6-CAR-22-0052-2 may be obtained from Chelsea Jander, Coastal Planner, at (619) 767-2370 or SanDiegoCoast@coastal.ca.gov.

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EXHIBITS

- [Exhibit 1 – Proposed IP Amendment](#)
- [Exhibit 2 – City Council Ordinance No. CS-432](#)
- [Exhibit 3 – Planning Commission Resolution No. 7452](#)

I. OVERVIEW

A. LCP HISTORY

The City of Carlsbad’s certified LCP contains six geographic segments as follows: Agua Hedionda, Mello I, Mello II, West Batiquitos Lagoon/Sammis Properties, East Batiquitos Lagoon/Hunt Properties, and Village-Barrio. Pursuant to Sections 30170(f) and 30171 of the Public Resources Code, the Coastal Commission prepared and approved two portions of the LCP, the Mello I and II segments in 1980 and 1981, respectively. The West Batiquitos Lagoon/Sammis Properties segment was certified in 1985. The East Batiquitos Lagoon/Hunt Properties segment was certified in 1988. The Village Redevelopment Area LCP was certified in 1988; the City has been issuing coastal development permits there since that time. The Village LCP segment was expanded and renamed the Village-Barrio in 2019. On October 21, 1997, the City assumed permit jurisdiction and has been issuing coastal development permits for all segments except Agua Hedionda. The Agua Hedionda Lagoon LCP segment is a deferred certification area until an implementation plan for that segment is certified. This amendment modifies the City’s implementation plan.

B. STANDARD OF REVIEW

Pursuant to Section 30513 of the Coastal Act, the Commission may only reject zoning ordinances or other implementing actions, as well as their amendments, on the grounds that they do not conform with, or are inadequate to carry out, the provisions of the certified land use plan. The Commission shall take action by a majority vote of the Commissioners present.

C. PUBLIC PARTICIPATION

The City has held Planning Commission and City Council meetings with regard to the subject amendment request. All of those local hearings were duly noticed to the public. Notice of the subject amendment has been distributed to all known interested parties.

II. MOTIONS AND RESOLUTIONS

Following a public hearing, staff recommends the Commission adopt the following resolutions and findings. The appropriate motion to introduce the resolution and a staff recommendation are provided just prior to each resolution.

1. MOTION:

I move that the Commission reject the Implementation Program Amendment No. LCP-6-CAR-22-0052-2 as submitted.

STAFF RECOMMENDATION OF REJECTION:

Staff recommends a **YES** vote. Passage of this motion will result in rejection of Implementation Program and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO DENY CERTIFICATION OF THE IMPLEMENTATION PROGRAM AMENDMENT AS SUBMITTED:

The Commission hereby denies certification of the Implementation Program Amendment submitted for the City of Carlsbad and adopts the findings set forth below on grounds that the Implementation Program as submitted does not conform with, and is inadequate to carry out, the provisions of the certified Land Use Plans. Certification of the Implementation Program would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives and mitigation measures that would substantially lessen the significant adverse impacts on the environment that will result from certification of the Implementation Program as submitted.

2. MOTION:

I move that the Commission certify the Implementation Program Amendment for the No. LCP-6-CAR-22-0052-2 if it is modified pursuant to the staff recommendation.

STAFF RECOMMENDATION:

Staff recommends a **YES** vote. Passage of this motion will result in certification of the Implementation Program Amendment with suggested modifications and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the Commissioners present.

RESOLUTION TO CERTIFY THE IMPLEMENTATION PROGRAM AMENDMENT WITH SUGGESTED MODIFICATIONS:

The Commission hereby certifies the Implementation Program Amendment for the City of Carlsbad if modified as suggested and adopts the findings set forth below on grounds that the Implementation Program Amendment, with the suggested modifications, conforms with and is adequate to carry out the certified Land Use Plans. Certification of the Implementation Program Amendment if modified as suggested complies with the California Environmental Quality Act, because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the Implementation Program Amendment on the environment, or 2) there are no further feasible alternatives and mitigation measures that would substantially lessen any significant adverse impacts on the environment.

III. SUGGESTED MODIFICATIONS

Staff recommends the following suggested revisions to the proposed Implementation Plan be adopted. Text in ~~cross-out~~ and underline format denotes text that the Commission suggests be deleted/added.

1. Modify IP Section 21.37.010 (Intent and purpose) subsection A part 4 as follows:

A. The intent and purpose of the mobile home park zone is to:

1. Provide locations where mobile homes and mobile home parks may be established, maintained and protected;
2. Provide a means to regulate and control the conversion of existing mobile home parks to another use;
3. Promote and encourage an orderly residential environment with appropriate physical amenities; and
4. Implement the goals and objectives of the general plan, including all residential land use designations and the housing element, consistent with the coastal resource policies set forth in the certified Local Coastal Program. (Ord. NS-718 § 15, 2004; Ord. 9564 § 2, 1980)

2. Modify IP Section 21.37.090 (Design criteria) subsection A as follows:

- A. The following design criteria shall apply to all mobile home parks to the extent permitted according to California Health and Safety Code § 18200 et seq. and § 1886048665 et seq., respectively:

3. Modify IP Section 21.53.260 (Small wireless facilities) as follows:

- (a) Small wireless facilities shall comply with all applicable city requirements and certified Local Coastal Program-city council policy statement No. 64. An application for an SWF located on public or private property may be processed as a building permit, and an application for an SWF located within the public right-of-way of roads may be processed as a right-of-way permit pursuant to Title 11 of the Carlsbad Municipal Code. For a SWF located in the Coastal Zone, a coastal development permit may be required pursuant to Chapter 21.201.
- (b) Small wireless facilities between the first public roadway and the ocean or lagoons shall not create significant impacts to public views from scenic corridors, scenic public view areas, public paths, bikeways, beaches and public recreational facilities, and shall not require the construction of shoreline protective devices. If there is no feasible alternative that can comply with this requirement without resulting in a significant gap in communication coverage, then the alternative that would result in the fewest or least significant impacts to public views, public access and recreation, and shoreline processes shall be selected.

IV. FINDINGS FOR REJECTION OF THE CITY OF CARLSBAD IMPLEMENTATION PLAN AMENDMENT, AS SUBMITTED, AND APPROVAL IF MODIFIED

A. AMENDMENT DESCRIPTION

The City proposes to amend the Implementation Plan (IP) component of its certified Local Coastal Program (LCP) with changes to the code to do the following: expand work exempt from obtaining a grading permit; remove outdated references for density definitions; clarify allowable roof height and pitch for maximum building height; remove building separation requirements in residential zones; clarify street side yard setback requirements; create new definition for personal services; remove redundant uses (e.g., tailors, shoe repair shops, laundromats) and replace with the general term personal services; amend expiration requirements for conditional use permits; remove pool setbacks for one-family dwellings and twin-homes on small lots; amend the undevelopable lands definition to be consistent with the certified Habitat Management Plan; create a new definition for “employee housing, small” and specifying permitted use; modify family day care home definitions to be consistent with state law; update mobile home policies to be consistent with state law; create a new small wireless facilities definition and provide guidance on applicable regulations; correct a Health and Safety Code reference; and remove outdated land use designation terms and replace with updated terms that reflect the current General Plan.

Specifically, the proposed changes to mobile home policies make the certified LCP consistent with state law by removing development standards that may be in conflict with the requirements set forth in California Health and Safety Code sections 18200 et seq. and 18665 et seq. The proposed amendment cites the California Health and Safety Code, rather than reiterating the policies in the IP. By removing these development standards within the IP, the City reduces possible code conflicts with the requirements set forth by the state. The amendment maintains several development standards such as parking, roadway designs, exterior walls, and service building locations.

The amendment also includes proposed changes by creating a new definition for small wireless facilities in Chapter 21.04 and amending Chapter 21.53 to establish regulations regarding the new land use. The definition for small wireless facilities is consistent with Federal Communications Commission regulations (47 C.F.R. §§ 1.6002(l)) and must not be modified in order to maintain compliance with federal law. The LCP implementation plan amendment proposes to add a new reference to City Council Policy Statement No. 64, which is a locally adopted document that provides review and operation guidelines for proposed small wireless facilities. This policy statement addresses the possible impacts small wireless facilities might have on the aesthetics, safety, or welfare of the City.

Lastly, the amendment includes a number of other changes, including error fixes and deletions as well as updated in response to changes in state and federal laws. These changes affect particular land use types, but do not modify any existing coastal resource protection requirements. These changes would be applied citywide and will potentially affect the following segments of the certified Carlsbad LCP: Mello I, Mello II, Agua Hedionda, Village Redevelopment Area, East Batiqitos Lagoon, and West Batiqitos Lagoon.

Please see **Exhibit 1** for the proposed IP amendment text.

B. CONFORMANCE WITH THE CERTIFIED LAND USE PLAN

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The standard of review for LCP implementation plan submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP. The certified LUP has a number of goals and policies relevant to the proposed amendment; the most applicable LUP standards are as follows:

Mello II

Policy 1-1 Allowable Land Uses states: Allowable uses are those that are consistent with both the General Plan and the Local Coastal Program.

Policy 8-1 Site Development Review states: The Scenic Preservation Overlay Zone should be applied where necessary throughout the Carlsbad coastal zone to assure the maintenance of existing views and panoramas. Sites considered for development should undergo individual review to determine if the proposed development will obstruct views or otherwise damage the visual beauty of the area. The Planning Commission should enforce appropriate height limitations and see-through construction, as well as minimize any alterations to topography.

Policy 8-3 Infill Development Design Review states: While the Scenic Preservation Overlay Zone can be used to enhance the character of new development, the City of Carlsbad should adopt a policy whereby the unique characteristics of older communities (especially the Elm Street corridor) can be protected through their redevelopment scheme. This policy should reflect design standards which are in accordance with the flavor of the existing neighborhood.

East Batiquitos Lagoon

Policy 6 Scenic and Visual Qualities states, in relevant part: The scenic and visual qualities of the area are of great value to the region. Again, the focal point for these qualities is Batiquitos Lagoon. The viewshed to the lagoon and from the lagoon shoreline are important resources. Many of the requirements previously established by this document address visual quality components [...]

The City of Carlsbad's certified LUP concludes with the following policy:

III. IMPLEMENTATION: The Policy/Implementation Connection

The Local Coastal Program Land Use Element is the long range guide for the City, its citizens and property owners, and other regulatory agencies relative to conservation, management, and development within the Carlsbad Coastal zone. The City assumes primary responsibility for implementing the plan as it affects private land use. The LCP will be used as the standard for evaluating and making decisions on land use proposals in the Coastal zone. The policies of the Land Use Element are implemented by the City's codes, policies and procedures.

In addition, Section 21.40.135 of the City's certified LCP Implementation Plan is applicable to the proposed amendment and states:

Within the coastal zone, existing public views and panorama shall be maintained. Through the individualized review process, sites considered for development shall be conditioned so as to not obstruct or otherwise damage the visual beauty of the coastal zone. In addition to the above, height limitations and see-through

construction techniques should be employed. Shoreline development shall be built in clusters to leave open areas around them to permit more frequent views of the shoreline. Vista points shall be incorporated as a part of larger projects. The unique characteristics of older communities such as the Carlsbad Village Drive corridor shall be preserved through design requirements which are in accordance with the flavor of the existing neighborhood.

Section 21.204.040 of the City's certified LCP Implementation plan is applicable to the proposed development and states, in relevant part:

- B. Revetments, breakwaters, groins, harbor channels, seawalls, cliff retaining walls, and other such construction that alters natural shoreline processes shall be permitted when required to serve coastal-dependent uses or to protect existing structures or public beaches in danger from erosion...

1. FINDINGS FOR DENIAL

In general, these provisions will ensure that coastal resources, including visual quality and community character are protected. While the proposed amendment includes many corrections and minor changes that would have no impact on coastal resources or public access, the primary issues are the proposed changes to mobile home parks and small wireless facilities. The amendment as submitted would not change the City's existing coastal development permit requirements or criteria, and thus, a coastal development permit would also be required for communication facilities and mobile homes unless otherwise exempt under the certified LCP. However, the Commission is concerned about the possible siting of small wireless facilities and mobile home policies in areas where the development could potentially impact coastal resources. The standard of review for LCP implementation submittals or amendments is their consistency with and ability to carry out the provisions of the certified LUP.

Mobile home policies

The proposed changes to mobile home policies in Chapter 21.37 make the certified LCP consistent with state law by removing development standards that may be in conflict with the requirements set forth in California Health and Safety Code sections 18200 et seq. and 18665 et seq. However, the California Health and Safety Code sections cited in the City's submittal are incorrect; the correct sections are 18200 et seq. and 18860 et seq. The proposed amendment must be modified to reference the correct California Health and Safety Code.

Secondly, the modifications to the development standards for mobile home facilities as specified by the California Health and Safety Code do not modify when or how a CDP permit is required. However, the proposed amendment removes many development standards that could impact compliance with the certified LUP. The existing IP Section 21.37.010 (Intent and purpose) lists that all mobile home facilities shall comply with the general plan, including all residential land use designations and the housing element. The proposed language fails to require that all mobile home facilities shall be consistent with the certified LUP and Coastal Act policies, where applicable. Therefore, the proposed amendment as submitted potentially allows coastal resource impacts.

