



# CITY OF DEL REY OAKS

650 CANYON DEL REY BLVD, DEL REY OAKS, CALIFORNIA 93940  
PHONE (831) 394-8511 FAX (831) 394-6421

## **REGULAR MEETING AGENDA OF THE CITY OF DEL REY OAKS CITY COUNCIL TUESDAY, NOVEMBER 19, 2024 AT 6:00 PM**

Del Rey Oaks City Hall is inviting you to an **IN-PERSON MEETING AT CITY HALL**

PLEASE NOTE THIS WILL BE LIVE STREAMED FOR VIEWING ONLY  
YOU WILL NOT BE ABLE TO MAKE PUBLIC COMMENTS ON ZOOM

### **Join Zoom Meeting**

<https://us02web.zoom.us/j/89694316624>

- 1. ROLL CALL - Council**
- 2. PLEDGE OF ALLEGIANCE**
- 3. PUBLIC COMMENTS: General Public Comment must deal with matters subject to the jurisdiction of the City and the Council that are not on the Agenda. Anyone wishing to address the City Council on matters not appearing on the Agenda may do so now. The public may comment on any other matter listed on the Agenda at the time the matter is being considered. There will be a time limit of not more than three minutes for each speaker. No action will be taken on matters brought up under this item and all comments will be referred to staff.**
- 4. PRESENTATION:**
  - A.** David Stoldt - General Manager MRWMD  
Overview of Proposed 2024-25 Water Allocation Process
- 5. CONSENT AGENDA:**
  - A. MINUTES: (CEQA: as to all, not a project per Guidelines Article 20, Section 15378)**
    - 1.** [October 22, 2024, City Council Meeting Minutes](#)
    - 2.** [March 13, 2024, Planning Commission Meeting Minutes](#)
  - B. MONTHLY REPORTS: (CEQA: as to all, not a project per Guidelines Article 20, Section 15378)**
    - 1.** [Fire Department Response Report, October 2024](#)

[2.](#) Police Activity Report, October 2024

**C. MISCELLANEOUS: (CEQA: as to all, not a project per Guidelines Article 20, Section 15378)**

1. None

**6. OLD BUSINESS:**

Receive a Presentation on the Short-term Rental Program and Transient Occupancy Tax

[A.](#) Receive a Presentation on the Short-term Rental Program and Transient Occupancy Tax

**7. NEW BUSINESS:**

[A.](#) Award Contract and Authorize the City Manager to Sign Agreement with Coastal Paving and Excavating in the amount of \$410,410 plus a 15% Contingency for the Rosita Rd Emergency Repair Project

**8. STAFF REPORTS:**

[A.](#) Council Reports

**9. CORRESPONDENCE:**

[A.](#) MST Highlights  
TAMC Highlights

**10. NEXT MEETING DATE:**

**Tuesday, December 17, 2024 at 6:00pm**

**11. ADJOURNMENT**

***Information distributed to the Council at the meeting becomes part of the public record. A copy of written material, pictures, etc. must be provided to the secretary for- this purpose. All enclosures and materials regarding these agenda items are available for public review at the Del Rey Oaks City Hall, 650 Canyon Del Rey Road, Del Rey Oaks.***

# Overview of Proposed 2024-25 Water Allocation Process

City of Del Rey Oaks

David J. Stoldt  
General Manager

November 19, 2024



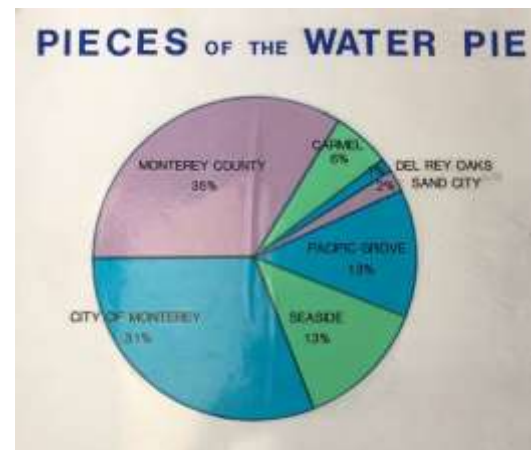
# Allocation and the Permit Process

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# District History of Water Allocation

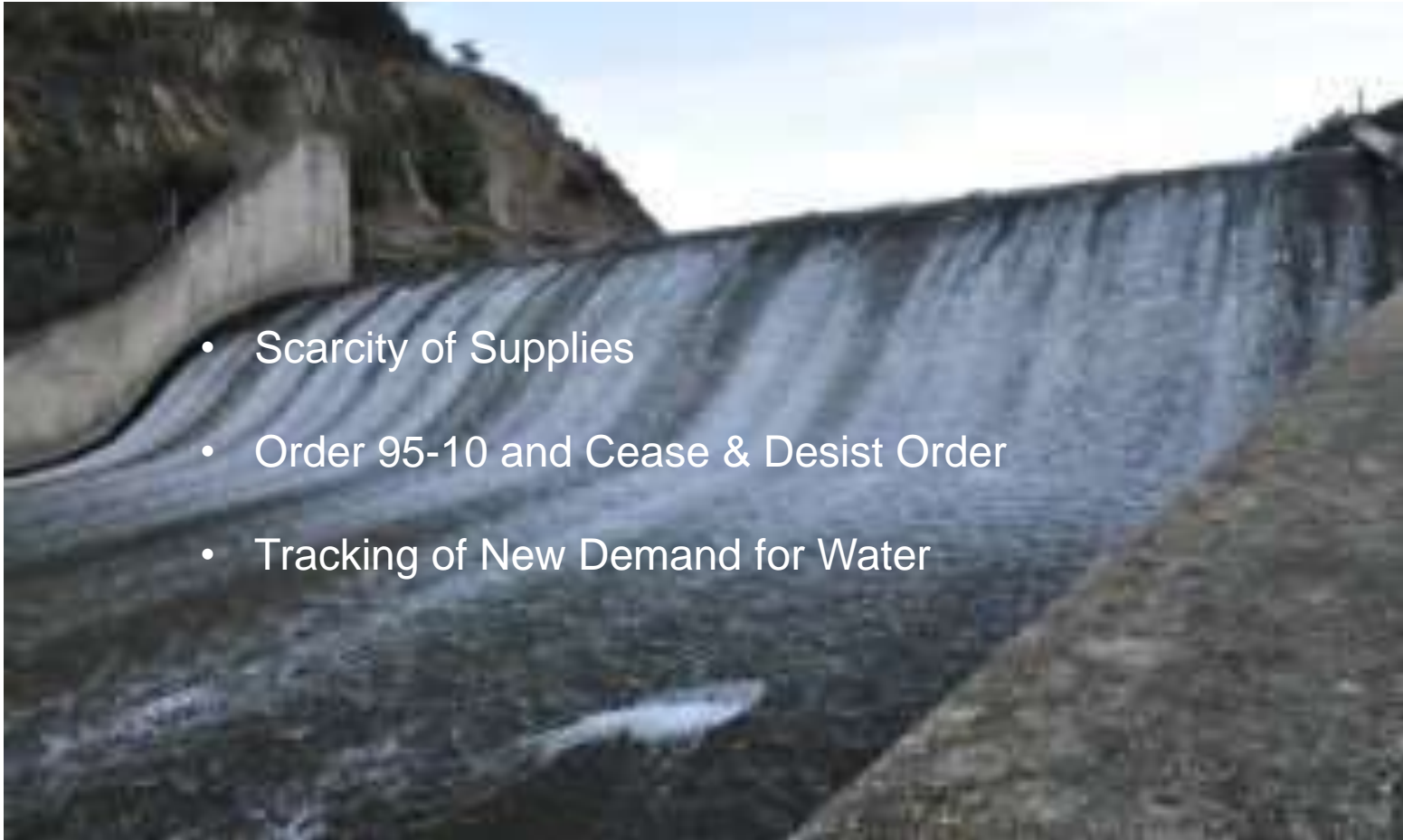
- 1980s – Each jurisdiction was assigned a portion of existing water supply so each could plan for future with a known amount of water.
- 1985 – District initiates review of building plans to determine capacity to use water
- 1990 – District develops “Allocation EIR” to determine viable capacity of existing supplies and to determine mitigations required
- 1993 – Moves to allocation of new supplies. e.g. Paralta Well

Photo of a poster from the 1980s:



# Why Do We Allocate Water?

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- Scarcity of Supplies
- Order 95-10 and Cease & Desist Order
- Tracking of New Demand for Water

# How is an Allocation Like a Bank Account?



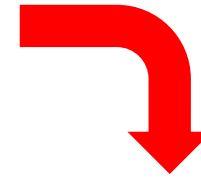
A screenshot of a bank statement for ABC BANK, 123 St., Apple Avenue, Newtown, NY. The account number is 0123456789. The statement shows a transfer from the branch on Nov 15 for \$10,000.00, and three debits: 12563 on Oct 25 for 5.00, Cheque Book on Oct 10 for 650.00, and 12364 on Sept 2 for 800.00. A Wikify logo is visible in the bottom right corner of the statement image.

ABC BANK 123 St., Apple Avenue Newtown, NY			
Account No. 0123456789			
Date	Particulars	Debit	Credit
Nov 15	Transfer from Branch		\$10,000.00
Oct 25	12563	5.00	
Oct 10	Cheque Book	650.00	
Sept 2	12364	800.00	

- District places allocation into Jurisdiction's account (a credit)
- As Jurisdiction authorizes water for projects, utilizing a "Water Release Form," District debits Jurisdiction's account
- As Jurisdiction's account balance diminishes, it may request a new allocation (credit) from the District
- As available unallocated supply diminishes, a new water supply project must be brought online

# How Does an Allocation Affect the Permit Cycle?

Developer draws plans;  
Counts water needed



Developer obtains “Water  
Release Form” from Jurisdiction

Obtain “Water Permit” from  
District; Debit Allocation

Developer obtains “Building  
Permit”

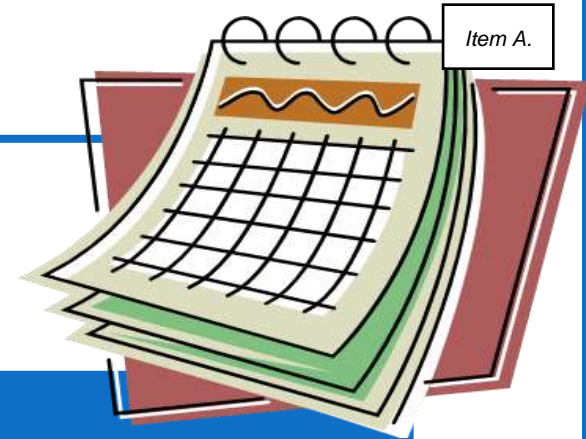
Final inspection by District upon  
completion – Adjust as necessary

# What Brings Us to Allocation of New Water?

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# Tentative Schedule



	Item
September 12	Technical Advisory Committee meeting
October 21	Update to District Board
Oct/Nov	Visit Board of Supervisors/City Councils
November 18	Follow-Up to District Board
December 16	First Reading of Ordinance
January 27	Second Reading of Ordinance
30 Days Later	Ordinance Becomes Effective
Q4 2025	PWM Expansion Online

# Allocations Will Not Solve Everything

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- Cease & Desist Order (CDO) remains outstanding until State Water Board lifts it.
- Moratorium on new meters remains until CDO is lifted.
- Only remodels or renovations on sites with existing meters will be possible until then.
- Permits only for long-term projects until PWM Expansion is online.

# How Much Water is There to Allocate?

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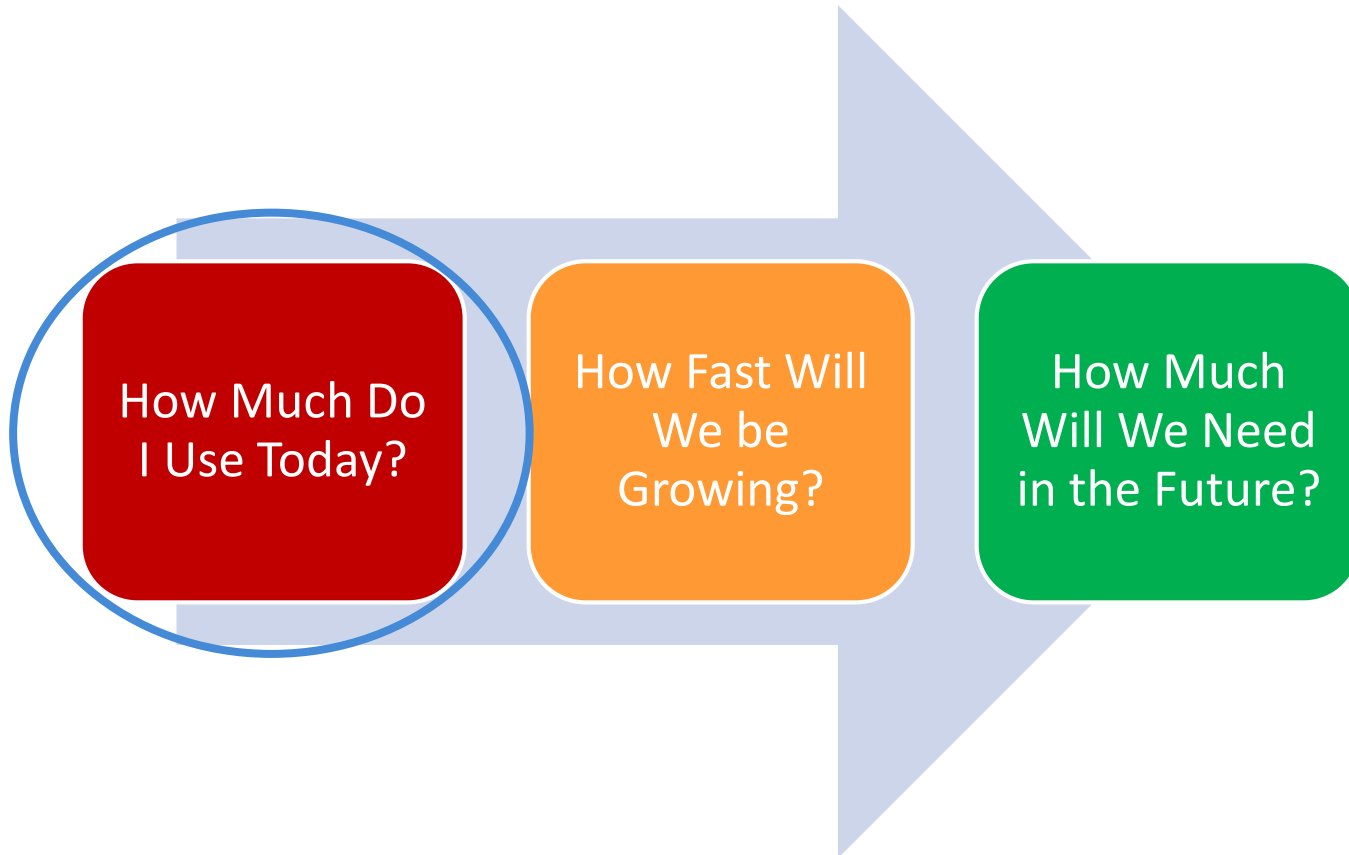
# How Much Water is There?