Small wireless facilities

In September 2017, the City Council adopted Council Policy Statement 64, approving review and operation guidelines for proposed small wireless facilities. To effectively carry out and communicate the purpose and guidelines of the policy statement, the proposed amendment incorporates the policy statement into the Municipal Code provisions governing the issuance of Conditional Use Permits. The certified LCP contains no standards for small wireless facilities, nor does it specifically list small wireless facilities as permitted uses. Instead, the City currently permits such facilities through Section 21.04.297, which is part of the certified LCP. That section allows accessory public and quasi-public utility buildings and facilities by CUP in all zones.

City Council Policy No. 64 contains specific development and design standards for communications facilities, including requirements that the facility not reduce the number of required parking spaces on a proposed site; meet the required setbacks of the underlying zone; and minimize the visual impact of the facility through placement, screening, camouflage, color, and landscaping to ensure compatibility with adjacent uses and other site characteristics. The City Council policy also contains extensive siting provisions as identified in the Locations Guidelines section. Siting criteria for preferred locations and discouraged locations are proposed, including provisions to locate small wireless facilities where they are least visible to the public. Finally, while the proposed change requires that City Council policy be followed in the review of CUPs for small wireless facilities, the same standards are not identified as applying the CDP review and approval process. As such, while a small wireless facility in the coastal zone would require a CDP, the LCPA as proposed would not require the same siting and design criteria to be followed during CDP review. Additionally, the Commission disfavors incorporation by reference in LCPs as potentially the referred document would be amended outside the context of LCPA review.

The Commission is concerned about the possible siting of WCFs in open space and on public beaches, with how such sitings would relate to governing LUP policies, and that the appropriate standards are applied through the coastal development permit process and not only a conditional use permit, as proposed. Regarding the protection of visual resources, Policy 8-1 of the Mello II LUP requires new development be sited and designed to protect existing views and panorama. Section 21.40.135 of the City's certified LCP Implementation Plan indicates that visual resources within the Coastal Development Overlay Zone shall be protected through height limitations, clustered shoreline development, and protection of vista viewpoints. However, visual resources are not protected in the proposed amendment as submitted.

The provisions of the certified LCP related to the Coastal Shoreline Development Overlay Zone in Section 21.204.030 contains detailed regulations regarding the construction of revetments, seawalls, cliff-retaining walls, and other similar structures. Specifically, the ordinance allows for the construction of seawalls only when they are required in order to serve coastal dependent uses or protect existing structures or public beaches in danger of erosion. The proposed amendment does not specify that small wireless facilities are excluded from obtaining shoreline protection devices. Therefore, the proposed amendment does not comply with the certified LUP.

Finally, while the City Council policy requires a Conditional Use Permit for new small wireless facilities, the amendment as proposed does not clarify when a CDP would be required.

For these reasons, as submitted, the Commission cannot find the proposed ordinance is adequate to carry out the public access, scenic view preservation, and resource protection provisions of the certified LUP.

2. FINDINGS FOR APPROVAL IF MODIFIED

The suggested modifications would clarify that mobile homes and small wireless facilities shall be consistent with the coastal resource protection and, if applicable, the public access requirements of the LCP. Therefore, the proposed amendment will ensure that mobile home development within the coastal zone will minimize adverse impacts to community character, visual resources, public views, sensitive biological resources such as wetlands or ESHA, or public access to the coast.

In regard to mobile home parks, **Suggested Modification #1** clarifies that mobile home developments are required to comply with the certified LCP policies and provisions. **Suggested Modification #2** corrects the Health and Safety Code sections for mobile home policies.

In regard to small wireless facilities, the language as proposed by the City would incorporate by reference both City Council Policy Statement No. 64 and Title 11 of the Municipal Code into the LCP. City staff supports the suggested modification. **Suggested Modification #3** removes both of these references.

However, as described above, the proposed amendment does not adequately ensure that coastal resources and public access are protected in the siting of new small wireless facilities. To further ensure that impacts to habitat, scenic resources and public views are minimized to the maximum extent feasible, **Suggested Modification #3** requires that new small wireless facilities comply with the policies and standards of the certified LCP. It also clarifies that within the coastal zone, a coastal development permit may be required. Through the inclusion of this requirement, small wireless facilities projects can be approved if the development avoids or mitigates for significant coastal resources impacts.

Thus, the modified language will enable mobile home and small wireless facilities projects to be implemented in the coastal zone while reducing impacts to coastal resources and public access consistent with the LUP. The proposed amendment, if modified in **Suggested Modifications #1, #2, and #3**, conforms to the certified LUP, and the proposed ordinance can be found in conformance with and adequate to implement the certified LUPs.

Lastly, as discussed, the proposed amendment also includes a number of modifications to the IP that can best be described as 'clean-up.' These changes relate to various issues such as family day care, employee housing, building separation and setbacks, and other issues that affect particular land use types. These changes overall do not affect core coastal resource issues. Therefore, as modified, the proposed amendment should not result in any adverse coastal resource impacts and should result in development

consistent with the LUP. The Commission thus finds the proposed amendment as modified is consistent with and adequate to carry out the policies of the LUP.

V. CONSISTENCY WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

Section 21080.9 of the California Environmental Quality Act (CEQA) exempts local government from the requirement of preparing an environmental impact report (EIR) in connection with its local coastal program. The Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process. Thus, under CEQA Section 21080.5, the Commission is relieved of the responsibility to prepare an EIR for each LCP submission.

The City determined that the subject LCP amendment is exempt from CEQA, section 15061(b)(3) of the CEQA Guidelines for Statutory Exemptions (Cal. Code of Regs., tit. 14). Nevertheless, the Commission is required in an LCP submittal or, as in this case, an LCP amendment submittal, to find that the LCP, or LCP, as amended, does conform with CEQA. In this particular case, the LCP amendment as modified will not have any significant effects on the environment and no significant coastal resource impacts are anticipated. The suggested modifications will ensure that mobile home and small wireless facilities are consistent with LCP provisions related to the protection of sensitive habitats, water quality management, and safety from geologic hazards. Therefore, the Commission finds that the subject IP, as amended, conforms with the CEQA provisions.



CITY COUNCIL
Staff Report

Meeting Date: April 9, 2024

To: Mayor and City Council

From: Scott Chadwick, City Manager

Staff Contact: Mandy Mills, Housing & Homeless Services Director
 mandy.mills@carlsbadca.gov, 442-339-2907
 Mickey Williams, Chief of Police
 mickey.williams@carlsbadca.gov, 442-339-2130

Subject: Update on Management Plan for Affirmed Housing's Windsor Pointe Affordable Housing Project

District: 1

Recommended Action

Receive an update on the amended Windsor Pointe Management Plan to reflect enhanced security measures and provide direction on the amended Windsor Pointe Management Plan to city staff as appropriate.

Executive Summary

Windsor Pointe is a 50-unit affordable housing project with half of the units offering a priority for lower-income military veterans and their families, including homeless veterans, and the other half serving people with serious mental illness who are experiencing homelessness. It has been in operation almost two years.

Concerns have been raised about the project, principally regarding safety in the neighborhood. The City Council approved a number of actions on March 12, 2024, to address these concerns. One such action directed staff to return with an amended management plan to demonstrate the changes that have been implemented to address security at Windsor Pointe.

Explanation & Analysis

Background

The City Council approved two actions, one in 2017 and one in 2020, for a financing package to acquire the land and build the Windsor Pointe affordable housing project. City staff have been working with Affirmed Housing and the County of San Diego to address community concerns about the project.

Affirmed Housing operates the project and contracts with the property manager and service provider. The County of San Diego granted funding to develop and operate the project through the No Place Like Home program. The county also contracts with the service provider that assists residents who were placed through the No Place Like Home program.

Exhibit 1 details the project's background and history.

The project contains 50 units, including two manager units, located on two non-contiguous sites in the Barrio neighborhood, at 965 Oak Ave. and 3606 Harding St. Twenty-four of the units provide affordable housing for low-income households with a veteran and/or local affiliation preference. Another 24 units provide permanent supportive housing for homeless individuals with a serious mental illness diagnosis.

On March 12, 2024, the Carlsbad City Council received an update on the Windsor Pointe affordable housing project and directed city staff to pursue a number of actions to address specific community member concerns about the Windsor Pointe project.

Several actions the City Council directed staff to pursue focused on strengthening onsite security at Windsor Pointe, including having:

- Onsite security personnel from 6 p.m. to 6 a.m. at both locations
- 24-hour remote video surveillance monitoring
- A guest check in/out policy

Updated management plan

The City Council directed staff to bring back an amended Management Plan on April 9, 2024, to demonstrate that changes in security and the guest policy have been incorporated into the management plan between the project owner, Affirmed Housing, and its property management company, ConAm Management Corporation, or ConAM. The updated Management Plan, attached as Exhibit 2, reflects the following changes:

- A security guard will be onsite at each location from 6 p.m. to 6 a.m. During these hours, onsite security will be able to monitor issues on the property, such as noise complaints, guest entry and suspicious activity. The security guard can contact the Carlsbad Police Department for issues that require public safety personnel, assist residents in contacting the Mobile Crisis Response Team for after-hours behavioral health support and receive calls from residents to address any after-hours low-level concerns. The onsite security will convey any pertinent information from the evening hours to the onsite staff each day.
- Remote video surveillance monitoring will be conducted 24-hours a day, seven days a week to identify criminal activity, suspicious activity or entry by unauthorized people. The property's management has established a protocol that specifies who the remote monitoring service should call in the daytime and who it should contact at night. If the monitoring service contacts the Carlsbad Police Department, they will also convey pertinent information about that call to onsite staff at that time or the following day, if the incident occurs outside normal business hours.
- The management plan was amended to implement a procedure to require residents to check their visitors in and out. City staff from the Housing & Homeless Services and Police departments met with Affirmed Housing and ConAm at both properties to discuss options for visitor registration. The permanent system of visitor registration is still being identified, but a temporary procedure for mandatory visitor registration will be implemented — with notice given to residents — once the management plan is

approved. The property manager will monitor and strictly enforce the revised guest registration procedure.

The efforts to make operational changes at Windsor Pointe are not yet complete, but city staff anticipate these changes will make a difference in addressing security concerns at Windsor Pointe. Staff are prepared to accept the changes to the management plan once we receive direction from the City Council.

Action items and status

The City Council also directed city staff to pursue a number of other actions to address concerns with the Windsor Pointe project. City staff, Affirmed Housing, ConAm, the property's manager, and the county's Behavioral Health and Housing & Community Development departments have been actively working to execute the action items that will help address concerns. The County of San Diego Board of Supervisors will be considering multiple recommendations to address concerns with the Windsor Pointe project at its April 9, 2024, meeting. Those agenda reports are included as Exhibit 3.

These action items, and their current status are:

1. Further strengthen onsite security

- A. Working with the City Council's Legislative Subcommittee, develop and implement a strategy to effectively advocate for the County of San Diego to release operating subsidy reserve funding for this project to cover the cost of additional onsite security at both locations.
 - Status: Staff have confirmed the county has authorized using the project's operating reserves for onsite security.
To help the project in coming years, the city will advocate to the California Department of Housing and Community Development for permanent supportive housing projects to be able to use a higher percentage of operating reserves during their first five years than is currently allowed.
 - On April 9, 2024, the County of San Diego Board of Supervisors will be considering the recommendation to develop a plan for using No Place Like Home operating reserve funds to add supplemental security personnel at Windsor Pointe and to advocate to the California Department of Housing and Community Development to maximize the funding flexibility of capital operating reserve funds for the Windsor Pointe project.
- B. Present an amended management plan to the City Council on April 9, 2024, reflecting security enhancements, including:
 - An amended guest policy requiring visitors to sign in and out
 - One security guard for each site when staff is not available, from 6 p.m. to 6 a.m.
 - 24-hour remote video surveillance monitoring
 - Status: Complete
- C. Collaborate with the property manager to strengthen the protocol to divert low-level issues to onsite personnel.
 - Status: A new protocol is in development.

- On April 9, 2024, the County of San Diego Board of Supervisors will be considering the recommendation to develop a plan to support and address the unique needs and challenges of residents with serious mental illness and to support the health and safety of residents and the surrounding community.

2. Ensure adequate client-based services are provided

- A. Develop and implement a plan within 45 days to urge the County of San Diego to allow new Windsor Pointe residents housed under the No Place Like Home funding to start with a higher level of service with the option to move to a lower level if appropriate, rather than starting with minimal services and adding as needed.
 - Status: County Behavioral Health Services has confirmed a part-time behavioral health clinician will be on site at Windsor Pointe for 20 hours per week.
 - On April 9, 2024, the County of San Diego Board of Supervisors will be considering recommendations to:
 - Analyze all options and opportunities to maximize the level of services and hours of on-site case management services and referrals to behavioral health services for Windsor Pointe.
 - Implement a pilot program to increase services for residents with serious mental illness living in No Place Like Home units to include enhanced clinical support seven days per week.
 - Ensure on-site personnel receive mental health first aid training and be trained on how to refer people to 24/7 behavioral health crisis response resources.
- B. Working with the city's Director of Intergovernmental Affairs and the city's contracted lobbyists, develop and implement a legislative advocacy strategy within 60 days to effectively lobby for supportive housing to be fully funded at the state and federal levels to provide adequate levels of service.
 - Status: Discussion scheduled for April 9, 2024, City Council Legislative Subcommittee meeting.