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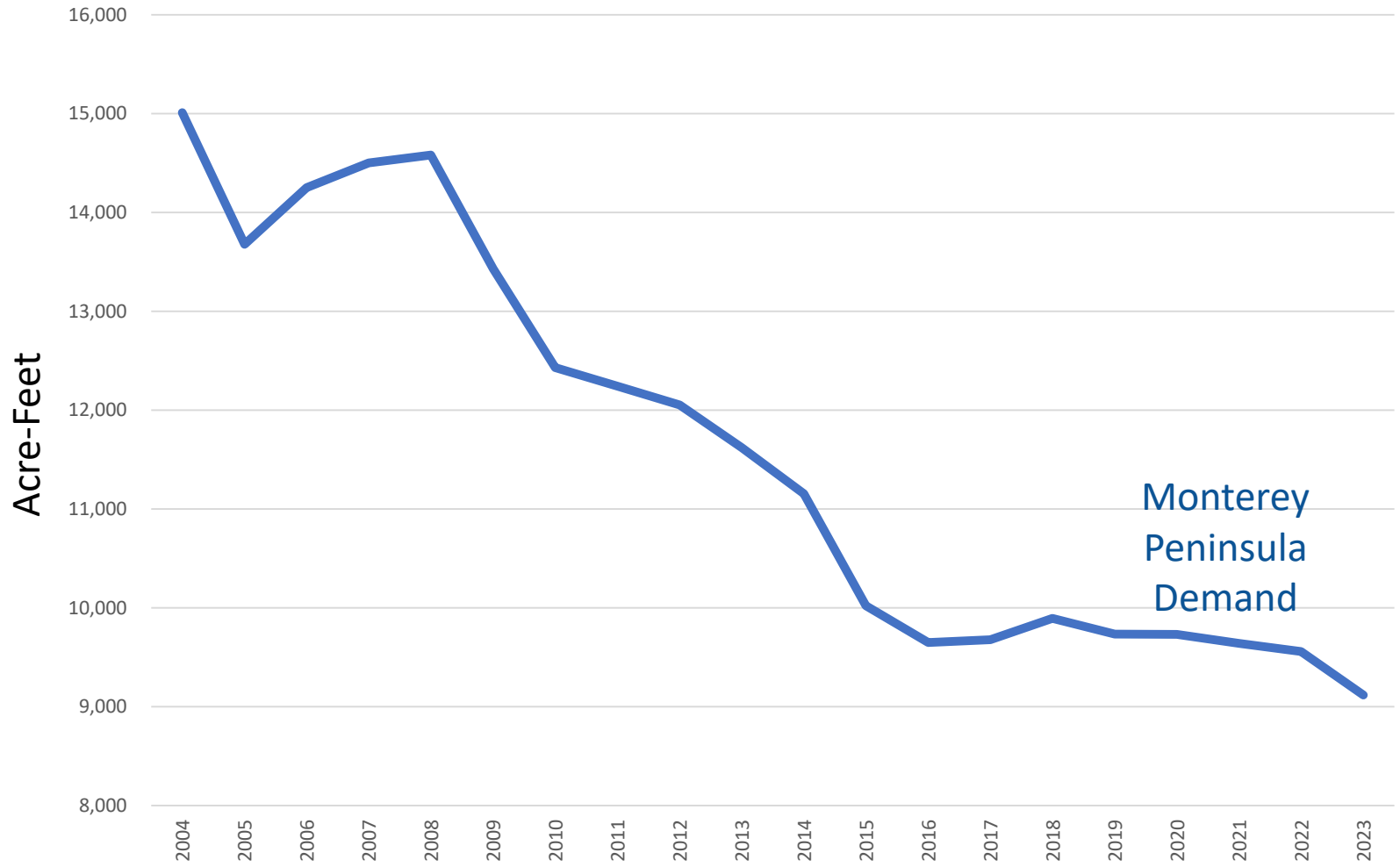
Source of Supply	Amount Available
Carmel River	3,376 AF
Seaside Basin	1,474 AF
Pure Water Monterey (Base)	3,500 AF
Pure Water Monterey Expansion	2,250 AF
Aquifer Storage & Recovery (ASR)	1,210 AF
Sand City Desal	200 AF
Seaside Basin Wheeled from Others	20 AF
<u>Malpasos LLC</u>	<u>86 AF</u>
Total	12,116 AF

# Water Demand Forecasting – 3 Simple Questions

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# Water Demand – Last 20 Years



# How Much Supply is Needed to Meet Current Demand?

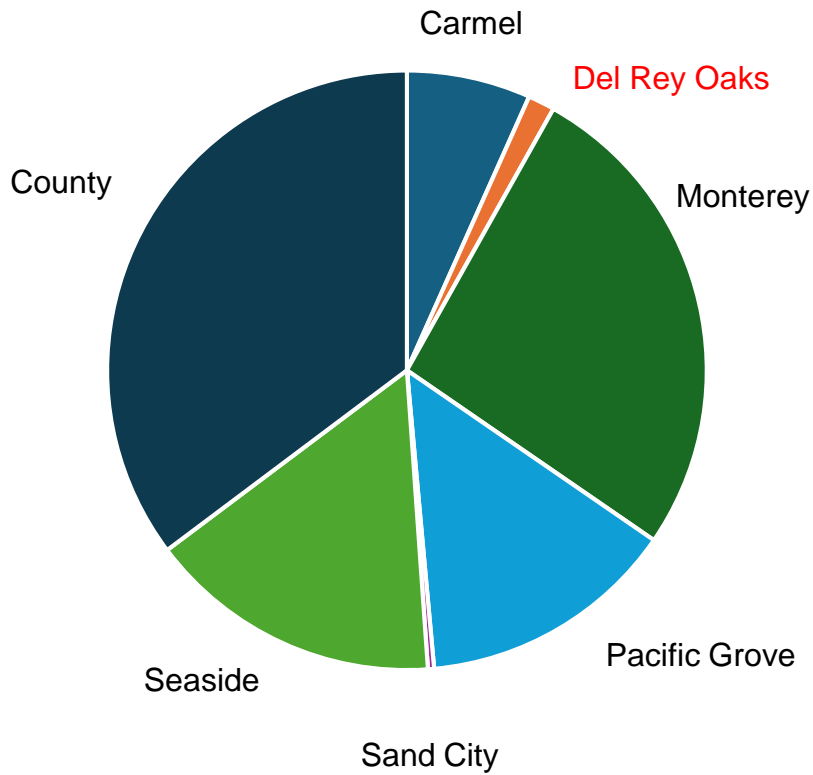
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Look to recent historical supply to meet customer demand

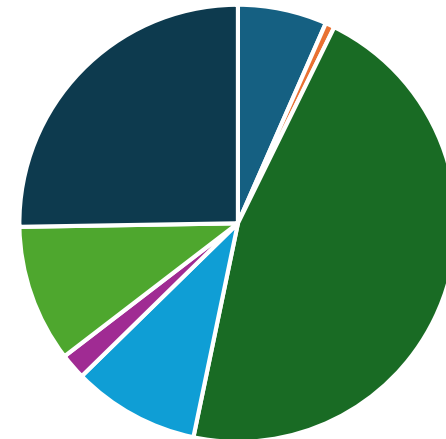
Supply to Meet Customer Demand	Amount
Last 3-Years	9,440 AF
Last 5-Years	9,557 AF
Last 10-Years	9,819 AF

# Proportionate Water Demand Today

## Residential Use



## Non-Residential Use



# How Much Supply is “Excess” Today?

Factors affecting available supplies:

- Cal-Am in-lieu storage program for Seaside Groundwater Basin could require 700 AFY
- In dry years, PWM Expansion could be 345 AFY less, Sand City desal 40 AFY less, and ASR must rely on storage
- Demand can fluctuate based on weather & economy
- Losses
- Initially, leave a “factor of safety” of 1,000 AFY

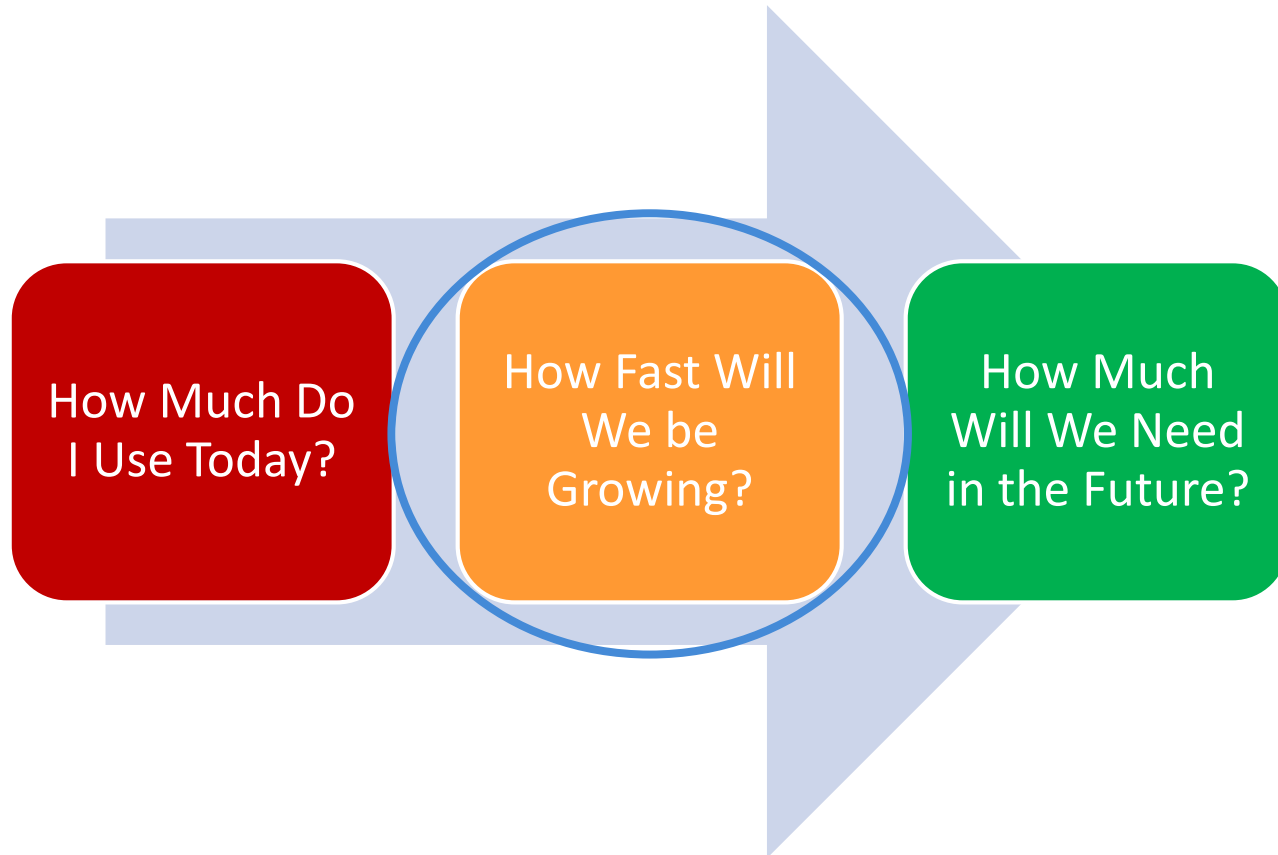
	Amount
Total Supplies Available	12,116 AF
Minus Current Demand	(9,557 AF)
Available	2,559 AF
Less Initial “Factor of Safety”	(1,000 AF)
Net Available	1,559 AF

## How Much Water do Jurisdictions Need?

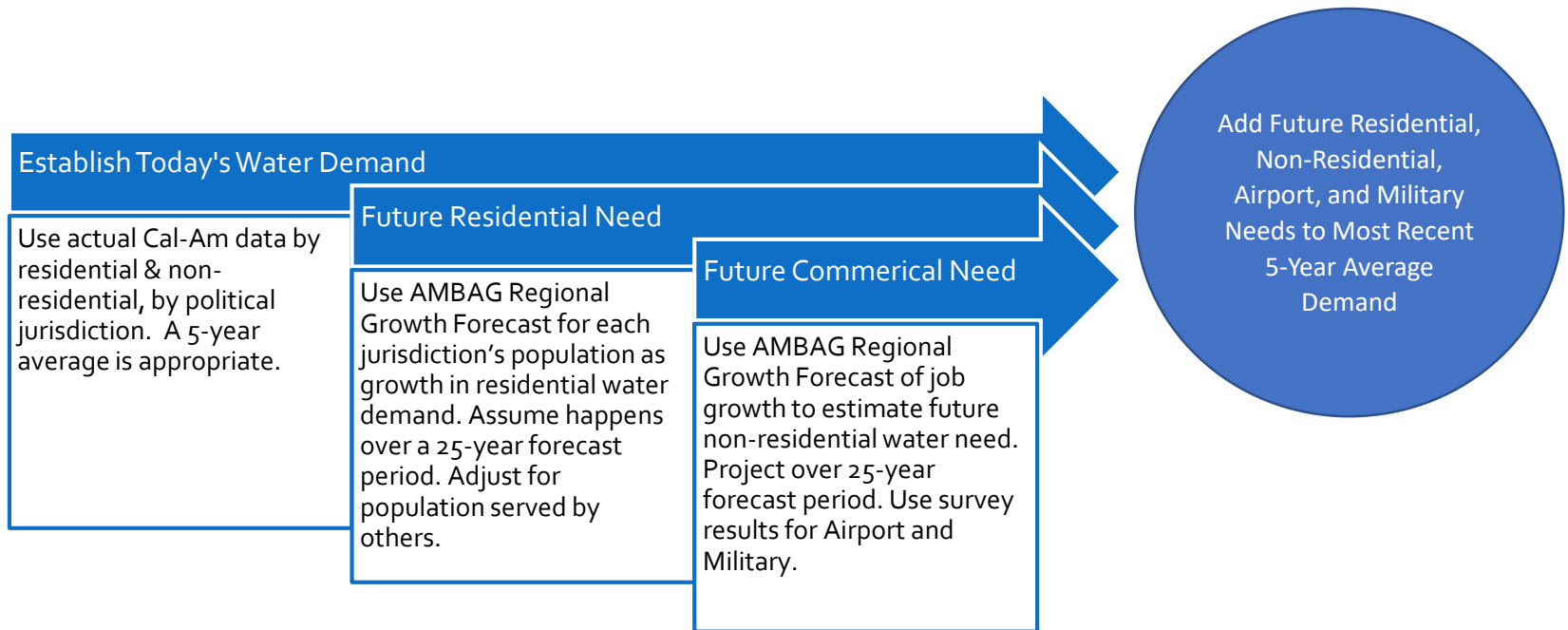
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# Water Demand Forecasting – 3 Simple Questions

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# The Tools to Answer Those Questions



# Future Need Based on AMBAG Regional Growth Forecast

Jurisdiction	Current Demand (5-Yr Avg)	AMBAG Growth Rates Res / NonRes	Residential AF Served By Others	25-Year Water Need
Carmel	636 AF	0.9%/9.8%	0 AF	25 AF
<b>Del Rey Oaks</b>	<b>113 AF</b>	<b>59.4%/11.5%</b>	<b>38 AF</b>	<b>19 AF</b>
Monterey	3,168 AF	5.2%/11.0%	0 AF	253 AF
Pacific Grove	1,185 AF	3.6%/5.4%	0 AF	48 AF
Sand City	84 AF	211%/8%	0 AF	49 AF
Seaside	1,330 AF	14.2%/10.2%	100 AF	76 AF
Unincorporated	3,041 AF	5.2%/11.0%*	17 AF	189 AF
Airport	Included	Survey	n/a	88 AF
<u>Defense</u>	<u>Included</u>	Survey	n/a	<u>54 AF</u>
TOTAL	9,557 AF			801 AF

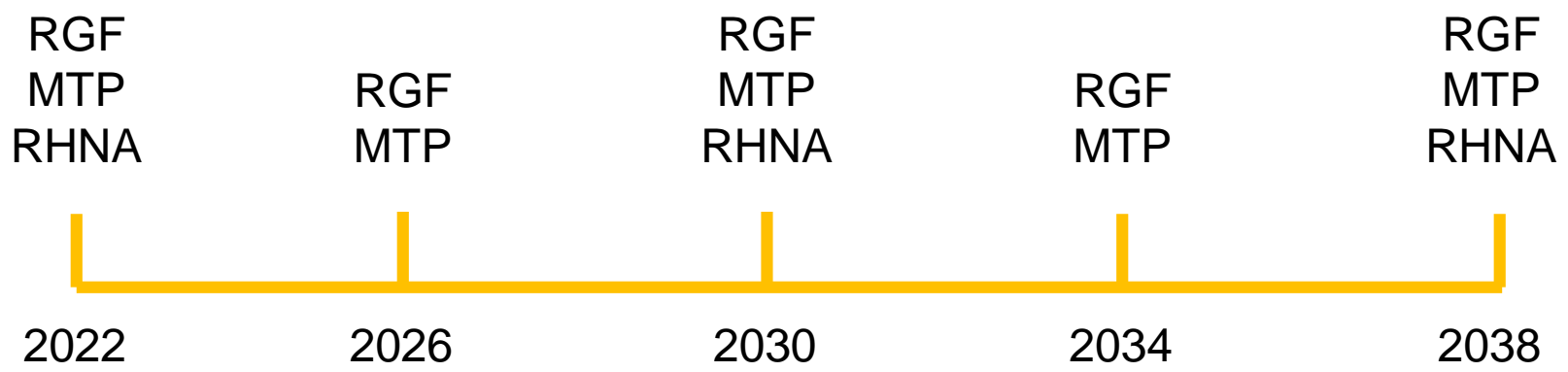
\*: Unincorporated population and jobs growth calculated based on City of Monterey growth rate

# AMBAG Documents & Data Intend to be Consistent

AMBAG's "Big 3" Work Products:

- Regional Growth Forecast (RGF) every 4 years
- Metropolitan Transportation Plan / Sustainable Communities Strategy (MTP/SCS) every 4 years
- Regional Housing Need Allocation (RHNA) every 8 years

SB 375 links RHNA and MTP/SCS to same cycle; RGF is linked to MTP/SCS adoption cycle.



## Problem: AMBAG Creates Confusion

Jurisdiction	25-Year Population Growth	6 <sup>th</sup> Cycle Housing Units
Carmel	35	349
Del Rey Oaks	988	184
Monterey	1,469	3,654
Pacific Grove	552	1,125
Sand City	813	260
Seaside	4,779	616
Unincorporated	839 *	1,314 *

\*: Unincorporated population growth calculated based on Cal-Am population and City of Monterey growth rate; Housing units based on draft housing element.

## Future Need Based Adjusted for RHNA

Based on Housing Elements, water required for mix of housing stock can be estimated for each jurisdiction:

	Very Low Income	Low Income	Moderate		Above Moderate		Total Allocation
	100% Multifamily	100% Multifamily	50% Multifamily	50% Singlefamily	33% Multifamily	67% Singlefamily	Total Allocation
Total Water Req'd (AF)	196.36	126.20	34.37	64.80	85.14	291.54	798.41

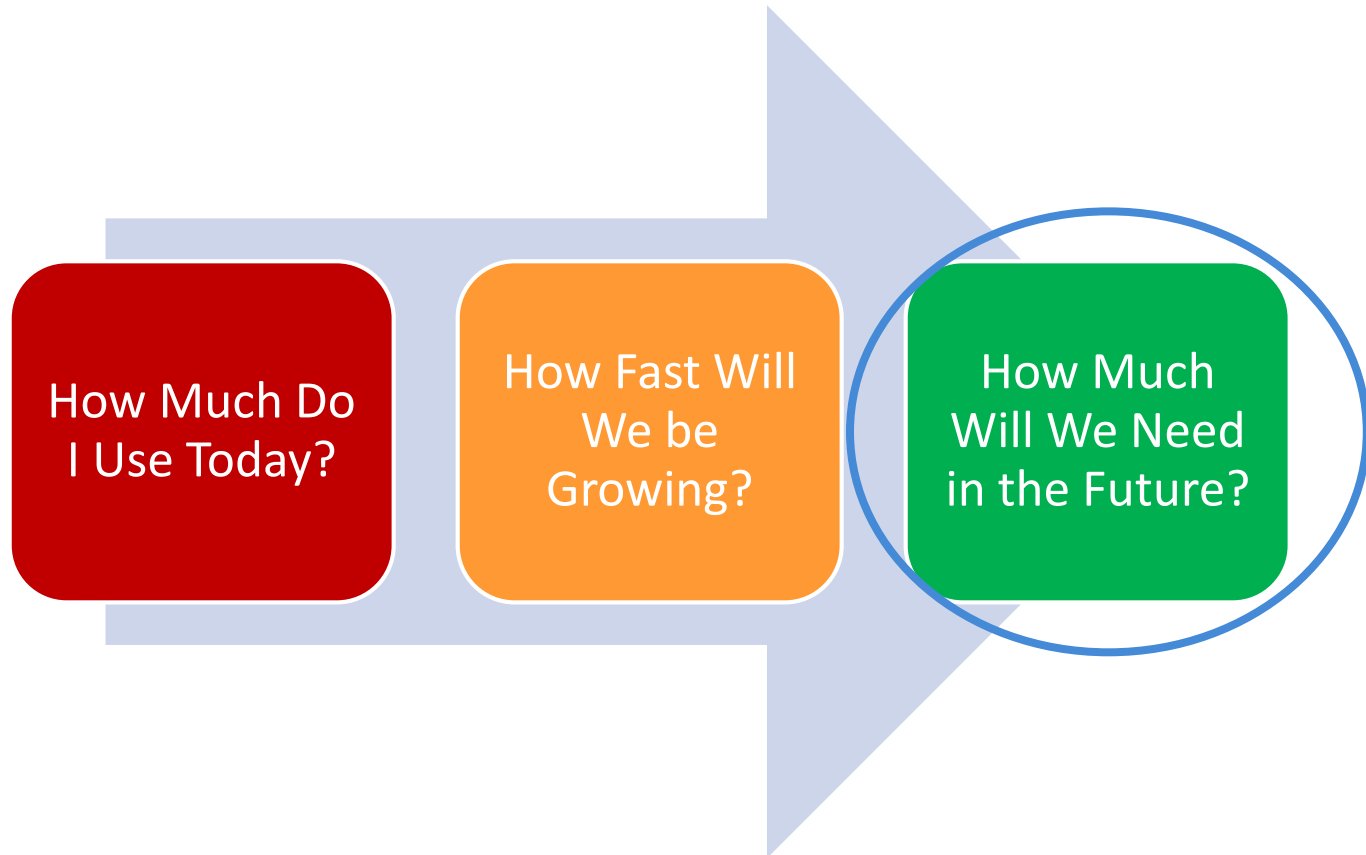
For lack of better methodology, this can be added to water needed for population growth and divide by two.

# Future Need Based Adjusted for RHNA

Jurisdiction	25-Year Need Per AMBAG	25-Year Need Adjusted for RHNA
Carmel	25 AF	43 AF
Del Rey Oaks	19 AF	13 AF
Monterey	253 AF	422 AF
Pacific Grove	48 AF	97 AF
Sand City	49 AF	43 AF
Seaside	76 AF	64 AF
Unincorporated	189 AF	215 AF
Airport	88 AF	88 AF
<u>Defense</u>	<u>54 AF</u>	<u>54 AF</u>
TOTAL	801 AF	1,039 AF

# Water Demand Forecasting – 3 Simple Questions

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# Summary of Proposed Allocations

Jurisdiction	25-Year Water Need	DRAFT Proposed Allocation	DRAFT Proposed Allocation	Existing Allocation 7/31/24 *	DRAFT Total Allocation
Carmel	43 AF	33%	14 AF	2.661 AF	16.661 AF
<b>Del Rey Oaks</b>	<b>13 AF</b>	<b>50%</b>	<b>6 AF</b>	<b>0 AF</b>	<b>6.000 AF</b>
Monterey	422 AF	33%	141 AF	2.920 AF	143.920 AF
Pacific Grove	97 AF	33%	32 AF	0.016 AF	32.016 AF
Sand City	43 AF	33%	14 AF	23.163 AF	37.163 AF
Seaside	64 AF	33%	21 AF	30.760 AF	51.760 AF
Unincorporated	215 AF	33%	72 AF	12.121 AF	84.121 AF
Airport	88 AF	50%	44 AF	5.197 AF	49.197 AF
Defense	<u>54 AF</u>	50%	<u>27 AF</u>	0 AF	<u>27.000 AF</u>
	1,039 AF		371 AF		447.838

\*: Existing allocation to be determined at time of adoption of Ordinance.



Questions?

# **City of Del Rey Oaks**

**City Hall  
650 Canyon Del Rey Blvd  
Del Rey Oaks, CA 93940**



## **Action Minutes**

**Tuesday October 22, 2024 - 6:00 PM**

**City Council – Regular Meeting**

**Del Rey Oaks City Council**

**Scott Donaldson – Mayor  
John Uy – Vice Mayor  
Jeremy Hallock – Councilmember  
Kim Shirley – Councilmember**

**6:00 PM – Called to Order:**

The meeting was called to order by Mayor Donaldson

**Roll Call:** Present: Mayor Donaldson, Vice Mayor Uy, Councilmember Shirley, and Councilmember Hallock.

Absent: Councilmember Ragsdale-Cronin

Also Present: City Manager Guertin, City Attorney Lorca, City Clerk Minami, Administrative Services Technician Matthews and Deputy City Clerk Batra.