3. Pursue veteran and Carlsbad priority

- A. Examine participating in a regional fair housing legal analysis to determine if implementation of a local, or subregional (i.e., North County), priority would be consistent with federal and state fair housing laws and other applicable laws.
 - Status: Not started
- B. Working with the city's Director of Intergovernmental Affairs and Legislative Subcommittee, advocate to the Regional Task Force on Homelessness and the region's Continuum of Care Board of Directors to make policy changes that could provide a subregional priority in the Coordinated Entry System referral process in certain situations, such as when cities provide a significant financial investment for a housing development.
 - Status: Discussion scheduled for April 9, 2024, City Council Legislative Subcommittee meeting.

- C. Working with the city’s Director of Intergovernmental Affairs and Legislative Subcommittee, develop and implement a strategy for the state and federal governments to allow veteran benefits to exceed maximum income limits for permanent supportive housing units to remove barriers to ending veteran homelessness.
 - Status: Discussion scheduled for April 9, 2024, City Council Legislative Subcommittee meeting.

Fiscal Analysis

There is no fiscal impact from receiving this report and no funding is being requested.

Next Steps

City staff will continue to work closely with Windsor Pointe on implementation of the action items approved by the City Council on March 12, 2024. City staff will return to the City Council in four months from the April City Council meeting to report on additional progress and continue to identify solutions to address any continuing issues.

Environmental Evaluation

This action does not require environmental review because it does not constitute a project within the meaning of the California Environmental Quality Act under Public Resources Code Section 21065 in that it has no potential to cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment.

Exhibits

1. Windsor Pointe background
2. Windsor Pointe Management Plan
3. County of San Diego April 9, 2024, Windsor Pointe agenda reports

Windsor Pointe
Project Information

Project History

In 2016 Affirmed Housing processed applications for the construction of a 100 percent affordable housing project on two noncontiguous sites: 24 units at 965 Oak Avenue and 26 units at 3606 Harding Street. The proposed units in both project sites were intended for very low and extremely low-income veterans and their families, but the project was not conditioned to require veterans only.

In February 2017, the Carlsbad City Council approved a commitment of \$4.25 million from the Housing Trust Fund to Affirmed Housing to assist with project financing to construct 50 affordable apartment homes for homeless and/or lower income military veterans and their families. The estimated total cost of the project at the time was \$21.4 million, with Affirmed to seek additional funding from other sources. Throughout 2017 and 2018, Affirmed Housing applied for various other funding sources, but was not successful due to the competitive nature of funding for affordable housing.

In August 2019, Affirmed Housing received conditional commitment from the County Health and Human Services Agency of \$10.14 million from the No Place Like Home (NPLH) program. This funding required that 24 of the project's units be set aside for residents experiencing serious mental illness. The program provides for mental health services to the NPLH residents through a County of San Diego Behavioral Health Services contract.

On Jan. 28, 2020, the Carlsbad City Council approved an additional \$4.043 million request, for a combined total financial assistance package of \$8,293,392, in the form of a combination of land purchase/lease back and residual receipts loan, for the construction of 50 affordable apartment units. Half of the units would offer a priority for lower income military veterans and their families, including homeless veterans, and the other half would serve people experiencing homelessness with serious mental illness.

Why these locations

The sites were selected and purchased by Affirmed Housing based on land availability and zoning. The City of Carlsbad did not select the sites. Under California state law and the City of Carlsbad zoning ordinance, supportive housing that assists groups like veterans and disabled persons is a residential use and not a business or commercial use. Such housing must be treated the same way as any housing under the city's land-use and zoning rules. Moreover, state and federal fair housing laws prohibit discrimination based on disability.

Who the project serves and how residents are selected

To the extent consistent with applicable law, Affirmed Housing gives preference to veterans and Carlsbad residents and workers for the apartment units. The selection of tenants for 24 of the 48 units at Windsor Pointe prioritize eligible veterans and/or local affiliation. Carlsbad residents and veterans do receive priority order on the waiting list for these 24 units. This is a preference, and gives priority order for tenant selection, but there is no specific requirement that each occupant is a veteran and/or from Carlsbad.

The priority order for these units is:

1. Carlsbad veterans
2. Other veterans
3. Carlsbad residents
4. Other qualified households

Of these 24 units, half (12) are comprised of veterans. There were 11 additional veterans who applied to the waitlist, but either canceled their application or were denied for various reasons. Here is a summary of the tenant demographics:

- Veterans: 12 (3 Carlsbad veterans and 9 other veterans)
- Carlsbad Residents: 6 (the 3 Carlsbad veterans noted above plus 3 other Carlsbad residents)

The other half of the apartments are designated for No Place Like Home-eligible applicants. These are adults with serious mental illness, children with severe emotional disorders and their families and people who require or are at risk of requiring acute psychiatric inpatient care, residential treatment, or outpatient crisis intervention because of a mental disorder with symptoms of psychosis, suicidality or violence and who are homeless, chronically homeless, or at risk of chronic homelessness. The county identifies applicants with a serious mental illness diagnosis and who are awaiting permanent housing.

The city had expressed its desire to provide preference to local residents, to the extent consistent with applicable law. The State of California, however, specified that such a local preference would not be permitted without further assurance the preference would not violate fair housing laws. Because of this, the units covered by the No Place Like Home guidelines are not currently able to be set aside for local community members. There is, however, a preference offered for veterans.

How are residents screened

A criminal background check is conducted for each applicant. To ensure compliance with housing laws, the property management company uses a third-party vendor to perform tenant background screening. Applicants with past convictions may still be eligible depending on the timing and severity of their conviction and will be offered an individualized assessment of their background.

- No registered sex offenders. Sex-related felony convictions would trigger a denial in a criminal background finding. In compliance with fair housing laws, individuals with sex-related felony convictions within fifteen years would be allowed to file an appeal and receive an individualized assessment of their background to be considered. Lifetime registered sex offenders are not eligible for residency and will not receive an assessment.
- No one with a conviction of manufacturing or producing methamphetamines.
- Residents will be screened for any convictions of violent criminal history or drug-related crimes within the previous five years.

What level of security is provided

Affirmed Housing contracts for a private security guard onsite generally after business hours (6 pm to 6am). The properties have security camera systems with off-site monitoring 24 hours a day/7 days a week. During the weekdays, Affirmed Housing has onsite staff including trained health professionals and a property manager who work together to prevent loitering around the building, ensure the safety of residents, and respond to community concerns. A property management representative lives onsite at each property.

What services are provided

Residents of Windsor Pointe are supported through a variety of supportive services. Ongoing care coordination is monitored in regularly scheduled “crosswalk” meetings that bring together developers, property management, service providers, and BHS staff to address problems as they arise with the aim to increase housing retention.

Onsite supportive services are provided for all Windsor Pointe residents by Interfaith Community Services. The property contracts with Interfaith Community Services to provide case management services to all residents. Interfaith is onsite Monday to Friday from 8:00 am to 4:30 pm. to provide case management support for basic needs, physical and mental health, socialization needs, and employment. There is also a peer support specialist that works to engage residents in community activities to encourage clients to get to know one another and interact positively and meaningfully.

Additionally, the County of San Diego Behavioral Health Services contracts with Alpha Project to administer Tenant Peer Support Services, or TPSS, which serves No Place Like Home tenants and is onsite Monday to Friday from 11:00 am to 3:00 pm. To support housing stability, TPSS provides case management, peer support activities, and care coordination to supportive services that may include mental health care, peer support groups, substance use services, and physical health care, including access to routine and preventive health and dental care, medication management, and wellness services. TPSS also supports benefits counseling and advocacy, including assistance in accessing SSI/SSP and enrolling in Medi-Cal, and actively teaches and reinforces basic housing retention skills, such as unit maintenance and upkeep, cooking, laundry, and money management. The County of San Diego has recently added onsite clinical support 20 hours per week. The clinician can provide behavioral health support onsite.

PROPERTY MANAGEMENT PLAN
WINDSOR POINTE
APARTMENTS

1. PROJECT OVERVIEW

A. Introduction

Windsor Pointe Apartments consists of 50 apartment home units in Carlsbad, CA. The project is located on two sites: 965 Oak and 3606 Harding. The project will consist of 48 tax-credit restricted units at 60% and below AMI designations along with two manager units (two-bedroom units). Of the restricted units, the unit mix consists of 24-Studios, 16-1 bedrooms, 8-2 bedrooms and 2-3 bedrooms units. One unit at each site will be reserved for a Community Manager and Maintenance Technician.

50% of the apartment units are designated for No Place Like Home (NPLH) eligible applicants, defined as adults with serious mental illness, or children with severe emotional disorders and their families and persons who require or are at risk of requiring acute psychiatric inpatient care, residential treatment, or outpatient crisis intervention because of a mental disorder with symptoms of psychosis, suicidality or violence and who are homeless, chronically homeless, or at risk of chronic homelessness.

All apartment units at Windsor Pointe will have a Veteran Preference. Veterans will be prioritized in the application process but will still need to meet all of the requirements of Windsor Pointe to be eligible for and approved to live at Windsor Pointe. The non-NPLH units will have a City of Carlsbad Live and/or work preference but as mentioned above will still need to meet all of the requirements of Windsor Pointe to be eligible for and approved to live at Windsor Pointe.

The following plan summarizes policies, systems and procedures for the operation and management of Windsor Pointe Apartments. This Management Plan is revised and updated as required, and at least one copy is maintained at the community manager's office. This plan is designed to define the duties and responsibilities of the Owner and managing agent, and to outline a management program that will assure the physical, financial, and social well-being of the project.

The term "Agent" refers to CONAM Management, as the property management agent. The term "Project" refers to Windsor Pointe Apartments. The term "Owner" refers to Affirmed Housing Group. The term "Service Provider(s)" refers to the service provider(s) providing case management and other services to the NPLH residents.

Project Information

Project Name: Windsor Pointe Apartments - Carlsbad Veteran Housing, LP.
Project Street Address: 3606 Harding Street, and 965 Oak Avenue, Carlsbad,
CA 90002

Units: 50 units

Owner/Sponsor Name: Affirmed Housing Group

Contact: Jonathan Taylor

Street Address: 13520 Evening Creek Dr. N Suite #160 San Diego, CA
92128

Email: jonathan@affirmedhousing.com

Property Management: CONAM Management

Corporation Contact: Michelle Sites, Vice President

Street address: 3990 Ruffin Rd. #100 San Diego, CA 92123

Work Phone: 858-614-7376

Email: msites@conam.com

2. TEAM MEMBER ROLES AND RESPONSIBILITIES

Permanent Supportive Housing is a partnership requiring intensive collaboration between the team of property management and service providers. Each of their Project roles is outlined here.

A. Agent Roles and Responsibilities

The Owner and Agent have agreed on the delegation of the authority for management of the project to the Managing Agent through the execution of the Management Contract as the instrument of authority. Generally, property management services include:

- Annual budgeting
- Financial management
- Compliance with government and tax credit related requirements
- Enforcing the terms of the lease
- Collecting rent

- Maintenance and capital improvement of property
- Hiring, directing, and dismissing independent contractors
- Securing sufficient property insurance
- Ensuring security
- Fiscal recordkeeping

The Agent consults with the Owner in cases of expenditures of above \$ 2,000 when bids are being considered, in situations where policy decisions are required and in certain emergency situations. Additionally, by means of periodic budgets, financial reports, financial statements and management reports, the Agent advises the Owner at regular meetings on the operations of the project and recommends operating policies, major expenditures and major repairs.

In case of emergency, the Agent will act promptly to safeguard the health and welfare of the residents and to safeguard the assets of the complex or to prevent additional damage to the assets. The Agent will inform the Owner as quickly as possible of the emergency situation.

The Agent is paid a management fee, as outlined in the Management Contract, for expertise in proper selection, certification and recertification of residents, properly collecting and computing rents, establishing a control system for operating the project on a sound fiscal and physical basis, the training and supervising of project personnel, monthly reporting and to cover its off-site office expenses and overhead.

B. Community Manager Roles and Responsibilities

The Community Manager of this community is responsible for handling day-to-day business and activities at the property level and is in charge of the supervision of all management personnel assigned to this project. The Manager reports to the Regional Portfolio Manager, who is supervised by the Vice-President.

C. Communication Between Property Manager and Services Coordinator/Case Manager

The Property Manager will meet weekly with lead service provider, Interfaith Community Services to discuss property and resident issues with goals of promoting housing stability for all residents. The County of San Diego Behavioral Health Services contracts with TPSS (Alpha Project) to provide a higher level of care for residents in need, these agencies will be a part of the communication process and involved in related meetings as needed.

3. HOUSING FIRST PRINCIPLES

This Property Management Plan is consistent with the core components of Housing First for the Permanent Supportive Housing resident selection and property management, as codified in CA Welfare and Institutions Code 8255(b):

- Resident screening and selection practices that promote accepting applicants regardless of their sobriety or use of substances, completion of treatment, or participation in services.
- Applicants are not rejected on the basis of poor credit or financial history, poor or lack of rental

history, criminal convictions unrelated to tenancy, or behaviors that indicate a lack of “housing readiness.”

- Residents have a lease and all the rights and responsibilities of tenancy, as outlined in California’s Civil, Health and Safety, and Government codes. Leases will not have any provisions that would not be found in leases held by someone who does not have special needs.
- The use of alcohol or drugs in and of itself, without other lease violations, is not a reason for eviction, however, consuming alcohol or drugs in common areas is a violation of the lease agreement.

4. LEASE UP AND MARKETING

A. Eligibility/Outreach/Coordinated Entry System

The following are the plans and procedures for publicizing and achieving early and continued occupancy at the Project.

CONAM recognizes that 50% of the occupants will be formerly homeless and will have health or behavioral health challenges or functional impairments which require close coordination with the service provider and a significant level of support in order to maintain permanent housing; Units shall be marketed in accordance with the Affirmative Fair Housing marketing guidelines and laws.

- Resident selection for the Permanent Supportive Housing Units will be based on programmatic requirements defined by the California state No Place Like Home (NPLH) guidelines, administered by the County of San Diego.
- Resident selection for Non-Permanent Supportive Housing Units will include a preference for Veterans and those applicants that Live and/or Work in the City of Carlsbad.
- The eligibility process includes application, background screening, income/asset verifications as required by Regulatory Agreements and/or programs.
- NPLH applicants will be screened utilizing a low-barrier credit and background investigation process conducted by CONAM during the applicants’ interview. Ownership and CONAM both understand that individuals facing homelessness may have low-credit scores and/or past delinquent accounts on their credit history. CONAM’s low-barrier credit screening has been adapted to meet supportive housing and housing first program requirements to ensure an applicant’s low credit score or delinquent debts will not affect an applicant’s eligibility to qualify. The low-barrier screening for background investigation will also limit the time frame reviewed during the investigation, as well as the severity of an applicant’s past convictions, allowing applicants with past convictions to be eligible depending on the time and severity of their convictions. CONAM’s screening criteria adheres to Housing First requirements.
- The project's property manager will not discriminate or give preferential treatment to any applicant or resident.
- The marketing strategy will be designed to ensure equal access to all appropriate-sized housing

units at the Windsor Pointe for all persons that qualify for the apartment unit they are eligible for.

- With respect to the treatment of applicants, the Agent will not discriminate against any individual, family or household because of race, color, national origin or ancestry, religion, sex (including gender, gender identity or gender expression), sexual orientation, age, handicap/disability, medical condition, genetic information, source of income, marital status or familial status, or any other arbitrary basis. No criteria will be applied, or information considered pertaining to an attribute of behavior that may be imputed by some to be a particular group or category. All criteria shall be applied equitably, and all information considered on an applicant or household shall be related solely to the household's ability to adhere to the terms of the lease.
- Attention will be given to removing barriers to housing for all applicants applying for permanent supportive housing units.
- 100% of the units will have a Veterans Preference.
- 50% of the units will be set aside for households with special needs as defined by NPLH guidelines and who are homeless or chronically homeless as defined by NPLH guidelines and the Tax Credit Allocation Committee (TCAC).
- The remaining 50% of units not subject to NPLH guidelines will have a Live and/or Work in the City of Carlsbad Preference as outlined in the project's City of Carlsbad Community Development Department Regulatory Agreement. Persons who are defined as a qualified military veteran will be given preference during the application process. These units will be identified on an interest list and sorted in order of Veterans Status, then City of Carlsbad (live/work) and then all others in the order in which pre-applications are received.
- Resident referrals for the Permanent Supportive Housing initial and ongoing vacancies at Windsor Pointe Apartments will be referred through the San Diego County Coordinated Entry System (CES).
- All applicants must meet TCAC program eligibility requirements and undergo residency and criminal history screening.
- CONAM will work in conjunction with the appropriate service provider for annual re-certifications for income and household size for the permanent supportive housing units.

Resident Selection

Prospective resident eligibility/ineligibility process is as follows. A consistent and rigorous process will ensure that any potential issues related to a prospective resident are identified so that they can be proactively addressed.

- A brief conversation with the applicant to determine if the applicant household meets minimum eligibility criteria.
- A personal interview with all members of the prospective household.
- Eligibility will be determined as follows:

- Each prospective resident shall complete an application form and return it to the Community Manager. The County Service Provider will assist with the application process, as required.
 - The County Service Provider may provide information to CONAM of applicants for CONAM to use during the application processing system.
 - The application will include signed permission for third-party verification of income.
 - CONAM will work with the appropriate County Service Provider to verify income, if required.
- Based on verifiable third-party information and the application/interview process, CONAM will compute eligibility for an initial determination. A preliminary letter will be generated for the applicant and County Service Provider at this stage that includes the eligibility determination.
 - A criminal/credit background check will be conducted for each prospective resident. This process can take up to seven days. The criminal search will be run for all addresses and/or jurisdictions where the applicant(s) has resided over the previous 24 months. Applicants with past convictions may still be eligible depending on the time and severity of their conviction.
 - Low credit score or delinquent debts will not affect an applicant's eligibility to qualify for NPLH units. All screening processes for NPLH units will be conducted in accordance with Housing First practices.

CONAM will work with the applicant and County Service Provider in order to remove barriers to housing prior to final determination, including using the Reasonable Accommodation Process to appeal rejections due to credit history or criminal background checks.

Written notice will be issued to the applicant and service provider with the applicant's final eligibility status. Prospective residents who have been determined to be ineligible will be notified so that they will have an opportunity to provide further information if they feel an error has been made in assessing their eligibility.

All applicants will be notified in writing of the receipt and processing of their application. The management company will work with prospective residents and the appropriate County Service Provider to resolve incomplete or ineligible applications. The notification of eligible and ineligible notification process is as follows:

- The initial rent-up shall be conducted by Agent-supervised personnel well-trained in eligibility requirements, household composition criteria, unit size, selection process, Owner-approved selection criteria and in accordance with Windsor Pointe Apartments program regulations and requirements. The Agent will work in conjunction with the applicable program's Service Provider.
- The Agent shall apply all city, state and federal requirements in determining resident eligibility at initial rent-up and during subsequent recertification of resident income.

- All written outreach notifications will display the Equal Opportunity Housing logo.
- Each applicant and their County Service Provider/Housing Navigator will be informed in writing as to the status of their application. The notification will advise them to safeguard this notice until they have been called for an interview. The notification will advise the prospective resident if they appear to be eligible for any preference based on the information provided in the application and how to apply for a preference. The notification will advise the prospective resident that it is their obligation to keep the management company advised of their contact information and the means to report changes to their contact information,
- Written notice will be sent to applicants and their County Service Providers advising them of their final eligibility status.
- Each approved applicant will be informed in writing when the unit will be available for occupancy.
- Prior to move-in, the approved applicant will be responsible for reviewing, signing and agreeing to abide by the residential lease agreement to include Windsor Pointe House Rules and related Addenda.

5. RECERTIFICATION

- A. Residents' incomes are to be verified and certified annually to meet the requirements of the Low-Income Housing Tax Credit program. This process will start 120 days prior to a residents' annual certification date. The community manager will request income and asset information from residents regarding their assets and anticipated income for that calendar year. They will also sign income and asset verification forms for third-party written verifications. If the household exceeds the maximum allowable household size requirements, then the household will be required to transfer into another unit when one becomes available. Once all verifications are received, residents are required to sign a certification form that they have provided true and complete information about all sources and all amounts of their incomes.
- B. A "Tickler File" will be kept on the move-in dates of all Residents. All residents will be recertified on an annual basis within twelve months of their initial move in date.
- C. Ninety (90) days prior to their recertification date, Resident will receive a letter advising them of their impending recertification date and asking them to sign the release portion of the third-party verification forms and complete an application for recertification. These will be forwarded to the appropriate third parties.
- D. Sixty (60) days prior to the recertification date, the Community Manager will review the income information and determine the continued eligibility and income status of each Resident due to be recertified, and schedule appointments with those Residents.

E. Thirty (30) days prior to the recertification date the Community Manager will interview the

Residents due to be recertified in the following month. At this interview the Residents will be advised of any changes in their eligibility and income status and/or rental obligation.

6. CHANGES IN ELIGIBILITY DURING OCCUPANCY

For any period during which the TCAC Regulatory Agreement encumbers the Property, Management Agent shall comply with such agreements with respect to current residents. When a resident occupies a unit subject to a TCAC Regulatory Agreement such resident shall not be evicted as a result of being over income, except as and when allowed by Federal law, including, without limitation 26 U.S.C. section 42. Upon expiration of the TCAC Regulatory Agreement, the requirements as set forth in this Section shall apply.

7. RENT COLLECTION

A. Rent Payment

The rules on payment of monthly rent will apply equally to all residents. Full payment of rent is due on the 1st day of each month. Rent may be paid until the 10th day of the month without any penalty; rent collected on the 11th day of the month or thereafter will be consider late. On the rare occasion that it may be necessary, on or after the 11th day of the month, a minimum of a thirty-day notice to pay rent or quit will be given.

Prompt follow-up on past due rent will be a priority responsibility of the Community Manager. The following are key elements of our rent collection policy:

- Rent is paid only by check or money order (cash is not accepted) at the project site. While partial payments are generally not accepted (except under a written work-out agreement for medical emergency), prepayments are welcomed. A late charge of \$25.00 is made for delinquencies.
- Rent payments are deposited daily to a bank account dedicated exclusively to the project.
- A master rent roll will be maintained containing details of residents' obligation and their account status.

B. Late Rent

- Residents who are having financial problems that affect rent payment, or payment problems caused by deteriorating memory, will be referred to an appropriate social agency for assistance.
- A fee of \$25.00 will be charged in connection with any rent payment not received by the eleventh (11th) day of the month. These late fees will be collected without exception.
- A service fee of \$25.00 will be charged for any returned checks, unless the reason is clearly not the fault of the resident. Should a resident's check bounce repeatedly, the assistance of a social service agency may be requested, and payment by money order may be required.
- Legal costs incurred in pursuing collections of rents and/or eviction procedures shall be

borne by the Project and shall be paid for out of the Windsor Pointe's General Operating Account and then billed to the resident as described in the Lease.

C. Rent Increases

The need for an increase in rent will be determined at the time the annual budget is prepared. However, ongoing review of financial reports may indicate an increase is needed earlier. Residents will be given a 60-day written notice prior to the effective date of any rent increase. As required in the City's regulatory agreement, City approval will be received prior to rent increase notices being issued.

Agent's procedure for collecting for damages beyond the security deposits will be to:

- Send a written notice to vacating resident:
- Should there be no response, the Agent may turn debt over to a collection agency or pursue other legal remedies.

8. PROCEDURES FOR APPEAL AND GRIEVANCE

Each resident will be given a copy of the Grievance and Appeal Procedure, which is attached. The procedure will be explained to each resident household during the initial orientation.

9. EVICTION POLICIES AND EVICTION PREVENTION PROCEDURES

A. Eviction Causes

The project may initiate lease termination and eviction in the following situations:

- i. Resident has become ineligible and fails to move on effective date of termination
- ii. Resident is in material violation of the lease, for example:
 - Nonpayment of rent
 - Actions adversely affecting the health, safety or quiet enjoyment of residents and guests
 - Other documented violations of the lease or house rules of serious nature
 - Failure to certify income when requested, or intentionally providing false income information

Residents will not be evicted for refusing to participate in services.

B. Eviction Procedure

Any notice of termination or eviction shall contain a statement of the facts constituting the cause for the termination or eviction and a statement of resident rights under the grievance and appeal procedure. Eviction action for non-payment of rent will begin with a 30-day notice to pay or quit

on the 11th day of the month. All other eviction actions will be preceded by a 30-day notice, as required by state law. The time frames for evictions are unpredictable, but generally 90-days is an average time frame. Once an eviction for nonpayment has been placed in the hands of the project's attorney, only payment in full, by money order or cashier's check, can stop the process. No eviction proceeding shall be started without prior approval of Owner.

C. Eviction Prevention Procedures

The Owner seeks to minimize evictions at the Project, striving to promote housing stability for all residents. A key to eviction prevention is strong collaboration between all members of the Project team, including ownership, property management, and service providers. To this end, Ownership attends weekly team meetings between all key parties to discuss the property and residents. During the meeting, property management and service providers work together to agree on a course of action for residents who may be receiving a lease violation.

Prevention Plan

- Getting the resident into a Payee Agreement to ensure future rent is paid in a timely manner.
- Having the resident meet jointly with Property Management and Services to ensure they understand the lease violation and to work with the resident on a Collaborative Agreement addressing their plan to resolve the issue.

1. SUBSTANCE ABUSE POLICY

The use of alcohol or drugs in and of itself, without other lease violations, is not a reason for eviction. However, consuming alcohol or drugs in common areas is a violation of the lease agreement.

2. ASSISTING RESIDENTS TO APPLY FOR UTILITY RATE ASSISTANCE PROGRAMS

The Community Manager will have information readily available to residents on utility rate assistance programs that can help offset ongoing utility expenses, such as the City of San Diego Department of Water and Home Energy Bill Assistance Program. This information will also be provided to the Service Provider who will assist the resident in completing all necessary applications to participate in the programs.