**Pledge of Allegiance:**

Led by Mayor Donaldson

**Public Comment:**

**Helen Birdsong:** Expresses sadness over passing of Council Member Ragsdale-Cronin. References no smoking inside multiunit buildings with shared ventilation, notes there aren't any "No Smoking" signs and feels there should be upon entering city. People still smoking on road behind The Oaks, and in the greenbelts. Expresses interest in Public Works Supervisor Fucci cleaning up city-owned vegetation in greenbelt between The Oaks and the rest of the city, and along the 218.

**Bryan Shields:** Field Director from Norcal Carpenters Union, located in Marina. Cover Santa Cruz and Monterey counties. Introduces self and discusses construction, in particular unions as a solution to the exploitation of construction workers, particularly of undocumented workers who get taken advantage of but have no legal recourse. Here to start dialogue. Thanks Council.

**Alice Green:** Lives on Saucito Avenue, reads into record Article 34 of the General Plan, referencing the requirement of General Plan and CEQA mitigation monitoring to have the Planning Commission to review the General Plan annually and report to City Council on actions taken to carry out implementation programs of the Plan.

**PROCLAMATION:**

- A. Mayor Donaldson acknowledges Breast Cancer Awareness month and the widespread negative impact of cancer
- B. Vice Mayor Uy celebrates LGBTQ+ History Month
- C. Vice Mayor Uy recognizes contributions of Filipino American community. Explains "barong tagalog", the national Filipino costume for men, invites all to a brief recess to enjoy lumpia and pansit in celebration.

**BRIEF RECESS**

**6:46 PM – Called Back to Order:**

The meeting was called back to order by Mayor Donaldson

**CONSENT AGENDA:****A. MINUTES: (CEQA: as to all, not a project per Guidelines Article 20, Section 15378)**

1. September 24, 2024, City Council Meeting Minutes

**B. MONTHLY REPORTS: (CEQA: as to all, not a project per Guidelines Article 20, Section 15378)**

1. Financials September 2023 - September 2024
2. Fire Department Response Report, September 2024
3. Police Activity Report, September 2024

**C. MISCELLANEOUS: (CEQA: as to all, not a project per Guidelines Article 20, Section 15378)**

None

A motion was made by **Council Member Shirley**, seconded by **Vice Mayor Uy** to approve the Consent Agenda as presented.

**Motion passed unanimously 4-0**

**PUBLIC COMMENT:**

None

**OLD BUSINESS:**

- A. None

**NEW BUSINESS:**

- A. Consider Approval for the City Manager to execute a Project Specific Maintenance Agreement with Caltrans covering FORTAG project improvements.

**City Manager Guertin:** Discusses Master and Supplemental agreement with TAMC to maintain segments of FORTAG trail in city limits. This agreement gives us the ability and requirement to maintain project-specific sections along Caltrans easement. The maintenance agreement only pertains to areas and facilities directly related to the FORTAG project. References maps showing maintenance areas.

**Council Member Shirley:** Are we responsible North Side near car wash?

**City Manager Guertin:** Already maintain that, highlighted area is just for the drainage so it is connected. Will have more efficient striping for lane exiting Safeway parking lot turning right so people turning left don't block people turning right. Additional green

striping along City Hall and area surrounding underpass, as well the fence and stairs going down in the park.

**Vice Mayor Uy:** Thanks Mayor Donaldson and City Manager Guertin; excited about trail, is asset to the community. Appropriate to maintain it well so we have trail for a long time. What is assessment of long term maintenance cost over time?

**City Manager Guertin:** No cost estimates as of now; project is a minimum of 10 years out from maintenance, so cost projections for that time uncertain. Anticipated Mechanism of funding is Measure X funding through TAMC.

**Vice Mayor Uy:** Great; should look at budgeting for trail maintenance in the future, and look for state or federal grants to offset costs.

**Council Member Hallock:** Thanks Mayor Donaldson and City Manager Guertin for presentation. Not truly a "free" trail from the state; will have a fiscal impact on city budget. Future grants would be nice; recused self from final trail decision meeting for ethical reasons. Will there be any assistance with maintenance issues? Additional TAMC funds, or maybe spare funds might be available. Measure X funding?

**Council Member Hallock:** 11 or so; can't project future costs, but know we are behind. Seasonal constraints; what is impact and is there any indication of how much budget has already been spent?

**City Manager Guertin:** Would need to ask TAMC project manager.

**Council Member Shirley:** What is the process to get encroachment permit for this from the state? Is it easy to get?

**City Manager Guertin:** Under normal circumstances is not easy; under an agreement like this, streamlines the process.

**Council Member Shirley:** Great; happy we are doing this.

**Mayor Donaldson:** Thanks City Manager Guertin. Affirms working with other jurisdictions and Caltrans to define responsibilities can be challenging, so defining this up front is critical. Questions jurisdictional border with Seaside down by Safeway: wants assurance that Seaside will be responsible for their part of that area.

**City Manager Guertin:** Already in discussion; Seaside has a maintenance agreement as well.

A motion was made by **Council Member Shirley**, seconded by **Vice Mayor Uy** to approve the City Manager to execute a Project Specific Maintenance Agreement with Caltrans covering FORTAG project improvements as presented.

**Motion passed unanimously 4-0**

**PUBLIC COMMENT:**

None

Consider Approval Amendment #1 to the Contract with Julian Tree Care for the Calfire Grant Funded Fire Prevention Project

**City Manager Guertin:** Overview of history of Calfire grant, equipment purchases for ongoing maintenance, and contract with Julian Tree Care to date. Money leftover in grant, Calfire would like us to spend as much of the grant possible to do as much work as possible, but needs to be contiguous with previously approved project area. Can add from Via Verde all along park, down above Rosita Road and down into Work Memorial Park. Working with Public Works Supervisor Fucci and Julian Tree Service to identify those areas and quote costs. This is an amendment to expand as far as we can and get as much value as possible from grant funding. Work already completed along Via Verde. Want to add additional area within scope from kiosk to stairs, and extend beyond Paloma Road on Rosita Road to border of airport on city-owned property. Expansion moves down hillside to the Garden Center, and would help to mitigate potentially dangerous invasive eucalyptus growth.

**Vice Mayor Uy:** Happy City Manager Guertin is working with this to protect our community and prevent loss of insurance companies and homeowner insurance policies due to wildfire risk. Tree Service work is neat and clean. When and how should we budget in future to further reduce wildfire fuel?

**City Manager Guertin:** Typically part of Public Works Supervisor Fucci's maintenance schedule with crews and new equipment. This project has reduced fire fuel back to a level that can be maintained by city. Will take a couple years to see what ongoing maintenance will look like, may need a crew every 5 years to keep clear.

**Council Member Hallock:** Community looking beautifully manicured, residents adjusting to the changes. Prudent effort for insurance and aesthetic purposes. Thanks for hard work and organizing this.

**Council Member Shirley:** Happy to have grant big enough to cover extra work. Do we need to budget more money for Public Works to maintain this moving forward?

**Mayor Donaldson:** Echo fellow Council Members comments; is dramatic change, but overwhelming support for both insurance effect and health of forest. Thanks City Manager Guertin.

A motion was made by **Council Member Shirley**, seconded by **Council Member Hallock** to Amendment #1 to the Contract with Julian Tree Care for the Calfire Grant Funded Fire Prevention Project as presented.

**Motion passed unanimously 4-0**

**PUBLIC COMMENT:**

**Helen Birdsong:** Asks to remember The Oaks in fire fuel cleanup; need the adjacent greenbelt cleaned up. Insurance more than tripled; expensive. Cleared as much as can on The Oaks property, asking to have adjacent city greenbelt cleared.

**B. Tree Donation from PG&E - Information Only**

**City Manager Guertin:** Recognizes Public Works Supervisor Fucci for being proactive in managing regrowth in fire fuel reduction areas. Supervisor Fucci is working to mitigate tree and undergrowth removal by procuring around 70 surplus trees/plants from PG&E to ensure low maintenance re-growth with high survivability in our climate/conditions. Presents slides of examples of types of trees to be planted.

**Vice Mayor Uy:** Expresses thanks, excited new trees to be planted in city.

**Council Member Hallock:** Thanks staff; praises resourcefulness and excited about color trees/plants will bring to the park.

**Council Member Shirley:** Thanks City Manager Guertin for presentation. Appreciates that there is a plan in place and that Public Works Supervisor Fucci is restoring greenery. Will Public Works need more than just Supervisor Fucci to help maintain in future?

**Mayor Donaldson:** Public Works Supervisor Fucci works hard, is very resourceful, and helps beautify the city. Thanks Supervisor Fucci for his daily work in the city.

**STAFF REPORTS:**

- A. Council Reports

**CORRESPONDENCE:**

- A. Notice of Availability of Revised Draft Housing Element 6th Cycle Update and Joint Planning Commission and City Council Meeting on Oct. 30th - 6pm

**City Manager Guertin:** October 30, 2024 Joint Session with City Council and Planning Commission to address Housing Element comments from HCD. Focus is on Chapter 7, where new programs are found.

- B. MST Highlights
- C. TAMC Highlights
- D. Mosquito Abatement District

**NEXT MEETING DATE:** Tuesday, November 19, 2024 at 6:00pm

**ADJOURNMENT:** 7:18 pm

**Attest:**

**Date:**

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# **City of Del Rey Oaks**

**City Hall  
650 Canyon Del Rey Blvd  
Del Rey Oaks, CA 93940**



## **Action Minutes**

**Wednesday, March 13, 2024 - 6:00 PM**

**Planning Commission – Regular Meeting**

**Del Rey Oaks Planning Commission**

**Mike Hayworth – Chair**

**Denise Wood – Vice Chair**

**George Jaksha – Commissioner**

**Gary Kreeger – Commissioner**

**Louise Goetzelt - Commissioner**

**Ann Ahmadi – Commissioner**

**Celine Pinet - Commissioner**

**6:00PM – Called to Order:**

The meeting was called to order by Chair Hayworth.

**Roll Call:**

**Present:** Chair Hayworth, Vice Chair Wood, Commissioner Jaksha, Commissioner Goetzelt, Commissioner Kreeger, Commissioner Pinet and Commissioner Ahmadi

**Staff Present:**

City Manager Guertin and City Clerk Minami

**Pledge of Allegiance:**

Chair Hayworth led the Pledge of Allegiance.

**Consent Agenda:**

**A. Adopt February 14, 2024, Planning Commission Meeting Minutes**

A motion to approve was made by Commissioner Kreeger and seconded by Commissioner Goetzelt. Minutes were approved 7-0

**Public Comment:**

None

**Reports:**

The February Building Activity Report was accepted unanimously.

**Old Business:**

None

**New Business:**

**City Manager Guertin presented the Annual Progress Report on the Implementation of the General Plan**

**No public comment received**

**A motion to recommend the item to be taken to the City Council by Commissioner Goetzelt and seconded by Commissioner Ahmadi  
Passed 7-0**

**Applicant's Name:** Vincent Machi  
**Owner's Name:** Vincent Machi  
**File Number:** ARC #24-02  
**Site Location:** **985 Rosita Rd**  
**Planning Area:** APN #012-544-011  
**CEQA Determination:** Categorically Exempt pursuant to Guidelines § 15061(c) and 15301  
**Project Description:** **Requesting Architectural Review to add a 238 square foot addition to the rear of the single family dwelling.**  
**Recommended Action:** Analyze provided material, make appropriate findings, impose conditions as appropriate, and give direction to staff.

**Vice Chair Wood** steps down from dais, due to proximity of her home to the project.

**Applicant** explains the project expansion since last month's meeting and answered questions from the Commissioners regarding extra bathroom and fence.

**Commissioner Kreeger makes Motion to Approve ARC #24-02 as presented, Commissioner Goetzelt seconds the motion.**

**No Public Comment Received**

**Passes 6-0**

**Vice Chair Wood** comes back to the dais.

**Applicant's Name:** Jeffrey and Whitney Ernest  
**Owner's Name:** Jeffrey and Whitney Ernest  
**File Number:** ARC #24-03 & VAR #24-01  
**Site Location:** **919 Via Verde**  
**Planning Area:** APN #012-542-003  
**CEQA Determination:** Categorically Exempt pursuant to Guidelines § 15061(c) and 15301  
**Project Description:** **Requesting Architectural Review and Variance to add an 817 square foot addition to the rear and side of single-family dwelling.**  
**Recommended Action:** Analyze provided material, make appropriate findings, impose conditions as appropriate, and give direction to staff.

**Applicant** explains the project and the variance request.

**Chair Hayworth: Consider Variance first and then the ARC application.**

**Public Comment** for support from several neighbors.

**Applicant** takes questions and concerns from Commissioners regarding variance requirements, side yard setback and request.

**Chair Hayworth** states that A,B,C of variance application must be met in order to approve.

**No Public Comment Received**

**Commissioner Goetzelt makes Motion to Approve VAR #24-01 as presented in Items A, B, and C on Variance Application, Commissioner Jaksha seconds the motion.**

A roll call vote was held and passed unanimously.