3. ASSISTANCE WITH REASONABLE ACCOMMODATION REQUESTS

The Federal Fair Housing Act (FHA) is a federal law that prohibits discrimination in housing. One of the many protections of the FHA is the right of individuals with disabilities to request a reasonable accommodation in the rules, policies, practices, or services of a housing provider. Whenever a person submits a request that a rule, policy, practice, or service be changed or modified in some way in order to afford a person with a disability an equal opportunity to use and enjoy a dwelling, such a request is a reasonable accommodation request. Correct handling of reasonable accommodation requests can be key to ensuring that persons with disabilities have access to and can maintain housing.

The Project will have the following procedures to assist applicants and residents with reasonable accommodation requests:

- Management associates inform applicants of the reasonable accommodation procedures before lease-up to ensure that potential residents have access to a reasonable accommodation as needed. Throughout tenancy manager associates continue to inform and educate residents about the reasonable accommodation procedures.
- Requests may be made either orally or in writing.
- The words “reasonable accommodation” do not need to be used by the individual submitting the request, nor will the individual submitting the request be required to use specific forms or to follow formal procedures in submitting the request.
- Each reasonable accommodation request will be considered on a case-by-case basis to determine whether the granting of the request is necessary to afford the person with a disability who submitted the request equal opportunity to use and enjoy their dwelling.
- Service providers will be notified about the request if the resident is a Permanent Supportive Housing resident, or if the request is made to the service provider it will then be shared with the Agent.
- The Agent will provide a prompt response to the request.
- In the event that the Agent determines that the request may be denied, the Agent will engage in an interactive dialogue with the person who requested the accommodation to explore how an accommodation can be granted.
- Property Management will receive ongoing training on Fair Housing and Reasonable Accommodations to ensure they are treating residents fairly and according to all applicable local, state, and federal laws.

10. CONSUMER RIGHTS SPECIFIC TO ADAPTABILITY FEATURES AVAILABLE IN EACH UNIT

The Project will meet the Fair Housing Act requirement that all new multifamily housing with four or more units be designed and built to allow access for persons with disabilities. This includes accessible common use areas, doors that are wide enough for wheelchairs, kitchens and bathrooms that allow a person using wheelchair to maneuver, and other adaptable features within the units.

Residents who need additional adaptability features will be addressed through the reasonable accommodation process.

11. PROMOTING RESIDENT PARTICIPATION IN COMMUNITY ACTIVITIES

- A. The Project will provide opportunities for residents to participate in life enrichment and social activities. The manager shall coordinate and work with resident services to allow and encourage residents to fully participate in educational and community activities.
- B. Safety and emergency preparedness are given high priority at all of the Agent's properties. During their initial move-in orientation, residents will be shown the use of fire equipment, smoke detectors, emergency staircases and other features of the project.

They will be given information regarding 911 emergency services and referred to the information pages of emergency preparedness in the telephone book, and given additional resources such as contact information for MCRT, TPSS, County of San Diego BHS, etc. Other materials may be distributed when received from various agencies.

12. REASONABLE RULE POLICY

The project will not impose restrictions on residents that are not otherwise required by other project funding sources or would not be common in other unsubsidized rental housing in the community.

13. RESIDENT FILE MANAGEMENT

The Agent will maintain organized and secure filing and storage systems in order to quickly locate information and maintain resident confidentiality. All information contained within Agent software systems will be stored in a password-protected, secure environment. The following are the procedures pertaining to resident file management for Windsor Pointe:

- All resident, associates and vendor files are to be appropriately stored in a secure environment at all times.
- The property file cabinet will be a fire-proof cabinet that is locked when not in use.
- If it is determined that document storage requirements have been met and a document is eligible to be thrown away or permanently purged from the file, documents must be destroyed using document shredding and cannot be thrown out in the trash without being shredded.
- Resident and applicant files must not be left unattended or accessible to the public.
- When not working with files, they must be secured in the locked file cabinet.
- When accessing personal information on the computer, open computer window screens should not be visible to others and the computer window should be closed immediately once the Community Manager has obtained the needed information.
- Saving documents with personal information onto the computer outside of the Management Software is prohibited.
- Discussing personal and confidential information should only be done in a manner in which it does not violate the confidentiality of Project residents.

14. CHANGES IN MANAGEMENT

If for any reason or at any time before or after occupancy, the management contract is canceled, records will be transferred in accordance with the contract. Efforts will be made by the Agent to effect a smooth transfer to a new agent selected by the Owners, as follows:

- The Agent will transfer all files and records relating to the project to the Owner, including all management documents, books of account and resident records.
- The Agent will promptly close the books and transfer to the Owner all project monies under its control, together with any outstanding bills and invoices.
- The Owner will compensate the Agent for any outstanding fees, salaries, etc.

- The Agent will cooperate with the Owner's auditor in complying with the Agency's requirements with respect to review or audit of the records.

15. PERSONNEL POLICY AND STAFFING ARRANGEMENTS

A. Hiring and Personnel Policies

All hiring of employees of the Project shall conform to equal opportunity and affirmative action requirements. The Project shall not discriminate against any applicant for employment because of race, color, religion, ancestry, national origin, age, sex, pregnancy, marital status, disability, sexual orientation, or AIDS.

B. Staff Positions at the Property

Agent will engage management associates for the project as follows:

Community Manager	40 hrs. per week
Maintenance Tech	40 hrs. per week

The Community Manager and Maintenance Tech will be provided with a unit on site. There will be a small allowance, as stipulated by state labor law, taken from salary to offset the unit cost.

Interim staffing in response to cyclical overload, extended absence, or special skill requirements may be accomplished at project expense by temporary assignment from other projects or the management associates. Not only will this assure continuity by those trained in Agent's policies and procedures, but it will provide opportunity for cross-training and career development within the organization. Free and effective inter-staff communication is encouraged.

16. Training and Monitoring

Regular and documented performance evaluations for all management associates are prepared by the immediate supervisor with the assistance, when indicated, of his or her superior. Intended to expose strengths and weaknesses, the evaluation is then reviewed with the employee with a goal toward open communication and mutual benefit.

A system of due process is followed in any disciplinary action, including termination. Except in the case of malfeasance, any non-probationary employee is given an opportunity to correct the problem. Every attempt is made to resolve grievance at each supervisory level, progressing only as necessary to the Vice-President.

Demotion, layoff or termination will be handled in a nondiscriminatory manner. When an employee's performance is below standard, he/she will receive written notification. Every effort will be made to assist the employee in improving his/her performance. If the problem continues, the employee will be placed on probation, and may be terminated.

17. Hiring of Residents

The Management Agent is willing to hire residents when openings occur. However, residents will be evaluated along with all other applicants for any particular position.

18. PLAN FOR MAINTAINING ADEQUATE ACCOUNTING RECORDS AND HANDLING NECESSARY FORMS AND VOUCHERS.

A. Accounting Basis

Project accounts are maintained on the accrual basis, in accordance with generally accepted accounting practices.

All project financial records for the Project maybe audited annually by an independent certified public accounting firm.

B. Collections and Disbursements

The Agent collects all rent charges, miscellaneous charges and other amounts receivable for the Project's account in connection with the management and operation of the property. Receipts are deposited in an account, separate from all other accounts and funds, with a bank whose deposits are insured by the Federal Deposit Insurance Corporation. This account will be placed in the name of the Agent and the Owner and designated as the Project's Operating Account.

From the funds collected and deposited to the Operating Account, the Agent will make the following disbursements promptly when payable:

- Reimbursements to Management Agent for payroll of the employees of the project and for Workers' Compensation insurance premiums, Social Security payments, other payroll taxes and assessments payable to local, state and federal governments in connection with employment of such personnel;
- All charges incurred in the operation of the project in connection with utilities, real estate taxes and assessments, and liability, fire and other hazard insurance;
- All sums due and payable under the terms of the management contract as Agent's compensation;
- Payments of required interest, principal, impounds, fees and charges, if any, on loans and mortgages, except those to be made from net cash flow;
- All their expenses incurred to cover operating costs in accordance with the approved annual operating budget of the Development or as otherwise approved in advance by the Agent and Owner;
- Deposits to the required reserve accounts;
- Distributions, if any, in accordance with the Regulatory Agreement;
- Any additional loan payments required to be made from Net Cash Flow;
- Distributions to or at the direction of Owner;

- Other disbursements required by the Owner and Agent in writing.

The Owner may depart from the foregoing priorities of payment only upon the express written approval to Agent. In no event will the Management Company be required to use its own funds to pay such disbursements. Management will advise the Owner immediately of any deficiency in funds.

A Monthly Financial Report will be provided to the Owner which includes deposits to date, unpaid bills, bank account balances, amount of rent outstanding during the balance of the month, disbursements expected during the balance of the month, vacancies and rent losses. In addition, a monthly cash receipts and disbursements comparison (budget comparison) will be provided. Cash flow can therefore be closely monitored. These monthly accounting reports will normally be provided by the 15th of the following month on an ongoing basis.

In addition to the monthly financial report, a written management report shall be prepared and submitted which includes comments on occupancy, delinquencies, personnel, repairs, maintenance, inspections, etc.

C. Contracting, Purchasing, Cost Controls

For routine or emergency repairs beyond the capability of management associates, management will establish accounts with designated contractors, e.g., plumbers, electricians. In addition, a list of approved vendors for office supplies and repair materials will be prepared. Invoices will be sent directly to management, will be reviewed by the Accounting Department, and will be paid from the Operating Account subject to the approval of Vice-President. If outside contract services are required, bids will be solicited from at least three contractors for any amount over \$1,000 and a minimum of three bids must be received for work costing \$5,000 or more.

When possible, major repairs or other items will be budgeted. In emergencies, where items are not budgeted but are essential to the physical and long-term financial viability of the project, management will present proposals for purchase of those items to the Owner and options such as loans and grants will be considered. Consideration will be given to deferring some items which were to be accomplished within the budget to a future considered. If such sources are not available, consideration will be given to deferring some items which were to be accomplished within the budget to a future point in time. In the event of dire emergencies, the Vice-President will make a reasonable decision to effect repairs or provide the services necessary. In the case of such emergencies, the Owner will be notified of the circumstances as soon as possible.

In the event the balance in the Operating Account is projected to be insufficient to meet accounts payable, a review of options will be made, including cutting costs, raising rents, or other measures which will alleviate the cash flow shortage. The Owner and Agent will be advised of the potential shortfall. Any insufficiency will usually be forecast in advance. However, should an immediate insufficiency occur, the supervisor will determine, in consultation with the Sponsor, which accounts must be paid and which might be deferred.

The Vice-President, Regional Portfolio Manager and Community Manager will ensure that residents meet income eligibility requirements. Resident eligibility will be verified by management associates. The Agent will be responsible for ensuring the coordination of all reporting and accounting requirements and any other financial reporting requirements of the Project.

D. Compliance and Reporting

The Owner and Agent will comply with all reporting requirements for the Project, including:

- a. The preparation of a recommended operating budget for each fiscal year beginning during the term of the Management Contract;
- b. Submission of budgets to the Owner at least 60 days before the beginning of the Fiscal year. The Owner will promptly inform the Agent of changes to be incorporated in the approved budget and he will incorporate such changes and forward the budget to Owner for approval;
- c. An annual financial report will be prepared by a Certified Public Accountant acceptable to the Agent and the Owner. This report will be based upon the preparer's examination of the Project's books and records. The report will be prepared in accordance with the directives of the Owner and Agent will be certified by the preparer and will be submitted to the Owner and Agent within 90 days of the end of the fiscal year. Compensation for the preparer's services will be paid out of the Operating Account as a Project expense.
- d. Periodic reports will be provided as directed by the Owner.

E. Vacancies and Rent Losses

Vacancy and rent losses will be recorded monthly in the rent rolls as well as the monthly financial report. Any amounts recovered will also be credited on the monthly rent rolls and the monthly financial statement. It is a policy that all units, when they become vacant, should be rent ready within 5 days from move out. Owner shall be notified with the reasons for any unit not being rent ready within 5 days. Move-ins' can be made when units are habitable.

F. Security Deposits

Security Deposits will be held in a separate interest-bearing account which is FDIC insured. The interest on security deposits will be used for purposes or activities which benefit the residents. At the time a resident vacates the unit, a move-out inspection will be conducted with the resident, where possible. All items needing cleaning or repair, plus the charges or estimated charges for each, will be determined at the time of inspection. The inspection form will be signed by both the manager and the vacating resident. A final closing statement will be prepared for each vacating resident itemizing any charges to be made against the security deposits. This final closing statement will be forwarded to each vacating resident within 21 days of their vacating and will include a

refund if there are no damage charges, or if no rent charges are being charged against the deposits. If damages are charged, then the remaining security deposits and/or the final closing statement will be sent within 21 days of the time of the resident's departure.

G. Guest Policy and Procedures

The resident lease agreement Guest Policy states “Any adult or minor that is not included on your lease who has been in the apartment more than two (2) consecutive days, or a total of fourteen (14) in a twelve (12)-month period, is no longer considered a guest, but an unauthorized occupant”. Tenants may submit a written request of special consideration for extended overnight guests to management. Failure for residents to comply with the guest policy and procedures will result in a lease violation and if not addressed in a timely manner may result in a notice to vacate the premises. Residents are responsible for the actions of their guests/invitees at all times and must accompany guests/invitees at all times while their guest/invitees are visiting the property to include accompanying the guest/invitees while walking through the property, greeting them at the time of their visit and escorting them off the property at the end of the visit. Residents who give access to keys or fobs to non-residents of Windsor Pointe is strictly prohibited. Property Management will enforce the guest policy using various security strategies to reduce noncompliance and promote community safety. Management reserves the right to ban non-compliant guests and visitors who present a risk to the safety and well-being of residents and staff from entering the building at any time.

20. EMERGENCY PLAN

The Agent trains all on-site associates on proper emergency procedures through their formal Emergency Policies and Procedures Manual. Effective communication is important for an optimal emergency response, associates will be trained to communicate and respond timely, appropriately and efficiently while communicating directly with residents, the Owner, within the Agent’s organization and with the Support Services team.

Emergency Protocol/Emergency Routes:

- Associates will understand the Evacuation Plan and the standards regarding emergency situations.
- Associates will know Evacuation routes and exits.
- Associates will know the location of critical utilities.
- Associates will know the location of indoor and outdoor assembly areas.
- Associates will know who will perform designated post-evacuation tasks to include managing critical shutdowns and be designated evacuation coordinator.
- Associates will follow the directives of supervisors and emergency personnel related to evacuation and emergency procedures.

The Community Manager and associates will understand the Evacuation Plan and the

standards regarding emergency situations. Associates will assist those individuals with disabilities or special needs, if it is unsafe to assist those in need the associates will coordinate directly with emergency personnel to ensure those with disabilities or special needs are identified to emergency personnel for evacuation and assistance exiting the building.

21. PROVISIONS FOR UPDATE OF MANAGEMENT PLAN

On at least an annual basis the Agent will review this management plan with the Owner to determine whether any changes are required as a result of either procedural changes or new laws or regulations affecting project management operations. Any proposed changes will be inserted in a distinctive typeface and the update document will be forwarded to the Agencies for review and approval.

22. INSURANCE

The Agent, with approval of the Owner, will arrange for the project to be insured for fire and other hazards, general liability, and contingencies, workers' compensation, fidelity bond and directors' and officers' liability, in such amounts and for such periods as are required by the Owner. Cost savings may be effected by purchasing package coverage for all the Agents properties.

The insurance coverage will be reviewed at least annually, and competitive bids will be sought to ensure that the most reasonable price is obtained. All policies will name the Agent and any government agency who has a loan on the property as an additional loss payee, and liability policies will name the Agencies as an additional insured. The Agent will investigate, and report all claims and maintain detailed records of all claims and losses.

23. CONFIDENTIALITY

Confidentiality: At the time of document execution, the Community Manager should get information regarding emergency contact persons, plus the resident's home phone number, if applicable, which will be retained in the resident's file in the management office. The management agent should consider the information in the resident's file to be confidential and will keep the file in a locked file cabinet. However, if necessary, information is to be provided for reports to funders and limited partners, and for entry into resident databases. Property owner/asset managers, representing the managing general partner, are also entitled to have access to resident files, when necessary. If the Community Manager is asked by outsiders such as law enforcement agencies for access to resident file information, they are not to provide it and should contact their supervisor for further advice and instruction. Boston Post is the property management software system database in which electronic management of resident related information is stored and managed. All information contained within Boston Post is treated as confidential. Property associates must use an individualized login and password to access resident information, it is against company policy to share these specific logins and passwords as access is only

granted on a need-to- know basis. All CONAM properties are audited on a monthly and bi-annual basis to ensure this and related policies and procedures are being followed.

24. MAINTENANCE AND SECURITY

A. Recycling and Solid Waste: The project shall meet all the recycling and solid waste requirements of the City of Carlsbad.

B. Construction Follow-up

Subsequent to occupancy, management will record all reported defects that appear to be construction defects. These will be referred to the Owner, who will contact the Contractor to assure that all warranty items are corrected.

Management will maintain computer records of warranty expiration dates for building components such as roofs and elevator, and for appliances, so timely action may be taken under the warranty if premature failure occurs.

C. Maintenance Program

1) Maintenance Duties

Most maintenance work will be done by site employees, except as detailed under (10) below.

Maintenance employees are expected to comply with local, state and federal laws and regulations pertaining to the health and safety of residents. They are required to:

- Meet emergency needs.
- Perform routine inspections of property, units and equipment.
- Maintain attractive, sanitary, and secure housing units and grounds.
- Post all necessary safety and legal notices if required, as advised by the Community Manager.
- Pay close attention to safety standards in the performance of their work.

2) Maintenance Supervision and Performance

- The Community Manager is responsible for supervising and scheduling maintenance personnel.
- Specific assignments of duties shall be developed and issued each week.
- A performance record is maintained for each maintenance employee and, at least annually, is discussed with employee.
- The Community Manager, by coordinating with, and receiving approval from, the Vice President, decides when outside services are needed.

3) Corrective Maintenance

Corrective maintenance is performed in response to requests from residents, management or as a result of property system or equipment malfunction. Requests must originate or be approved by the Community Manager through the issuance of work orders.

Resident-initiated work orders are prioritized according to the categories that follow, and handled, in general, in the order received:

Priority One: Items affecting the health and safety of the residents or affecting damage to property or interruption of the following services: hot or cold running water, electricity or gas, adequate heat, plumbing, garbage removal. Inability of the following appliances to function: refrigerator and stove. Glass breakage wherein the resident is deprived of security and/or loss of heat. Repairs of a nature which, if left unrepaired, would expose people to personal injury. All repairs involving hazardous materials must conform to the hazardous materials management policy and should not commence without approval from Central Office.

Priority Two: Important maintenance requests, which are of an inconvenient nature to the residents, and affect the suitability of living conditions and comfort of the residents. Minor but necessary repairs, adjustments, and replacements such as broken toilet seats, missing towel bars, missing floor tile, inoperative kitchen or bathroom exhaust fans.

Priority Three: The cleaning, decorating and repairing of apartments for occupancy, including, but not limited to, interior building and fixture repairs, drapery and carpet cleaning, painting of unit. Extra attention will be given to minor repairs and final cleanup.

Priority Four: Cleanliness of the grounds and public areas, such as lawns, laundry rooms, restrooms, recreation areas, sidewalks and stairs.

Priority Five: Normal maintenance items of a cosmetic nature such as replacement of chipped tile, bent towel bars, etc., that are of a routine, minor, nonhazardous nature.

Priority Six: Preventive maintenance, i.e., maintenance acts which lengthen the life of major operating equipment, including but not limited to, cleaning out boilers or water heaters, oiling motors, changing filters, cleaning rain gutters (see attached preventive maintenance plan).

5. Resident Neglect and Abuse

Maintenance services requested by residents due to their neglect or abuse may be approved after the resident has signed an agreement stating that he/she agrees to pay for any repairs, replacements, or labor charges required.

6. Reconditioning for New Residents Upon vacancy, each unit shall be reconditioned for a new resident in accordance with the issued check list.

7. Preventive Maintenance

Most Preventive maintenance tasks will be performed by site employees.

- All mechanical and electric equipment and systems shall be checked and serviced, and the results recorded on the required form.
- Regular interior and exterior inspection of buildings required, and inspection report forms are completed. The control record is maintained by the Community Manager.
- An annual inspection of all units will be conducted, and site associates will follow up to assure that all needed repairs are made.

- Major preventive maintenance items will be followed closely with expected expenses and workload projected annually and reserves developed accordingly. Following are some examples of typical life expectancy:
 - Interior Painting: units will typically be painted every five to seven years
 - Carpet: will typically be replaced every five years, on average.
 - Exterior Painting: will be done every six to seven years depending on needs. Roofs: will be inspected twice a year, maintained as needed, and monitored closely when they near their life expectancy to see if replacement or repairs are needed.
 - Paving: asphalt should be sealed to reduce deterioration and lessen the effects of moisture damage. Three years after the first seal, the asphalt should be resealed and then may go 5 to 6 years before needing an additional seal coat.

8. Emergency Maintenance

A 24-hour emergency service shall be established by the Regional Portfolio Manager through an on-call schedule reviewed with the maintenance personnel.

In case of disaster, management has the responsibility of implementing the disaster plan and protecting the remaining property.

- Management is not required to pay for the loss of resident's possessions or provide or pay for interim housing but will assist residents with their emergency housing needs to the extent possible.
- In cases where apartments are uninhabitable, the rent charge is stopped, and credit is given for any unused portion of rent or deposits.

9. Gardening and Landscape

The maintenance person will also handle gardening duties and is responsible for the maintenance of presentable grounds and landscaping, keeping in mind that the project's marketability will be enhanced through proper landscaping care. A plant or landscaping service will be utilized in the event maintenance is not able to properly upkeep the landscaping décor inside or externally.

10. Contract Maintenance

The Community Manager is responsible for determining whether it is cost-effective to contract for specialist services rather than doing them in-house. Contracts will be let to qualified specialists, particularly when dealing with potentially hazardous materials, such as pest control, or skilled tasks, such as elevator maintenance.

If services are to be contracted, bid specifications will be developed and submitted to selected contractors.

Upon receipt of bids, they will be evaluated for compliance with bid specifications and the reliability of the bidder as to work performance and financial status.

Recommendations will be made in writing to the Vice-President, who is responsible for approval of work and selection of contractor. Bids will be compared against the cost of performing the task in-house. Conflict of interest situations, such as hiring relatives, will be subject to disclosure.

The contracted work will be monitored by the Maintenance Technician or, in the case of a major contract, such as a roof replacement, a consultant may be hired to check the quality of workmanship and materials.

11. Maintenance Stock Control

The Agent will implement a well-organized system of stock control, involving regular inventories to ensure that maintenance parts and supplies are always on hand.

D. Security

The Community Manager, with assistance and supervision from the Regional Portfolio Manager, will develop and coordinate security programming for the property by combining resources with involvement from the police, residents, service providers, owner, and third-party security vendors.

Windsor Pointe will enact, maintain, and adjust as needed the security procedures for the property.

- Maintain adequate and functioning lighting in parking and other common areas.
- Collaborate with the City's Police Department to implement and operate an effective neighborhood watch program, and foster communication within the apartment community to promote crime prevention strategies.
- Provide security measures to prevent unlawful entry into the premises including dead-bolt locks on every unit entry door and controlled access at building entrances.
- Promptly respond to resident notification of problems regarding building security.
- Engage remote video surveillance monitoring conducted 24-hours/day, 7 days/week to identify criminal activity, suspicious activity or unauthorized person entry.

- Station a security guard at each project site from 6 p.m. to 6 a.m. Onsite security shall monitor guest access and respond to issues at the property, such as noise complaints and suspicious activity.
 - A written plan of action shall be maintained to outline processes pertaining to the coordination and communication of the security guard, virtual monitoring, police department, and property management.
 - Property management will share the security guard phone number with residents.
- Agent shall enforce the Project guest policy by enacting proactive safety measures which include:
 - Implementing a system for guests to check in upon arrival and check out upon departure. Systems may use virtual or in-person means to monitor visits.
 - Requiring residents to accompany their guests at all times in common areas.
- Such other commercially reasonable efforts to maintain the Development as a secure environment (including, but not limited to prohibiting loitering at or within any portion of the Development).

The Community Manager will promptly notify CONAM's Vice President of Property Management of any unusual circumstances affecting residential security. Agent may from time to time upon approval from the Owner enact emergency security protocols that go beyond standard procedures to combat particular safety or security concerns at the property.

GRIEVANCE AND APPEAL PROCEDURE

1. DEFINITIONS

- a. Windsor Pointe Apartments is referred to as "the Development" in this procedure.
- b. CONAM Management is referred to as "Management" or "we" / "us" in this procedure.
- c. "Complainant" is defined as any Resident or prospective Resident in the project whose rights, duties, welfare, or status are or may be adversely affected by management with respect to such action or failure to act. Complainant is referred to in this procedure as "complainant", "you", or "Resident."
- d. Grievance is defined as any dispute with respect to management action or failure to act in accordance with lease requirements, or any management action or failure to act involving the interpretation or application of management regulations, policies, or procedures which adversely affects the rights, duties, welfare, or status of the complainant.

2. APPLICABILITY

- a. This procedure shall apply to all individual grievances between you and us.
- b. This procedure shall not apply to:
 - 1) the validity or propriety of the terms and conditions of the residential lease,
 - 2) eviction or termination of residency based upon your creation or maintenance of a threat to the health or safety of other residents or our employees,
 - 3) class grievance, and
 - 4) disputes between you and other residents not involving us.

3. RIGHT TO A HEARING

When you file a written request as described in this procedure, you are entitled to a hearing, relative to any grievance as defined in Section 1 of this procedure. You are not entitled to a hearing if we serve you with an eviction notice pursuant to Section 1161(4) of the Code of Civil Procedure. Section 1161(4) states that subletting, waste,

nonpayment of rent, nuisance, or unlawful use are grounds for service of a 3-Day Notice to Quit upon the person(s) in possession of the dwelling unit.