<b>Commissioner Jaksha</b>	<b>Yes</b>
<b>Commissioner Goetzelt</b>	<b>Yes</b>
<b>Commissioner Pinet</b>	<b>Yes</b>
<b>Commissioner Kreeger</b>	<b>Yes</b>
<b>Vice Chair Wood</b>	<b>Yes</b>
<b>Commissioner Ahmadi</b>	<b>Yes</b>
<b>Chair Hayworth</b>	<b>Yes</b>

**Applicant** takes questions from Commissioners regarding roof line and colors for ARC 24-03.

**Commissioner Kreeger makes Motion to Approve ARC #24-03 as presented, Commissioner Goetzelt seconds the motion.**

**No Public Comment Received**

**Announcements:**

**Commission Kreeger: Earth Day and the Ice Cream Social April 20, 2024.**

**Vice Chair Wood: Hopefully movie in the park on the night of the 20<sup>th</sup> also. Learned a lot at PC conference.**

**Commissioner Ahmadi: Learned a lot and enjoyed the PC conference and through are bills coming through CA, due to budget cuts.**

**Next Meeting:**

**Wednesday, April 10, 2024 at 6pm**

**Adjournment:**

7:05pm

All enclosures and materials regarding this agenda are available for public review at Del Rey Oaks City Hall. Information distributed to the Planning Commission at the meeting becomes part of the public Record. A copy of written material, pictures, etc. should be provided to the Secretary for this purpose.



**FIRE DEPARTMENT**

1635 Broadway Avenue  
Seaside, CA 93955

Telephone (831) 899-6790  
FAX (831) 899-6261

November 5, 2024

John Guertin, City Manager  
Del Rey Oaks City Hall  
650 Canyon Del Rey  
Del Rey Oaks, CA 93940

Dear Mr. Guertin:

Enclosed is a copy of the response reports for the Seaside Fire Department response to Del Rey Oaks for the period of October 1, 2024 through October 31, 2024.

The Seaside Fire Department responded to the following incidents in the month of October:

Incident #

241002-SEA02401	241010-SEA02467	241018-SEA02543
241004-SEA02414	241010-SEA02470	241024-SEA02596
241005-SEA02420	241010-SEA02471	241025-SEA02599
241006-SEA02442	241010-SEA02473	241027-SEA02614
241007-SEA02444	241011-SEA02482	241029-SEA02635
241007-SEA02454	241012-SEA02496	241031-SEA02650
241008-SEA02455	241015-SEA02518	
241009-SEA02462	241018-SEA02541	

There are Twenty-Two (22) fire calls for the month of October. If you have any questions, please contact me.

Sincerely,

Paul Blaha  
Deputy Fire Chief  
CC: File

**SEASIDE FIRE DEPARTMENT**  
**City of Del Rey Oaks - Response Report**

Incident Date	Incident Number	Alarm Time	Arrival Time	Response Time (Minutes)	Incident Type Code	District	Street Or Highway Name	Priority
10/2/2024	241002-SEA02401	11:00:00 AM	11:06:00 AM	6.00	700	29	Rosita	Non-Emergent
10/4/2024	241004-SEA02414	7:31:00 PM	7:37:00 PM	6.00	321	29	Los Encinos	Emergent
10/5/2024	241005-SEA02420	9:52:00 AM	9:57:00 AM	5.00	321	29	Los Encinos	Emergent
10/6/2024	241006-SEA02442	10:56:00 PM	11:05:00 PM	9.00	321	29	Pheasant Ridge	Non-Emergent
10/7/2024	241007-SEA02444	8:07:00 AM	8:12:00 AM	5.00	311	29	Work	Non-Emergent
10/7/2024	241007-SEA02454	8:44:00 PM	8:51:00 PM	7.00	311	29	Los Encinos	Emergent
10/8/2024	241008-SEA02455	4:24:00 AM	4:31:00 AM	7.00	600	29	Canyon Del Rey	Emergent
10/9/2024	241009-SEA02462	10:11:00 AM	10:15:00 AM	4.00	400	29	Paloma	Non-Emergent
10/10/2024	241010-SEA02467	12:48:00 AM	12:59:00 AM	11.00	510	29	Portola	Non-Emergent
10/10/2024	241010-SEA02470	6:43:00 AM	6:55:00 AM	12.00	522	29	Rosita	Non-Emergent
10/10/2024	241010-SEA02471	9:00:00 AM	9:08:00 AM	8.00	6111	29	Hillwill	Emergent
10/10/2024	241010-SEA02473	10:31:00 AM	10:38:00 AM	7.00	311	29	Rosita	Emergent
10/11/2024	241011-SEA02482	1:02:00 PM	1:08:00 PM	6.00	311	29	Via Verde	Emergent
10/12/2024	241012-SEA02496	6:59:00 PM	7:05:00 PM	6.00	554	29	Pheasant Ridge	Emergent Downgraded to Non-Emergent
10/15/2024	241015-SEA02518	4:02:00 PM	4:07:00 PM	5.00	321	29	Quail Run	Emergent
10/18/2024	241018-SEA02541	11:59:00 AM	12:04:00 PM	5.00	321	29	Work	Emergent
10/18/2024	241018-SEA02543	12:49:00 PM	12:53:00 PM	4.00	321	29	Work	Emergent
10/24/2024	241024-SEA02596	2:39:00 PM	2:46:00 PM	7.00	321	29	Canyon Del Rey	Emergent
10/25/2024	241025-SEA02599	9:08:00 AM	9:16:00 AM	8.00	554	29	Pheasant Ridge	Non-Emergent
10/27/2024	241027-SEA02614	9:49:00 AM	9:53:00 AM	4.00	561	29	Carlton	Non-Emergent
10/29/2024	241029-SEA02635	4:07:00 PM	4:15:00 PM	8.00	321	29	Los Encinos	Non-Emergent
10/31/2024	241031-SEA02650	8:03:00 AM			611	29	Setter	Emergent

Total Calls 22

LEGEND CODE:	INCIDENT TYPE:
100-173	FIRE
200-251	OVERPRESSURE
300-381	MEDICAL RESPONSE
400-482	HAZARDOUS CONDITION
500-571	SERVICE CALL
600-672	GOOD INTENT CALL
700-751	FALSE ALARM/FALSE CALL
800-810	SEVERE WEATHER
900-911	SPECIAL/CITIZEN COMPLAINT



# POLICE

## DEL REY OAKS

# City Council Report

## Oct 2024

### Chris Bourquin - Chief

Case #	Date	Offense Code 1	Offense Code Description	DRO	MPAD	OJ	Residential	Commercial
24-286	10/02/2024	20002(A)(1) VC	Hit and Run	X			X	
24-287	10/03/2024	12500(A) VC	Unlicensed driver	X				X
24-288	10/05/2024	484(A) PC	Theft	X				X
24-289	10/07/2024	Outside Warrant/M	Arrest	X				X
24-290	10/09/2024	236 PC	False imprisonment	X				X
24-291	10/09/2024	Medical Emergency			X			X
24-292	10/10/2024	Outside Warrant/M	Arrest	X				X
24-293	10/10/2024	242 PC	Battery		X			X
24-294	10/12/2024	484(A) PC	Theft	X				X
24-295	10/15/2024	Information Only		X				X
24-296	10/17/2024	Towed Vehicle			X			X
24-297	10/18/2024	Information Only			X			X
24-298	10/19/2024	243(E)(1) PC	Domestic Violence arrest	X			X	
24-299	10/21/2024	602(K) PC	Trespass	X				X
24-300	10/22/2024	14601.2(A) VC	Driving on suspended license			X		
24-301	10/23/2024	Lost Property		X			X	
24-302	10/24/2024	Outside Warrant/M	Arrest	X				X
24-303	10/26/2024	11377(A) HS	Possession of Meth	X				X
24-304	10/31/2024	DOMESTIC	Domestic Disturbance	X			X	
24-305	10/31/2024	484G PC	Theft by access card	X				X
20 Cases								

Calls for Service	
Month	YTD
338	3047

Case Reports	
Month	YTD
20	305

Alarms					
Residential		Commercial		MPAD	
Mo.	YTD	Mo.	YTD	Mo.	YTD
1	7	9	59	4	41

Citations					
Moving		Parking		Warning	
Mo.	YTD	Mo.	YTD	Mo.	YTD
22	122	43	398	15	185



# Group A Offense Report

Printed On: 11/14/2024

Page 1 of 1

Item 2.

Beginning Date: 10/01/2024

Ending Date: 10/31/2024

Agency: All

Offense	Reported in 2024	Reported in 2023	Percent Change	Offenses Cleared	Percent Cleared	Percent Of Category	Rate Per 100,000*
Murder	0	0	NA	0	0.00%	0.00%	NA
Negligent Manslaughter	0	0	NA	0	0.00%	0.00%	NA
Justifiable Homicide	0	0	NA	0	0.00%	0.00%	NA
Non-consensual Sex Offenses:							
Rape	0	0	NA	0	0.00%	0.00%	NA
Sodomy	0	0	NA	0	0.00%	0.00%	NA
Sexual Assault with Object	0	0	NA	0	0.00%	0.00%	NA
Fondling	0	0	NA	0	0.00%	0.00%	NA
Aggravated Assault	0	0	NA	0	0.00%	0.00%	NA
Simple Assault	3	0	NA	1	33.33%	75.00%	NA
Intimidation	0	0	NA	0	0.00%	0.00%	NA
Kidnapping/Abduction	1	0	NA	0	0.00%	25.00%	NA
Consensual Sex Offenses:							
Incest	0	0	NA	0	0.00%	0.00%	NA
Statutory Rape	0	0	NA	0	0.00%	0.00%	NA
Human Trafficking, Commercial Sex Acts	0	0	NA	0	0.00%	0.00%	NA
Human Trafficking, Involuntary Servitude	0	0	NA	0	0.00%	0.00%	NA
<b>Crimes Against Persons Total</b>	<b>4</b>	<b>0</b>	<b>NA</b>	<b>1</b>	<b>25%</b>	<b>40%</b>	<b>NA</b>
Robbery	0	0	NA	0	0.00%	0.00%	NA
Burglary/Breaking & Entering	0	0	NA	0	0.00%	0.00%	NA
Larceny/Theft Offenses	2	3	-33.33%	0	0.00%	50.00%	NA
Motor Vehicle Theft	0	0	NA	0	0.00%	0.00%	NA
Arson	0	0	NA	0	0.00%	0.00%	NA
Destruction Of Property	1	0	NA	1	100.00%	25.00%	NA
Counterfeiting/Forgery	0	0	NA	0	0.00%	0.00%	NA
Fraud Offense	1	2	-50.00%	0	0.00%	25.00%	NA
Embezzlement	0	0	NA	0	0.00%	0.00%	NA
Extortion/Blackmail	0	0	NA	0	0.00%	0.00%	NA
Bribery	0	0	NA	0	0.00%	0.00%	NA
Stolen Property Offenses	0	0	NA	0	0.00%	0.00%	NA
<b>Crimes Against Property Total</b>	<b>4</b>	<b>5</b>	<b>-20%</b>	<b>1</b>	<b>25%</b>	<b>40%</b>	<b>NA</b>
Drug/Narcotic Violations	1	0	NA	1	100.00%	50.00%	NA
Drug Equipment Violations	1	2	-50.00%	1	100.00%	50.00%	NA
Gambling Offenses	0	0	NA	0	0.00%	0.00%	NA
Pornography/Obscene Material	0	1	-100.00%	0	0.00%	0.00%	NA
Prostitution	0	0	NA	0	0.00%	0.00%	NA
Weapons Law Violation	0	0	NA	0	0.00%	0.00%	NA
Animal Cruelty	0	0	NA	0	0.00%	0.00%	NA
<b>Crimes Against Society Total</b>	<b>2</b>	<b>3</b>	<b>-33.33%</b>	<b>2</b>	<b>100%</b>	<b>20%</b>	<b>NA</b>
<b>Total Group "A" Offenses</b>	<b>10</b>	<b>8</b>	<b>25%</b>	<b>4</b>	<b>40%</b>	<b>100%</b>	<b>NA</b>

Note: The Rate per 100,000 will be 'NA' when the Adjusted Population Base is Zero.



# Group A Offense Report

Printed On: 11/14/2024

Page 1 of 1

Item 2.

Beginning Date: 01/01/2024

Ending Date: 10/31/2024

Agency: All

Offense	Reported in 2024	Reported in 2023	Percent Change	Offenses Cleared	Percent Cleared	Percent Of Category	Rate Per 100,000*
Murder	0	0	NA	0	0.00%	0.00%	NA
Negligent Manslaughter	0	0	NA	0	0.00%	0.00%	NA
Justifiable Homicide	0	0	NA	0	0.00%	0.00%	NA
Non-consensual Sex Offenses:							
Rape	0	1	-100.00%	0	0.00%	0.00%	NA
Sodomy	0	1	-100.00%	0	0.00%	0.00%	NA
Sexual Assault with Object	0	0	NA	0	0.00%	0.00%	NA
Fondling	0	0	NA	0	0.00%	0.00%	NA
Aggravated Assault	3	2	50.00%	3	100.00%	18.75%	NA
Simple Assault	9	4	125.00%	5	55.56%	56.25%	NA
Intimidation	3	5	-40.00%	3	100.00%	18.75%	NA
Kidnapping/Abduction	1	0	NA	0	0.00%	6.25%	NA
Consensual Sex Offenses:							
Incest	0	0	NA	0	0.00%	0.00%	NA
Statutory Rape	0	0	NA	0	0.00%	0.00%	NA
Human Trafficking, Commercial Sex Acts	0	0	NA	0	0.00%	0.00%	NA
Human Trafficking, Involuntary Servitude	0	0	NA	0	0.00%	0.00%	NA
<b>Crimes Against Persons Total</b>	<b>16</b>	<b>13</b>	<b>23.08%</b>	<b>11</b>	<b>68.75%</b>	<b>17.78%</b>	<b>NA</b>
Robbery	0	0	NA	0	0.00%	0.00%	NA
Burglary/Breaking & Entering	2	4	-50.00%	0	0.00%	3.64%	NA
Larceny/Theft Offenses	27	34	-20.59%	10	37.04%	49.09%	NA
Motor Vehicle Theft	1	1	0.00%	0	0.00%	1.82%	NA
Arson	1	0	NA	1	100.00%	1.82%	NA
Destruction Of Property	12	9	33.33%	5	41.67%	21.82%	NA
Counterfeiting/Forgery	1	1	0.00%	0	0.00%	1.82%	NA
Fraud Offense	9	12	-25.00%	2	22.22%	16.36%	NA
Embezzlement	0	0	NA	0	0.00%	0.00%	NA
Extortion/Blackmail	0	0	NA	0	0.00%	0.00%	NA
Bribery	0	0	NA	0	0.00%	0.00%	NA
Stolen Property Offenses	2	2	0.00%	1	50.00%	3.64%	NA
<b>Crimes Against Property Total</b>	<b>55</b>	<b>63</b>	<b>-12.7%</b>	<b>19</b>	<b>34.55%</b>	<b>61.11%</b>	<b>NA</b>
Drug/Narcotic Violations	8	6	33.33%	7	87.50%	42.11%	NA
Drug Equipment Violations	5	7	-28.57%	5	100.00%	26.32%	NA
Gambling Offenses	0	0	NA	0	0.00%	0.00%	NA
Pornography/Obscene Material	1	2	-50.00%	0	0.00%	5.26%	NA
Prostitution	0	0	NA	0	0.00%	0.00%	NA
Weapons Law Violation	5	1	400.00%	1	20.00%	26.32%	NA
Animal Cruelty	0	1	-100.00%	0	0.00%	0.00%	NA
<b>Crimes Against Society Total</b>	<b>19</b>	<b>17</b>	<b>11.76%</b>	<b>13</b>	<b>68.42%</b>	<b>21.11%</b>	<b>NA</b>
<b>Total Group "A" Offenses</b>	<b>90</b>	<b>93</b>	<b>-3.23%</b>	<b>43</b>	<b>47.78%</b>	<b>100%</b>	<b>NA</b>

Note: The Rate per 100,000 will be 'NA' when the Adjusted Population Base is Zero.