4. TYPE OF HEARING

There are two types of hearings with respect to this procedure:

- a. Informal hearing. This is an informal meeting between you and us to discuss your grievance. The goal of the informal hearing is to settle the problem without the need for a formal hearing. In the event the problem is not settled, you are entitled to request a formal hearing as provided in this procedure.
- b. Formal hearing. This is a formal hearing with you, us, and a hearing officer or hearing panel. Decisions from this hearing are binding on you and us, subject to Section 11 below.

5. INFORMAL HEARING

- a. Presentation of grievance. You must personally present your grievance in writing to us at our office so that you and we may discuss your grievance informally. You must present your grievance within a reasonable time, not to exceed five days from our action or failure to act which is the basis for your grievance. The grievance may be simply stated, but you should specify the particular ground(s) of the grievance and the action or relief you seek. We will schedule a meeting with you within five working days after we receive your request.
- b. Summary and answer. We will prepare a written, dated, and signed summary of our discussion and answer to your grievance within a reasonable time, not to exceed fourteen days. We will mail or deliver one copy to you and keep one in your file. Our answer shall specify:
 - 1) the names of the hearing participants
 - 2) the date of the hearing
 - 3) the nature of the grievance
 - 4) the proposed disposition of the grievance and the specific reasons thereof
 - 5) your right to a formal hearing
 - 6) the procedure by which you may request a formal hearing if you are not satisfied with the proposed disposition
- c. Request for a formal hearing. If you are dissatisfied with the proposed disposition of the grievance as stated in the answer, you may submit a

written request to us for a formal hearing. You should make your written request within a reasonable time after you receive the answer to the grievance, not in excess of five days, and you must date and sign the request. We will place a copy of your request in your file along with the grievance and the answer.

- d. Failure to request a hearing. If you do not request a formal hearing within the time allowed in (c.) above, you waive your right to a formal hearing and the proposed disposition of the grievance becomes final. This shall not, however, constitute a waiver of your right thereafter to contest the disposition of the grievance in an appropriate judicial proceeding.

6. FORMAL HEARING

- a. Selection of the hearing officer or hearing panel. When we receive your request for a formal hearing, we will contact you in person or by telephone to discuss the selection of a hearing officer. The hearing officer must be an impartial disinterested person selected jointly by us and you. If we and you cannot agree on a hearing officer, we and you shall each appoint a representative and the two members so appointed shall select a third member. If the members you and we appoint cannot agree on a third member, such members shall be appointed by an independent organization contracted by us, such as a local mediation board or chapter of the American Arbitration Association. The chairperson of a hearing panel shall be elected by the members of the panel.

The following guidelines govern the selection of hearing officers and panel members.

- 1) No relatives of yours may serve as a hearing officer or panel member.
 - 2) None of our officers or employees who directly proposed a disposition to the grievance or whose duties and responsibilities directly involve him/her in any way with the grievance at issue may serve as a hearing officer or panel member for the formal hearing.
 - 3) The third member of a panel may not be one of our officers or employees, nor a Resident of any property under our jurisdiction hearing.
- b. Time limits. Both you and we must act to avoid unnecessary delays in resolving grievances. The hearing officer or panel shall be selected and the hearing scheduled by us as promptly as possible, no more than five days after the receipt of your request for a hearing. We will make all reasonable effort

so that the date, time, and location of the hearing are convenient to you. We will inform you of the schedule for the hearing and the procedures governing the hearing by way of written notification delivered or mailed to you no less than five days in advance.

- c. Fair hearing. You are entitled to a fair hearing providing the basic safeguards of due process before the hearing officer or panel and you may be represented by counsel or another person chosen as your representative. You must be personally present at the hearing.
- d. Private hearing. The hearing will be private unless you request a public hearing. The attendance of persons with a valid interest in the proceedings shall not be limited.
- e. Discovery. You or your authorized representative may examine before the hearing and, at your expense, request copies of all of our documents, records, and regulations that are relevant to the hearing. Any documents not made available after you request it may not be relied on by us at the hearing. You or we may request, in advance, and at your or our expense, a transcript of the hearing.
- f. Disputed carrying charges or other charges. If the grievance involves the amount of charges that we claim as due, we may require you to pay to us up to 100% of any disputed charges, and we will deposit the funds in a trust account until resolution of the dispute. If you fail to make the required payment, the hearing officer or hearing panel may determine that you have waived your right to a hearing. Your failure to make payments shall not constitute a waiver of your right to thereafter contest our disposition of the grievance in an appropriate judicial proceeding. on resolution of the dispute, or the decision of the hearing officer or hearing panel, the money shall be refunded to you or directed to us as is appropriate based upon the decision of the hearing officer or hearing panel.
- g. Proof. At the hearing, you must clearly state the facts, and then be prepared to present evidence to support those facts. The burden of proof is then on us to justify the action or inaction we proposed in the answer to the grievance. You may present evidence and arguments in support of Your grievance, raise arguments against evidence relied upon by us, and confront and cross-examine all witnesses on whose testimony or information we rely.

Hearings conducted by the hearing officer or hearing panel shall be informal, and any oral or documentary evidence, as limited, however, to the facts and issues raised by the grievance and answer, may be received by the hearing

officer or hearing panel without regards to whether that evidence would be admissible under the rules of evidence employed in judicial proceedings.

- h. Failure to appear at hearing. If either you or we fail to appear at a hearing, the hearing officer or hearing panel may postpone the hearing for up to five days, or make a determination that the absent party has waived its right to a hearing.

7. DECISIONS OF THE HEARING OFFICER OR HEARING PANEL

- a. Binding effect. The decision of the hearing officer shall be based solely and exclusively upon facts presented at the hearing and upon applicable law and our, the City of Carlsbad and No Place Like Home regulations and policies. To the extent that the decision is not inconsistent with applicable law, and to the extent provided in Section 11. below, the decision of the hearing officer or hearing panel shall be binding.
- b. Proposed decision. Both you and we may agree to prepare a proposed decision to the hearing officer or hearing panel. If both agree to do so, each of us shall submit same to the officer or panel for consideration.
- c. Written decision. The hearing officer or hearing panel shall prepare a written decision, including a statement of findings and conclusions, as well as the reasons or basis of them, upon all material issues raised by you or us. This shall be done within a reasonable time after the date of the hearing, not to exceed five days. Copies thereof shall be mailed or delivered to parties and/or their representatives. Also, we will place a copy of the written decision of the hearing officer or hearing panel, together with all documents related to the grievance, in your file.
- d. Costs. If the hearing officer or hearing panel renders a decision in our favor and further specifically finds that the grievance was totally without basis and filed for the purpose of harassment or based on the same or similar facts as a grievance previously filed by you or a member of your household or on your or their behalf, the hearing officer or hearing panel may, at its discretion, assess the cost and expenses of the hearing to you.

8. ENFORCEMENT OF HEARING OFFICER'S OR HEARING PANEL'S DECISION

- a. Compliance with decision. If the decision is in your favor, we shall promptly take all actions necessary to carry out such decision or refrain from any action prohibited by such decision unless we determine and notify you in writing within thirty days that the hearing officer or hearing panel has acted contrary to law, or exceeded its authority, or the decision is contrary to applicable

federal, state, City of Carlsbad regulations or requirements. In such event, the hearing officer's or hearing panel's decision may be judicially reviewed.

- b. Failure to comply with decision. Should any of the parties to a decision fail to voluntarily comply with the provisions of a decision of the hearing officer or hearing panel, the aggrieved party may take appropriate legal action to enforce compliance.
- c. Enforcement of an eviction action. If you request a hearing on a proposed eviction and the hearing officer or hearing panel in its decision upholds our proposal to evict, we cannot start our action to regain possession until the expiration of the time period that was contained in our original notice to you.

9. RIGHT TO GO TO COURT

This grievance and appeal procedure have been established to provide all parties with a non-judicial means of resolving problems and disputes. Neither use of or participation in any of the procedures included herein, nor a decision by the hearing officer or hearing panel which is in favor of us and/or denies you your requested relief in whole or in part, shall constitute a waiver of, nor affect in any manner, whatever rights you or we may have to any judicial proceedings, we shall, by stipulation or other appropriate means, be limited to invoking against you the grounds we originally relied on in our proposed disposition of the grievance.

PROPERTY MANAGEMENT PLAN CERTIFICATION

I certify that the information and documentation submitted herein is true and complete to the best of my knowledge

Owner

Name:
Title:
Date:

Agent

Name:

Title:

Signature: Date:



JIM DESMOND
 SUPERVISOR, FIFTH DISTRICT
 SAN DIEGO COUNTY BOARD OF SUPERVISORS

AGENDA ITEM

DATE: April 9, 2024

05

TO: Board of Supervisors

SUBJECT: IMPLEMENTING A PILOT PROGRAM TO ENHANCE SUPPORT TO PEOPLE WITH SERIOUS MENTAL ILLNESS AT AFFORDABLE HOUSING DEVELOPMENTS (DISTRICTS: ALL)

OVERVIEW

It is estimated that 21% of the homeless population suffers from a Serious Mental Illness (SMI). We have made great strides at the County to move forward on projects to provide housing for this population. As we continue to work to reduce homelessness in our region, we must ensure that we are providing quality services to our most vulnerable populations.

SMI is a mental, behavioral, or emotional disorder resulting in serious functional impairment, which substantially interferes with or limits major life activities. Placing individuals with SMI in environments ill-equipped to meet their needs not only undermines their potential for success but also poses risks to both their well-being and the broader community. Individuals with SMI require a high level of care and support and we strive to ensure people receive the support they need. When we make a commitment to stakeholders that we will offer “wrap-around services” we must ensure that they are truly wrap-around- 24 hours a day, 7 days a week.

No Place Like Home (NPLH) is a State program that funds the development of permanent supportive housing for persons who are in need of mental health services and are experiencing homelessness, chronic homelessness, or are at risk of chronic homelessness. There are 19 affordable housing developments throughout the County, either currently operating or in development, that include NPLH units.

To ensure the success and sustainability of these developments, it is imperative that we institute a policy requiring all affordable housing developments with NPLH units to have personnel on-site, 24/7, who are trained in Mental Health First Aid, and have knowledge and the ability to directly contact the County’s 24/7 behavioral health crisis services. Additionally, we should ensure that new residents moving into affordable housing developments with NPLH units have access to enhanced clinical support at the onset of their residency and on an ongoing basis, as appropriate.

Legistar v1.0

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SUBJECT: IMPLEMENTING A PILOT PROGRAM TO ENHANCE SUPPORT TO PEOPLE WITH SERIOUS MENTAL ILLNESS AT AFFORDABLE HOUSING DEVELOPMENTS (DISTRICTS: ALL)

Currently, not all residents with SMI receive clinical support. This action will support connection to services, counseling, crisis intervention, and medication management, which will assist in stabilizing individuals with SMI, working to lessen the severity of their symptoms and enhancing their overall well-being. These adjustments will decrease the likelihood of mental health crises and interactions with law enforcement, thereby promoting public safety and community cohesion.

Today's action would implement a pilot program within four affordable housing developments in North County San Diego that have NPLH units to increase clinical support services for residents with SMI to seven days per week. Today's action would also require on-site personnel within the four North County affordable housing developments, to be trained in Mental Health First Aid and receive training on how to refer people to 24/7 behavioral health crisis response resources. Today's action would also initiate a requirement for the four affordable housing developments in North County to develop a plan to support and address the unique needs and challenges of residents with SMI. This plan would include a strategy to ensure that on-site personnel are able to monitor who is entering the building through a check-in and check-out process.

**RECOMMENDATIONS
SUPERVISOR JIM DESMOND**

1. Direct the interim Chief Administration Officer to work with County departments, including Behavioral Health Services and Housing and Community Development Services, to implement a pilot program to increase services for residents with serious mental illness living in the four affordable housing developments with No Place Like Home units in North County to include enhanced clinical support seven days per week.
2. Direct the interim Chief Administration Officer to work with Behavioral Health Services and Housing and Community Development Services, to ensure all personnel on-site at the four affordable housing developments in North County receive Mental Health First Aid training and be trained on how to refer people to 24/7 behavioral health crisis response resources.
3. Direct the interim Chief Administrative Officer to work with County departments, including Behavioral Health Services, Housing and Community Development Services, and affordable housing developers and property management companies for the four developments that include NPLH units in North County to develop a plan to support and address the unique needs and challenges of residents with SMI and to support the health and safety of residents and the surrounding community. These plans should include:
 - a. A strategy to ensure that visitors to the property are checked in and out. It is imperative that on-site personnel are aware of who is on the property to support the health and safety of its residents.

SUBJECT: IMPLEMENTING A PILOT PROGRAM TO ENHANCE SUPPORT TO PEOPLE WITH SERIOUS MENTAL ILLNESS AT AFFORDABLE HOUSING DEVELOPMENTS (DISTRICTS: ALL)

- b. An assessment of current staffing needs, and what is needed to ensure there is at least 1 Mental Health First Aid trained staff on-site 24/7, which can include: security guards, property management, and service providers. This assessment should identify any gaps in personnel being on-site, and suggestions for how to fill those gaps.
- 4. Report back to the Board within 90 days with an update on the plans for the four developments in North County that have NPLH units.
- 5. Report back to the Board within six months with an update on the progress, outcomes, and a plan to implement these changes countywide.