# CITY OF DEL REY OAKS

650 CANYON DEL REY BLVD., DEL REY OAKS, CALIFORNIA 93940  
PHONE (831) 394-8511 FAX (831) 394-6421

**DATE:** November 19, 2024  
**TO:** Honorable Mayor and City Council  
**FROM:** John Guertin, City Manager  
**SUBJECT:** Receive a Presentation on the Short-term Rental Program and Transient Occupancy Tax

## Discussion

In June 2024 the Council approved placing Measure R on the November ballot. Measure R, which was passed by voters, will allow an increase of up to 4% in Transient Occupancy Tax.

Staff has been researching and will discuss short-term rental program management tools that may be purchased utilizing the increased revenues.

## Fiscal Impacts

None.

Respectfully submitted,

---

John Guertin  
City Manager



# CITY OF DEL REY OAKS

650 CANYON DEL REY BLVD., DEL REY OAKS, CALIFORNIA 93940  
 PHONE (831) 394-8511 FAX (831) 394-6421

**DATE:** November 19, 2024

**TO:** Honorable Mayor and City Council

**FROM:** John Guertin, City Manager

**SUBJECT:** Award Contract and Authorize the City Manager to Sign Agreement with Coastal Paving and Excavating in the amount of \$410,410 plus a 15% Contingency for the Rosita Rd Emergency Repair Project

**CEQA:** Staff has determined this project to be categorically exempt per Section 15301 of the CEQA Guidelines.

## Discussion

In February 2024, the City was awarded \$543,400 in Federal Highway Administration Grant funds (Caltrans project LTP-DRO-001) for emergency road repairs on Rosita Road. In June, to efficiently and effectively execute the various documents associated with the grant funding, the City Council approved acceptance of the grant and delegates authority to execute all documents to the City Manager.

The project is an emergency road repair project. 150 feet of the west shoulder of Rosita Rd failed due to winter storms, causing half of the roadway to sink substantially. This caused major cracking in the asphalt and left the road susceptible to erosion and further damage from future storms. The project consists of emergency repair of the road to allow continued use of the road and prevent traffic/road hazards.

In October, city staff placed a call for bids in accordance with the City of Del Rey Oaks Purchasing Ordinance. Bids were opened for the Project on October 31, 2024. Seven bids were received from the following Contractors, listed in ascending order below:

<u>Contractor</u>	<u>Base Bid</u>
Coastal Paving & Excavating	\$ 410,410.00
Precision Grading	\$ 439,580.00
Graniterock	\$ 474,880.00
Tyman Construction	\$ 490,250.00
Brannon Corp	\$ 492,765.00
Rehak General Engineering	\$ 511,500.00
Monterey Peninsula Engineering	\$ 525,400.00

Engineer's Estimate	\$ 526,000.00

The City Engineer reviewed the bid proposals for mathematical accuracy, bid bond, and other proposal requirements. The City Engineer found all proposals to be in order and, therefore, considered responsive bids. A copy of the City Engineer's letter and the Tabulation of Bids are enclosed. Staff recommend that the contract be awarded to the low bidder, Coastal Paving & Excavating.

Pending Council approval and weather conditions, staff expects construction to begin in early 2025.

**Fiscal Impacts**

The City will receive \$543,400 in grant funds for the project. A match of \$74,100 is included in the FY 2024-25 CIP budget.

**Recommendation**

Approve award of a Rosita Rd Emergency Repair Project contract to Coastal Paving and Excavating in the amount of \$410,410, authorize the City Manager to sign the contract, and authorize the City Manager to expend up to 15% (\$61,562) in contingencies for a total authorization of \$471,972.

**Attachments**

- City Engineer Recommendation/Tabulation of Bids
- Del Rey Oaks Rosita Rd Emergency Repair Project Agreement

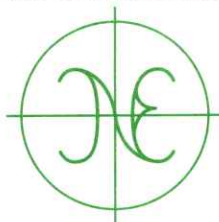
Respectfully submitted,

\_\_\_\_\_  
John Guertin  
City Manager

# NEILL ENGINEERS Corp.

SHERMAN W. LOW, R.C.E.  
GARY W. WHITE, P.L.S.

GILBERT M. NEILL, R.C.E.



SUBDIVISIONS, LAND PLANNING  
WATER SUPPLY, SANITATION,  
SURVEYING, AIRPORTS  
MUNICIPALITIES

CONSULTING ENGINEERS  
MISSION and FIFTH—BOX LL  
CARMEL, CALIFORNIA 93921  
(831) 624-2110  
FAX: (831) 624-3693

November 8, 2024

Mr. John Guertin, City Manager  
City of Del Rey Oaks  
650 Canyon Del Rey  
Del Rey Oaks, CA 93940

Re: Rosita Road Emergency Repair  
ID #0524000135 / Federal-Aid Project 15J9 (180)

Dear Mr. Guertin,

Bids were opened for the Rosita Road Emergency Repair Project on Thursday, October 31, 2024, at City Hall. Seven bids were received from the following Contractors listed in ascending order below:

<u>Company</u>	<u>Bid Amount</u>
Coastal Paving & Excavating	\$410,410.00
Precision Grade	\$439,580.00
Graniterock	\$474,880.00
Tyman Construction	\$490,250.00
Brannon Corporation	\$492,765.00
Rehak General Engineering	\$511,500.00
Monterey Peninsula Engineering	\$525,400.00
Engineer's Estimate	\$526,000.00

The bid proposals were reviewed for mathematical accuracy, bid bond, DBE (Disadvantaged Business Enterprise) and other proposal requirements. All proposals are in order; and are considered responsive. A copy of the Tabulation of Bids is enclosed.

Coastal Paving & Excavating is the lowest responsible bidder. Therefore, we recommend that the contract be awarded to Coastal Paving & Excavating in the bid amount of \$410,410 plus a 15% contingency.

Very truly yours,

Sherman W. Low, PE  
City Engineer

w/enclosure



Owner: CITY OF DEL REY OAKS  
 Project: ROSITA ROAD EMERGENCY REPAIR

ID #0524000135  
 Federal-Aid Project 15J9 (180)

**TABULATION OF BIDS**

Engineer: NEILL ENGINEERS CORP., Carmel, CA  
 Bid Opening: Thursday, October 31, 2024

#	Description	Quantity	Unit	ENGINEER'S ESTIMATE		COASTAL PAVING & EXCAVATING Monterey, CA		PRECISION GRADE INC. Salinas, CA		GRANITEROCK San Jose, CA		TYMAN CONSTRUCTION, INC. Marina, CA	
				Price	Amount	Price	Amount	Price	Amount	Price	Amount	Price	Amount
1	Traffic Control	1	LS	\$15,000.00	\$15,000.00	\$13,974.00	\$13,974.00	\$28,000.00	\$28,000.00	\$23,300.00	\$23,300.00	\$35,000.00	\$35,000.00
2	Clearing & Grubbing, including tree removal, stripping, salvaging & stockpiling of topsoil for re-use	1	LS	\$50,000.00	\$50,000.00	\$35,000.00	\$35,000.00	\$52,300.00	\$52,300.00	\$50,000.00	\$50,000.00	\$25,000.00	\$25,000.00
3	Place rock rip-rap for bottom portion of slope embankment construction including keyway excavation	550	Tons	\$350.00	\$192,500.00	\$250.00	\$137,500.00	\$227.00	\$124,850.00	\$240.00	\$132,000.00	\$250.00	\$137,500.00
4	Place filter fabric for rock rip-rap	4,000	SF	\$1.75	\$7,000.00	\$1.00	\$4,000.00	\$0.60	\$2,400.00	\$0.41	\$1,640.00	\$2.50	\$10,000.00
5	Place & compact import engineered fill for slope embankment construction	450	CY	\$200.00	\$90,000.00	\$150.00	\$67,500.00	\$165.00	\$74,250.00	\$150.00	\$67,500.00	\$110.00	\$49,500.00
6	Over-excavate & re-compact shoulder area	100	CY	\$150.00	\$15,000.00	\$170.00	\$17,000.00	\$220.00	\$22,000.00	\$200.00	\$20,000.00	\$200.00	\$20,000.00
7	Place geogrid for slope reinforcement	5,000	SF	\$1.50	\$7,500.00	\$0.90	\$4,500.00	\$0.62	\$3,100.00	\$0.27	\$1,350.00	\$10.00	\$50,000.00
8	Place erosion control blanket over shoulder & slope embankment surface	3,000	SF	\$2.00	\$6,000.00	\$0.70	\$2,100.00	\$1.08	\$3,240.00	\$3.28	\$9,840.00	\$3.00	\$9,000.00
9	Place import topsoil	75	CY	\$130.00	\$9,750.00	\$50.00	\$3,750.00	\$157.00	\$11,775.00	\$300.00	\$22,500.00	\$200.00	\$15,000.00
10	Hydroseed shoulder & slope embankment	3,000	SF	\$2.00	\$6,000.00	\$0.85	\$2,550.00	\$1.00	\$3,000.00	\$2.35	\$7,050.00	\$2.00	\$6,000.00
11	Remove & replace rolled PCC curb & gutter	150	LF	\$175.00	\$26,250.00	\$200.00	\$30,000.00	\$184.00	\$27,600.00	\$215.00	\$32,250.00	\$150.00	\$22,500.00
12	Roadway Excavation to 24" depth by grinding for roadway reconstruction	175	CY	\$160.00	\$28,000.00	\$100.00	\$17,500.00	\$159.00	\$27,825.00	\$80.00	\$14,000.00	\$150.00	\$26,250.00
13	Prepare, grade & compact roadway subgrade	1	LS	\$10,000.00	\$10,000.00	\$18,986.00	\$18,986.00	\$17,100.00	\$17,100.00	\$8,100.00	\$8,100.00	\$30,000.00	\$30,000.00
14	Place, grade & compact AC & base grindings utilized as sub-base material	60	CY	\$225.00	\$13,500.00	\$100.00	\$6,000.00	\$125.00	\$7,500.00	\$370.00	\$22,200.00	\$200.00	\$12,000.00
15	Place, grade & compact C.I. 2 aggregate base, 1 1/2" curb & gutter	140	Tons	\$150.00	\$21,000.00	\$120.00	\$16,800.00	\$71.00	\$9,940.00	\$200.00	\$28,000.00	\$100.00	\$14,000.00
16	Place & compact Type A asphalt concrete, 3/4" max. gradation, in 2-3" lifts	95	Tons	\$300.00	\$28,500.00	\$350.00	\$33,250.00	\$260.00	\$24,700.00	\$370.00	\$35,150.00	\$300.00	\$28,500.00
<b>TOTAL:</b>					\$526,000.00		\$410,410.00		\$439,580.00		\$474,880.00		\$490,250.00

WO: 8483

**\*\*LOW BID\*\***



Owner: CITY OF DEL REY OAKS  
 Project: ROSITA ROAD EMERGENCY REPAIR  
 ID #0524000135  
 Federal-Aid Project 15J9 (180)

**TABULATION OF BIDS**

Engineer: NEILL ENGINEERS CORP., Carmel, CA  
 Bid Opening: Thursday, October 31, 2024