EQUITY IMPACT STATEMENT

By enhancing behavioral health services for those with serious mental illness, the County of San Diego would be expanding services to a currently underserved population. The County of San Diego is committed to providing equal access to services and housing to people with SMI who are homeless or at risk of homelessness. There is a severe lack of living opportunities in the County of San Diego.

SUSTAINABILITY IMPACT STATEMENT

This proposed action contributes to the County of San Diego’s Sustainability Goal of protecting the health and well-being of all San Diegan residents. Enhancing behavioral health services for those with serious mental illness will help facilitate self-sufficiency and rehabilitation of some of the County’s more vulnerable residents.

FISCAL IMPACT

Recommendation #1:

Funds for this request are not included in the Fiscal Year (FY) 2023-24 Operational Plan and FY 2024-26 CAO Recommended Operational Plan for the Health and Human Services Agency. If approved, this request will result in estimated costs and revenues of approximately \$200,000 in FY 2023-24 and \$600,000 in FY 2024-25. This funding would support implementation of a pilot program to enhance clinical support for residents with serious mental illness living in the four affordable housing developments with No Place Like Home units in North County. The department will need to identify funding prior to proceeding with the recommended action, as none is currently available. Once funding is identified, the department will return to the Board with a mid-year action to adjust the budget if necessary. There will be no change in net General Fund cost and no additional staff years.

Recommendation #2:

SUBJECT: IMPLEMENTING A PILOT PROGRAM TO ENHANCE SUPPORT TO PEOPLE WITH SERIOUS MENTAL ILLNESS AT AFFORDABLE HOUSING DEVELOPMENTS (DISTRICTS: ALL)

Funds for this request are included in the Fiscal Year (FY) 2023-25 Operational Plan for the Health and Human Services Agency. If approved, this request will result in estimated costs and revenues of approximately \$35,000 in FY 2023-24 and no costs and revenues in FY 2024-25. The funding source will be Mental Health Services Act Prevention and Early Intervention funds. This would fund training to ensure all personnel on-site at the four affordable housing developments with No Place Like Home units in North County, estimated at approximately 255 individuals, receive Mental Health First Aid training. There will be no change in net General Fund cost and no additional staff years.

Recommendations #3-5:

There is no fiscal impact for these items. There will be no change in net General Fund cost and no additional staff years.

BUSINESS IMPACT STATEMENT

N/A

ADVISORY BOARD STATEMENT

N/A

BACKGROUND

It is estimated that 21% of the homeless population suffers from a serious mental illness (SMI). We have made great strides at the County to move forward on projects to provide housing for this population. As we continue to work to reduce homelessness in our region, we must ensure that we are providing quality services to our most vulnerable populations.

SMI is a mental, behavioral, or emotional disorder resulting in serious functional impairment, which substantially interferes with or limits major life activities. Placing individuals with SMI in environments ill-equipped to meet their needs not only undermines their potential for success but also poses risks to both their well-being and the broader community. Individuals with SMI of require a high level of care and support and we strive to ensure people receive the support they need. When we make a commitment to stakeholders that we will offer “wrap-around services” we must ensure that they are truly wrap-around- 24 hours a day, 7 days a week.

No Place Like Home (NPLH) is a State program that funds the development of permanent supportive housing for persons who are in need of mental health services and are experiencing homelessness, chronic homelessness, or are at risk of chronic homelessness. There are 19 affordable housing developments throughout the County, either operating or in development, that include NPLH units.

To ensure the success and sustainability of these developments, it is imperative that we institute a policy requiring all affordable housing developments with NPLH units to have personnel on-site,

SUBJECT: IMPLEMENTING A PILOT PROGRAM TO ENHANCE SUPPORT TO PEOPLE WITH SERIOUS MENTAL ILLNESS AT AFFORDABLE HOUSING DEVELOPMENTS (DISTRICTS: ALL)

24/7, who are trained in Mental Health First Aid, and have knowledge and the ability to directly contact the County's 24/7 behavioral health crisis services. Additionally, we should ensure that new residents moving into NPLH units have access to clinical support at the onset of their residency and on an ongoing basis, as appropriate. Currently, not all NPLH clients receive clinical support. This will support connection to services, counseling, crisis intervention, and medication management, which will assist in stabilizing individuals with SMI, working to lessen the severity of their symptoms, and enhancing their overall well-being. These adjustments are anticipated to decrease the likelihood of mental health crises and interactions with law enforcement, thereby promoting public safety and community cohesion.

Today's action would implement a pilot program in North County San Diego, which includes four affordable housing developments NPLH units, to increase clinical support services for residents with SMI to seven days per week, for eight hours per day. The four NPLH developments include:

- Windsor Pointe- Carlsbad, District 3
- Valley Senior Village- Escondido, District 5
- Greenbrier Village- Oceanside, District 5
- Santa Fe Senior Village- Vista, District 5

Today's action would also require on-site personnel within the four North County affordable housing developments, estimated at 255 total individuals, to be trained in Mental Health First Aid and to receive training on how to refer people to 24/7 behavioral health crisis response resources. Today's action would also initiate a requirement for the four affordable housing developments in North County to develop a plan to support and address the unique needs and challenges of residents with SMI. This plan would include a strategy to ensure that on-site personnel are able to monitor who is entering the building through a check-in and check-out process.

LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN

Today's proposed action supports the Equity Initiative of the County of San Diego's 2024-2029 Strategic Plan by making health and housing a focus by reducing disparities and disproportionality and ensuring access for all through a fully optimized health and social service delivery system and upstream strategies while utilizing policies, facilities, infrastructure, and finance to provide housing opportunities that meet the needs of the community.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'J. D. ...', written in a cursive style.

SUBJECT: IMPLEMENTING A PILOT PROGRAM TO ENHANCE SUPPORT TO PEOPLE WITH SERIOUS MENTAL ILLNESS AT AFFORDABLE HOUSING DEVELOPMENTS (DISTRICTS: ALL)

JIM DESMOND
Supervisor, Fifth District

ATTACHMENTS
N/A



TERRA LAWSON-REMER

VICE-CHAIR

**SUPERVISOR, THIRD DISTRICT
SAN DIEGO COUNTY BOARD OF SUPERVISORS**

AGENDA ITEM

DATE: April 9, 2024

26

TO: Board of Supervisors

SUBJECT

**SUPPORTING SAFETY AND SECURITY AT WINDSOR POINTE & FUTURE
PROJECTS SUPPORTED BY NO PLACE LIKE HOME FUNDING (DISTRICTS: ALL)**

OVERVIEW

As a County of San Diego Supervisor, I want to ensure the County is doing everything in our power to support the safety of all residents living in permanent supportive housing developments especially those that are financially supported with No Place Like Home Funding, or similar funding sources that require the County to provide on-site support services. We also want to make sure these developments provide a healthy and safe place for residents and that they act as good neighbors, by not reduce the quality of life for anyone living on the property, or the surrounding neighborhood.

In one of the cities I represent, Carlsbad, is Windsor Pointe, a 50-unit affordable housing apartment development located on two non-contiguous sites, at 965 Oak Avenue, and 3606 Harding Street, in the Barrio neighborhood in the City of Carlsbad. This is a vital affordable housing development for our region providing veterans and formerly homeless individuals with a home. The City of Carlsbad provided the land through a ground lease agreement as well as \$8.3 million in City funding, while the County awarded \$13 million in No Place Like Home funds to the project and contracts with Alpha Project to provide on-site case management to the 24 No Place Like Home residents. Since opening in the Spring of 2022, community members and residents have consistently raised concerns about the project and its impact on safety and security in the neighborhood. Working with the City of Carlsbad, the affordable housing developer, our County staff and the community, progress toward resolving the concerns of Carlsbad residents is being made.

SUBJECT: SUPPORTING SAFETY AND SECURITY AT WINDSOR POINTE & FUTURE PROJECTS SUPPORTED BY NO PLACE LIKE HOME FUNDING (DISTRICTS: ALL)

We need cities across our region to continue stepping-up to build more affordable housing in their neighborhoods, and we will continue to support their development, but there are valuable lessons to be learned from the Windsor Pointe project. This item requests County staff to take additional actions to support the addition of more security personnel on-site and assess all options for increasing the level of case management and support services at Windsor Pointe and future supportive housing development projects that leverage No Place Like Home Funding, or similar funding sources. This primary emphasis on higher levels of service is especially important in the initial lease-up period when new residents are stabilizing and adjusting to their new environment. Taking this action ensures that residents are provided with an appropriate level of service, and all residents and neighbors are afforded a safe and secure living environment.

Taking these actions will further demonstrate the County’s commitment to continuing to work together with our 18 cities along with community members to help maintain safety in and around supportive housing developments.

**RECOMMENDATION(S)
VICE-CHAIR TERRA LAWSON-REMER**

1. Direct the Interim Chief Administrative Officer to analyze all options and opportunities to maximize the level of services and hours of on-site case management services and referrals to behavioral health services, for Windsor Pointe, and future permanent supportive housing projects funded by No Place Like Home dollars, especially during the initial lease-up phase, when residents are more likely to need extra help connecting to services and adjusting to a new environment.
2. Direct the Interim Chief Administrative Officer to coordinate with the Windsor Pointe development team to develop a plan for utilizing No Place Like Home operating reserve funds to add supplemental security personnel. Advocate to the California Department of Housing and Community Development, requesting the State to maximize funding flexibility of Capital Operating Reserve funds for the Windsor Pointe project.

EQUITY IMPACT STATEMENT

Permanent supportive housing is a key resource that addresses homelessness for some of the most vulnerable members of our communities. The No Place Like Home Program leverages state resources to provide permanent supportive housing for individuals with serious mental illness, pairing affordable housing with case management and referrals to additional supportive services.

SUSTAINABILITY IMPACT STATEMENT

Today’s action supports the County of San Diego’s Sustainability Goal #1 to engage the community, Sustainability Goal #2 to provide just and equitable access, and Sustainability Goal #4 to protect health and well-being.

FISCAL IMPACT

SUBJECT: SUPPORTING SAFETY AND SECURITY AT WINDSOR POINTE & FUTURE PROJECTS SUPPORTED BY NO PLACE LIKE HOME FUNDING (DISTRICTS: ALL)

There is no fiscal impact associated with this recommendation. There will be no change in net General Fund cost and no additional staff years.

BUSINESS IMPACT STATEMENT

N/A

ADVISORY BOARD STATEMENT

N/A

BACKGROUND

Windsor Pointe is a 50-unit affordable housing apartment development located on two non-contiguous sites, at 965 Oak Avenue, and 3606 Harding Street, in the Barrio neighborhood in the City of Carlsbad. Half the units offer a priority for lower-income military veterans and their families, and the other half serves people with mental illness who are experiencing homelessness. The project has been a partnership between the City of Carlsbad, the County of San Diego, Affirmed Housing, and includes onsite services provided by Alpha Project and Interfaith Community Services. The City of Carlsbad provided the land through a ground lease agreement as well as \$8.3 million in City funding, while the County awarded \$13 million in No Place Like Home funds to the project and contracts with Alpha Project to provide on-site case management to the 24 No Place Like Home residents. Since opening in the Spring of 2022, community members and residents have consistently raised concerns about the project and its impact on safety and security in the neighborhood.

On March 12, 2024, the Carlsbad City Council received an update on Windsor Pointe and adopted several actions to work with partnering entities to address community concerns. Carlsbad Police Chief Mickey Williams testified that while crime data shows a slight decrease in neighborhood crime since the project opened, there has been a high volume of calls for service at Windsor Pointe. A total of 762 calls for service were placed since 2022 with over 44% being mental health related. Seven residents account for over half of the calls (53% or 401 calls), showing that a handful of residents are having a disproportionate impact on local resources.

Public safety, especially regarding the well-being of children and vulnerable members of our community is a top concern. The County is also strongly committed to ensuring people experiencing homelessness can find pathways off our streets and get connected to the services and help they need.

My team and I have met with concerned residents, the development and property management team, and maintain regular communication with the City of Carlsbad, and the Carlsbad Police Department. In response to community concerns, earlier this year the County increased case management services at Windsor Pointe to five days a week and added a clinician to the support team. County staff have also been highly engaged participating in regular monthly security and

SUBJECT: SUPPORTING SAFETY AND SECURITY AT WINDSOR POINTE & FUTURE PROJECTS SUPPORTED BY NO PLACE LIKE HOME FUNDING (DISTRICTS: ALL)

service coordination meetings with the property manager, service providers, Carlsbad Police Department, and the security staff.

I want to ensure the County is doing everything in our power to respond to local concerns and ensure our efforts are successful. Today's item calls on the County staff to take additional actions to increase the flexibility of No Place Like Home funds to support the additional of supplemental security personnel and assess all options for increasing the level of case management and support services to ensure residents are provided with an appropriate level of service and all residents are afforded a safe and secure living environment. These actions demonstrate the County's commitment to continuing to work together with all 18 cities and community members and help maintain safety in and around supportive housing developments.

LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN

Today's actions support the County of San Diego's 2023-2028 Strategic Plan initiatives of Sustainability, Equity, and Community, by supporting the implementation of permanent supportive housing; and by improving the quality of life for individuals experiencing homelessness across San Diego County.

Respectfully submitted,



TERRA LAWSON-REMER
Supervisor, Third District

ATTACHMENT(S)

N/A