#	Description	Quantity	Unit	BRANNON CORPORATION Morgan Hill, CA		REHAK GENERAL ENGINEERING Auberry, CA		MONTEREY PENINSULA ENGINEERING Marina, CA	
				Price	Amount	Price	Amount	Price	Amount
1	Traffic Control	1	LS	\$35,270.00	\$35,270.00	\$10,000.00	\$10,000.00	\$88,000.00	\$88,000.00
2	Clearing & Grubbing, including tree removal, stripping, salvaging & stockpiling of topsoil for re-use	1	LS	\$63,200.00	\$63,200.00	\$20,000.00	\$20,000.00	\$22,000.00	\$22,000.00
3	Place rock rip-rap for bottom portion of slope embankment construction including keyway excavation	550	Tons	\$221.00	\$121,550.00	\$300.00	\$165,000.00	\$354.00	\$194,700.00
4	Place filter fabric for rock rip-rap	4,000	SF	\$2.00	\$8,000.00	\$4.00	\$16,000.00	\$1.00	\$4,000.00
5	Place & compact import engineered fill for slope embankment construction	450	CY	\$136.00	\$61,200.00	\$150.00	\$67,500.00	\$172.00	\$77,400.00
6	Over-excavate & re-compact shoulder area	100	CY	\$187.00	\$18,700.00	\$100.00	\$10,000.00	\$165.00	\$16,500.00
7	Place geogrid for slope reinforcement	5,000	SF	\$2.00	\$10,000.00	\$5.00	\$25,000.00	\$2.50	\$12,500.00
8	Place erosion control blanket over shoulder & slope embankment surface	3,000	SF	\$2.00	\$6,000.00	\$5.00	\$15,000.00	\$1.00	\$3,000.00
9	Place import topsoil	75	CY	\$201.00	\$15,075.00	\$150.00	\$11,250.00	\$370.00	\$27,750.00
10	Hydroseed shoulder & slope embankment	3,000	SF	\$2.00	\$6,000.00	\$3.00	\$9,000.00	\$1.00	\$3,000.00
11	Remove & replace rolled PCC curb & gutter	150	LF	\$256.00	\$38,400.00	\$100.00	\$15,000.00	\$141.00	\$21,150.00
12	Roadway Excavation to 24" depth by grinding for roadway reconstruction	175	CY	\$162.00	\$28,350.00	\$150.00	\$26,250.00	\$71.00	\$12,425.00
13	Prepare, grade & compact roadway subgrade	1	LS	\$12,200.00	\$12,200.00	\$15,000.00	\$15,000.00	\$3,800.00	\$3,800.00
14	Place, grade & compact AC & base grindings utilized as sub-base material	60	CY	\$170.00	\$10,200.00	\$200.00	\$12,000.00	\$64.00	\$3,840.00
15	Place, grade & compact C.I. 2 aggregate base, 1/2" max gradation for roadway reconstruction & under curb & gutter	140	Tons	\$131.00	\$18,340.00	\$200.00	\$28,000.00	\$78.00	\$10,920.00
16	Place & compact Type A asphalt concrete, 3/4" max. gradation, in 2-3" lifts	95	Tons	\$424.00	\$40,280.00	\$700.00	\$66,500.00	\$257.00	\$24,415.00
<b>TOTAL:</b>					\$492,765.00		\$511,500.00		\$525,400.00

WO: 8483

**CITY OF DEL REY OAKS**  
**AGREEMENT FOR ROSITA ROAD**  
**EMERGENCY REPAIR**  
**ID #0524000135**  
**FEDERAL-AID PROJECT 15J9 (180)**

**THIS AGREEMENT** is executed this \_\_\_\_ day of \_\_\_\_\_, 2024, by and between the CITY OF DEL REY OAKS, a municipal corporation, (hereinafter "City"), and Coastal Paving and Excavating (hereinafter "Contractor"), each of which is referred to herein as a "party," and collectively referred to herein as the "parties".

**RECITALS**

**WHEREAS**, the City wishes to engage Contractor to perform the services required by this Agreement;

**WHEREAS**, Contractor is willing to render such services on the following terms and conditions; and

**WHEREAS**, Contractor represents it is specially trained, experienced, and competent to perform the services required by this Agreement.

**AGREEMENT**

**NOW, THEREFORE**, in consideration of the terms and conditions herein contained, the parties hereby covenant and agree as follows:

**1. SERVICES**

A. **Scope of Services.** Contractor agrees to provide to the City, as the scope of services under this Agreement, the following services: Rosita Road Emergency Repair. The scope of services are further described in: 1) "Contractor's Response to Bid Proposal" attached hereto as Exhibit "A"; 2) "Notice to Bidders & Special Provisions" attached hereto as Exhibit "B"; and 3) the Project Plans attached hereto as Exhibit "C." In case of any conflict between these documents, this Agreement shall take first precedence, Contractor's response shall take second precedence, the Special Provisions shall take third precedence, and the Project Plans shall take fourth precedence.

B. **Amendment of Services.** The parties may make changes to the scope of services as defined in Section 1.A above. The parties shall agree in writing prior to commencement of any such changes.

**2. COMPENSATION**

A. **Total Fee.** The City agrees to pay and Contractor agrees to accept as full and fair consideration for the performance of this Agreement \$410,410.00. If the City determines the services set forth in the written invoice have not been performed in accordance with the terms of this Agreement, the City shall not be responsible for payment until the services have been satisfactorily performed.

B. **Invoicing.** Contractor shall submit monthly written invoices to the City. Contractor's invoices shall include a brief description of services performed.

### 3. AGREEMENT TERM

A. **Term.** The work under this Agreement shall commence on \_\_\_\_\_ and terminate on \_\_\_\_\_.

B. **Timely Work.** Contractor shall perform all services in a timely fashion. Failure to perform shall be deemed a material breach of this Agreement, and the City may terminate this Agreement with no further liability hereunder, or may authorize, in writing, an extension of time to the Agreement.

### 4. INDEPENDENT CONTRACTOR

A. **Independent Contractor.**

i. Contractor is an independent contractor. This Agreement does not create the relationship of employer and employee, a partnership, or a joint venture.

ii. No offer or obligation of permanent employment with the City or particular City department or agency is intended in any manner, and Contractor shall not become entitled by virtue of this Agreement to receive from the City any form of employee benefits including but not limited to sick leave, vacation, retirement benefits, workers' compensation coverage, insurance or disability benefits. Contractor shall be solely liable for and obligated to pay directly all applicable taxes, including federal and state income taxes and social security, arising out of Contractor's performance of services under this Agreement. In connection therewith, Contractor shall defend, indemnify and hold the City harmless from any and all liability, which the City may incur because of Contractor's failure to pay such taxes.

B. **Not an Agent of the City.** Nothing in this Agreement shall be interpreted so as to render the City the agent, employer, or partner of Contractor, or the employer of anyone working for or subcontracted by Contractor, and Contractor must not do anything that would result in anyone working for or subcontracted by Contractor being considered an employee of the City. Contractor is not, and must not claim to be, an agent of the City.

### 5. REPRESENTATIVES AND COMMUNICATIONS

A. **City's Representative.** The City appoints the individual named below as the City's contact person for the purposes of this Agreement.

Name: John Guertin  
 Title: City Manager  
 Address: 650 Canyon Del Rey Blvd., Del Rey Oaks, CA 93940  
 Telephone: 831-394-8511

B. **Contractor's Representative.** Contractor appoints the person named below as its contract person for the purposes of this Agreement.

Name: Mike Melicia  
 Title: President  
 Address: 24560 Sliver Cloud Ct. Ste 102, Monterey, CA 93940  
 Telephone: 831-646-2099

C. **Communications and Notices.** Any notice, report, or other document that either party may be required or may wish to give to the other must be in writing, unless otherwise provided for, and shall be deemed to be validly given to and received by the addressee, if delivered personally, on the date of such personal delivery, if delivered by email, on the date of transmission, or if by mail, seven (7) calendar days after posting.

## 6. INDEMNIFICATION

Contractor hereby agrees to the following indemnification clause:

To the fullest extent permitted by law Contractor shall defend (with legal counsel reasonably acceptable to the City), indemnify and hold harmless the City and its officers, designated agents, departments, officials, representatives and employees (collectively "Indemnitees") from and against claims, loss, cost, damage, injury expense and liability (including incidental and consequential damages, court costs, reasonable attorneys' fees, litigation expenses and fees of experts, consultants or expert witnesses incurred in connection therewith and costs of investigation) to the extent they arise out of, pertain to, or relate to, the negligence, recklessness, or willful misconduct of Contractor, anyone directly or indirectly employed by Contractor, or anyone Contractor controls (collectively "Liabilities"). Such obligations to defend, hold harmless and indemnify any Indemnitee shall not apply to the extent that such Liabilities are caused in part by the gross negligence or willful misconduct of such Indemnitee.

## 7. INSURANCE

Contractor shall submit and maintain in full force all insurance as described herein. Without altering or limiting Contractor's duty to indemnify, Contractor shall maintain in effect throughout the term of this Agreement a policy or policies of insurance with the following minimum limits of liability:

A. Commercial General Liability Insurance including but not limited to premises, personal injuries, bodily injuries, property damage, products, and completed operations, with a combined single limit of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

B. Automobile Liability Insurance covering all automobiles, including owned, leased, non-owned, and hired automobiles, used in providing services under this Agreement, with a combined single limit of not less than \$1,000,000 per occurrence.

C. Workers' Compensation Insurance. If Contractor employs others in the performance of this Agreement, Contractor shall maintain Workers' Compensation insurance in accordance with California Labor Code section 3700 and with a minimum of \$1,000,000 per occurrence.

### D. Other Insurance Requirements:

- i. The City shall be a named additional insured on Contractor's policy.
- ii. All insurance required under this Agreement must be written by an insurance company either:
  1. admitted to do business in California with a current A.M. Best rating of no less than A:VI;
  - or
  2. an insurance company with a current A.M. Best rating of no less than A:VII.

iii. Prior to the start of work under this Agreement, Contractor shall file certificates of insurance and endorsements evidencing the coverage required by this Agreement with the City Manager. Contractor shall file a new or amended certificate of insurance promptly after any change is made in any insurance policy that would alter the information on the certificate then on file, including, without limitation, the amount of coverages or the term of coverages.

iv. Neither the insurance requirements hereunder, nor acceptance or approval of Contractor's insurance, nor whether any claims are covered under any insurance, shall in any way modify or change Contractor's obligations under the indemnification clause in this Agreement, which shall continue in full force and effect. Notwithstanding the insurance requirements contained herein, Contractor is financially liable for its indemnity obligations under this Agreement.

v. City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

**8. PERFORMANCE STANDARDS**

A. Contractor warrants that Contractor and Contractor's employees performing services under this Agreement are specially trained and experienced to perform the services described herein.

B. Contractor and its employees shall perform all services in a safe and skillful manner consistent with the highest standards of care, diligence and skill ordinarily exercised by professionals in similar fields. All services performed under this Agreement that are required by law to be performed or supervised by licensed personnel shall be performed in accordance with such licensing requirements.

C. Contractor shall furnish, at its own expense, all materials, equipment and personnel necessary to carry out the terms of this Agreement, except as otherwise specified in this Agreement. Contractor shall not use the City premises, property (including equipment, instruments, or supplies) or personnel for any purpose other than in the performance of its obligations under this Agreement, the RFP, or Contractor's Estimate.

D. Contractor agrees to perform all work under this Agreement to the satisfaction of City and as specified herein. The City Manager or his or her designee shall perform an evaluation of the work. If the quality of work is not satisfactory, City in its discretion may meet with Contractor to review the quality of work and resolve the matters of concern.

**9. CITY INFORMATION AND RESOURCES**

A. **City Resources.** The City acknowledges that Contractor's ability to provide services in accordance with this Agreement may be dependent on the City providing available information and resources in a prompt and timely manner as reasonably required by Contractor. To the extent that the City fails to provide City resources, Contractor shall not be liable for any resulting delay in services, but in no event shall such delay or failure to provide City resources constitute a breach of this Agreement by the City, nor shall Contractor be entitled to extra compensation for same.

B. **Obligations of Contractor.** No reviews, approvals, or inspections carried out or supplied by the City shall derogate from the duties and obligations of Contractor, and all responsibility related to performance of services shall be and remain with Contractor.

**10. OWNERSHIP AND USE OF MATERIALS**

A. **Ownership of the Materials.** All data, studies, reports, calculations, field notes, sketches, designs, drawings, plans, specifications, cost estimates, manuals, correspondence, agendas, minutes, notes, audio-visual materials, photographs, models, software data, computer software (if purchased on the City's behalf) and other documents or products produced by Contractor under this Agreement (collectively, "the

Materials”) are and shall remain the property of the City even though Contractor or another party may have physical possession of them or a portion thereof. Contractor hereby waives, in favor of the City, any moral rights Contractor, its employees, vendors, successors or assignees may have in the Materials. Contractor agrees that all copyrights, which arise from creation of the work or services pursuant to this Agreement, shall be vested in the City and waives and relinquishes all claims to copyright or intellectual property rights in favor of the City.

B. **Delivery and Use of the Materials.** All Materials shall be transferred and delivered by Contractor to the City without further compensation following the expiration or sooner termination of this Agreement, provided that the City may, at any time prior to the expiration or earlier termination of this Agreement, give written notice to Bidder requesting delivery by Contractor to the City of all or any part of the Materials in which event Contractor shall forthwith comply with such request. The Materials created electronically must be submitted in a format and medium acceptable to the City. The Materials may be used by the City in any manner for the intended purpose or as part of its operations associated with the Materials.

**11. DISPUTE RESOLUTION**

The City Manager and Contractor shall make reasonable efforts to resolve any dispute by amicable negotiations and shall provide frank, candid, and timely disclosure of all relevant facts, information, and documents to facilitate negotiations.

If all or any portion of a Dispute cannot be resolved by good faith negotiations as set forth above within thirty (30) days either party may, by notice to the other party, submit the dispute for formal mediation to a mediator selected mutually by the parties. The cost of the mediation (including fees of mediators) shall be borne equally by the parties, and each party shall bear its own costs of participating in mediation. The mediation shall take place within the Monterey County.

Should either party not be satisfied with the outcome of the mediation, the matter may be submitted to a court of competent jurisdiction.

All claims by Contractor against the City for money or damages must comply with the Government Claims Act (California Government Code Sections 810-996.6).

**12. TERMINATION OF AGREEMENT**

A. **Termination for Cause or Default.** The City reserves the right to immediately terminate this Agreement, in whole or in part, if Contractor defaults or fails to deliver the services in accordance with the terms and conditions of this Agreement. Such termination shall be in writing, shall set forth the effective date of termination, and may be issued without any prior notice. Without limitation, Contractor is in default of its obligations contained in this Agreement if Contractor:

- i. Fails to perform the required services within the term and/or in the manner provided under this Agreement;
- ii. Fails to observe or comply with the City’s reasonable instructions;
- iii. Otherwise violates any provision of this Agreement.

**13. LEGAL ACTION / VENUE**

Should either party to this Agreement bring legal action against the other, the validity, interpretation and performance of this Agreement shall be controlled by and construed under the laws of

the State of California, excluding California's choice of law rules. Venue for any such action relating to this Agreement shall be in the Monterey County Superior Court.

#### 14. MISCELLANEOUS PROVISIONS

A. **Non-discrimination.** During the performance of this Agreement, Contractor shall not unlawfully discriminate against any person because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, either in Contractor's employment practices or in the furnishing of services to recipients.

B. **Acceptance of Services Not a Release.** Acceptance by the City of services to be performed under this Agreement does not operate as a release of Contractor from professional responsibility for the services performed.

C. **Headings.** The headings appearing herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning or intent of the provisions of this Agreement. The headings are for convenience only.

D. **Entire Agreement.** This Agreement, including the Exhibits attached hereto, constitute the entire agreement between the parties hereto with respect to the terms, conditions, and services and supersedes any and all prior proposals, understandings, communications, representations and agreements, whether oral or written, relating to the subject matter thereof pursuant to Section 1B, "Amendment of Services". Any amendment to this Agreement will be effective only if it is in writing signed by both parties hereto and shall prevail over any other provision of this Agreement in the event of inconsistency between them.

E. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and may be signed in counterparts, but all of which together shall constitute one and the same Agreement.

F. **Multiple Copies of Agreement.** Multiple copies of this Agreement may be executed, but the parties agree that the Agreement on file in the office of the City's City Clerk is the version of the Agreement that shall take precedence should any difference exist among counterparts of this Agreement.

G. **Authority.** Any individual executing this Agreement on behalf of the City or Contractor represents and warrants hereby that he or she has the requisite authority to enter into this Agreement on behalf of such party and bind the party to the terms and conditions of this Agreement.

H. **Severability.** If any of the provisions contained in this Agreement are held illegal, invalid or unenforceable, the enforceability of the remaining provisions shall not be impaired thereby. Limitations of liability and indemnities shall survive termination of the Agreement for any cause. If a part of the Agreement is valid, all valid parts that are severable from the invalid part remain in effect. If a part of this Agreement is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

I. **Non-exclusive Agreement.** This Agreement is non-exclusive and both the City and Contractor expressly reserve the right to enter into agreements with other Contractors for the same or similar services, or may have its own employees perform the same or similar services.

J. **Assignment of Interest.** The duties under this Agreement shall not be assignable, delegable, or transferable without the prior written consent of the City. Any such purported assignment, delegation, or transfer shall constitute a material breach of this Agreement upon which the City may terminate this Agreement and be entitled to damages.

K. **Laws.** Contractor agrees that in the performance of this Agreement it will reasonably comply with all applicable federal, state and local laws and regulations. This Agreement shall be governed by and construed in accordance with the laws of the State of California and the City of Del Rey Oaks.

FHWA-1273, "Required Contract Provisions Federal-Aid Construction Contracts" (Attachment #1) and the Federal Wage Rates (Attachment #2) are a part of this agreement and included as attachments.

L. **Exhibits.** The following Exhibits are incorporated herein by reference as if fully set forth: : 1) "Contractor's Response to Bid Proposal" - Exhibit "A"; 2) "Notice to Bidders & Special Provisions" - Exhibit "B"; and 3) the Project Plans - Exhibit "C." Bidder's Bond - Exhibit E, Payment Bond - Exhibit F, Performance Bond - Exhibit G.

IN WITNESS WHEREOF, the parties enter into this Agreement on the day and year first above written in Del Rey Oaks, California.

CITY OF DEL REY OAKS

CONTRACTOR

\_\_\_\_\_  
John Guertin, City Manager

\_\_\_\_\_  
Mike Melicia  
President, Coastal Paving and Excavating

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**REQUIRED CONTRACT PROVISIONS  
FEDERAL-AID CONSTRUCTION CONTRACTS**

- I. General
- II. Nondiscrimination
- III. Non-segregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
- XI. Certification Regarding Use of Contract Funds for Lobbying
- XII. Use of United States-Flag Vessels:

**ATTACHMENTS**

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

**I. GENERAL**

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under title 23, United States Code, as required in 23 CFR 633.102(b) (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). 23 CFR 633.102(e).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. 23 CFR 633.102(e).

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services) in accordance with 23 CFR 633.102. The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in solicitation-for-bids or request-for-proposals documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract). 23 CFR 633.102(b).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work

performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 23 CFR 633.102(d).

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

**II. NONDISCRIMINATION** (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)

The provisions of this section related to 23 CFR Part 230, Subpart A, Appendix A are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR Part 230, Subpart A, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

**1. Equal Employment Opportunity:** Equal Employment Opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (see 28 CFR Part 35, 29 CFR Part 1630, 29 CFR Parts 1625-1627, 41 CFR Part 60 and 49 CFR Part 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140, shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR Part 35 and 29 CFR Part 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract. 23 CFR 230.409 (g)(4) & (5).

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, sexual orientation, gender identity, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

**2. EEO Officer:** The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

**3. Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action or are substantially involved in such action, will be made fully cognizant of and will implement the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

**4. Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

**5. Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to ensure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action

within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

#### 6. Training and Promotion:

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs (i.e., apprenticeship and on-the-job training programs for the geographical area of contract performance). In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

**7. Unions:** If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. 23 CFR 230.409. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide

sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

#### 8. Reasonable Accommodation for Applicants /

**Employees with Disabilities:** The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established thereunder. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

#### 9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:

The contractor shall not discriminate on the grounds of race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors, suppliers, and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

#### 10. Assurances Required:

a. The requirements of 49 CFR Part 26 and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.

b. The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible.

c. The Title VI and nondiscrimination provisions of U.S. DOT Order 1050.2A at Appendixes A and E are incorporated by reference. 49 CFR Part 21.

**11. Records and Reports:** The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

## Attachment #1 - To Agreement

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women.

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

### III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of more than \$10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, the contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location under the contractor's control where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

### IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway

Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

#### 1. Minimum wages (29 CFR 5.5)

a. *Wage rates and fringe benefits.* All laborers and mechanics employed or working upon the site of the work (or otherwise working in construction or development of the project under a development statute), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act ([29 CFR part 3](#))), the full amount of basic hourly wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. As provided in paragraphs (d) and (e) of 29 CFR 5.5, the appropriate wage determinations are effective by operation of law even if they have not been attached to the contract. Contributions made or costs reasonably anticipated for bona fide fringe benefits under the Davis-Bacon Act ([40 U.S.C. 3141\(2\)\(B\)](#)) on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.e. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics must be paid the appropriate wage rate and fringe benefits on the wage determination for the classification(s) of work actually performed, without regard to skill, except as provided in paragraph 4. of this section. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph 1.c. of this section) and the Davis-Bacon poster (WH-1321) must be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. *Frequently recurring classifications.* (1) In addition to wage and fringe benefit rates that have been determined to be prevailing under the procedures set forth in [29 CFR part 1](#), a wage determination may contain, pursuant to § 1.3(f), wage and fringe benefit rates for classifications of laborers and mechanics for which conformance requests are regularly submitted pursuant to paragraph 1.c. of this section, provided that:

(i) The work performed by the classification is not performed by a classification in the wage determination for which a prevailing wage rate has been determined;

(ii) The classification is used in the area by the construction industry; and

(iii) The wage rate for the classification bears a reasonable relationship to the prevailing wage rates contained in the wage determination.

(2) The Administrator will establish wage rates for such classifications in accordance with paragraph 1.c.(1)(iii) of this section. Work performed in such a classification must be paid at no less than the wage and fringe benefit rate listed on the wage determination for such classification.

c. *Conformance.* (1) The contracting officer must require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract be classified in conformance with the wage determination. Conformance of an additional classification and wage rate and fringe benefits is appropriate only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is used in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) The conformance process may not be used to split, subdivide, or otherwise avoid application of classifications listed in the wage determination.

(3) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken will be sent by the contracting officer by email to [DBAconformance@dol.gov](mailto:DBAconformance@dol.gov). The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer will, by email to [DBAconformance@dol.gov](mailto:DBAconformance@dol.gov), refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(5) The contracting officer must promptly notify the contractor of the action taken by the Wage and Hour Division

under paragraphs 1.c.(3) and (4) of this section. The contractor must furnish a written copy of such determination to each affected worker or it must be posted as a part of the wage determination. The wage rate (including fringe benefits where appropriate) determined pursuant to paragraph 1.c.(3) or (4) of this section must be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

d. *Fringe benefits not expressed as an hourly rate.* Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor may either pay the benefit as stated in the wage determination or may pay another bona fide fringe benefit or an hourly cash equivalent thereof.

e. *Unfunded plans.* If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, in accordance with the criteria set forth in § 5.28, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

f. *Interest.* In the event of a failure to pay all or part of the wages required by the contract, the contractor will be required to pay interest on any underpayment of wages.

## 2. Withholding (29 CFR 5.5)

a. *Withholding requirements.* The contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for the full amount of wages and monetary relief, including interest, required by the clauses set forth in this section for violations of this contract, or to satisfy any such liabilities required by any other Federal contract, or federally assisted contract subject to Davis-Bacon labor standards, that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to Davis-Bacon labor standards requirements and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld. In the event of a contractor's failure to pay any laborer or mechanic, including any apprentice or helper working on the site of the work all or part of the wages required by the contract, or upon the contractor's failure to submit the required records as discussed in paragraph 3.d. of this section, the contracting agency may on its own initiative and after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with paragraph

2.a. of this section or Section V, paragraph 3.a., or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its procurement costs;
- (3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (4) A contractor's assignee(s);
- (5) A contractor's successor(s); or
- (6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901-3907](#).

### 3. Records and certified payrolls (29 CFR 5.5)

a. *Basic record requirements (1) Length of record retention.* All regular payrolls and other basic records must be maintained by the contractor and any subcontractor during the course of the work and preserved for all laborers and mechanics working at the site of the work (or otherwise working in construction or development of the project under a development statute) for a period of at least 3 years after all the work on the prime contract is completed.

(2) *Information required.* Such records must contain the name; Social Security number; last known address, telephone number, and email address of each such worker; each worker's correct classification(s) of work actually performed; hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act); daily and weekly number of hours actually worked in total and on each covered contract; deductions made; and actual wages paid.

(3) *Additional records relating to fringe benefits.* Whenever the Secretary of Labor has found under paragraph 1.e. of this section that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in [40 U.S.C. 3141\(2\)\(B\)](#) of the Davis-Bacon Act, the contractor must maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

(4) *Additional records relating to apprenticeship.* Contractors with apprentices working under approved programs must maintain written evidence of the registration of apprenticeship programs, the registration of the apprentices, and the ratios and wage rates prescribed in the applicable programs.

b. *Certified payroll requirements (1) Frequency and method of submission.* The contractor or subcontractor must submit weekly, for each week in which any DBA- or Related Acts-covered work is performed, certified payrolls to the contracting

agency. The prime contractor is responsible for the submission of all certified payrolls by all subcontractors. A contracting agency or prime contractor may permit or require contractors to submit certified payrolls through an electronic system, as long as the electronic system requires a legally valid electronic signature; the system allows the contractor, the contracting agency, and the Department of Labor to access the certified payrolls upon request for at least 3 years after the work on the prime contract has been completed; and the contracting agency or prime contractor permits other methods of submission in situations where the contractor is unable or limited in its ability to use or access the electronic system.

(2) *Information required.* The certified payrolls submitted must set out accurately and completely all of the information required to be maintained under paragraph 3.a.(2) of this section, except that full Social Security numbers and last known addresses, telephone numbers, and email addresses must not be included on weekly transmittals. Instead, the certified payrolls need only include an individually identifying number for each worker ( e.g., the last four digits of the worker's Social Security number). The required weekly certified payroll information may be submitted using Optional Form WH-347 or in any other format desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division website at <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/wh347.pdf> or its successor website. It is not a violation of this section for a prime contractor to require a subcontractor to provide full Social Security numbers and last known addresses, telephone numbers, and email addresses to the prime contractor for its own records, without weekly submission by the subcontractor to the contracting agency.

(3) *Statement of Compliance.* Each certified payroll submitted must be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor, or the contractor's or subcontractor's agent who pays or supervises the payment of the persons working on the contract, and must certify the following:

(i) That the certified payroll for the payroll period contains the information required to be provided under paragraph 3.b. of this section, the appropriate information and basic records are being maintained under paragraph 3.a. of this section, and such information and records are correct and complete;

(ii) That each laborer or mechanic (including each helper and apprentice) working on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in [29 CFR part 3](#); and

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification(s) of work actually performed, as specified in the applicable wage determination incorporated into the contract.

(4) *Use of Optional Form WH-347.* The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 will satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(3) of this section.

(5) *Signature.* The signature by the contractor, subcontractor, or the contractor's or subcontractor's agent must be an original handwritten signature or a legally valid electronic signature.

(6) *Falsification.* The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under [18 U.S.C. 1001](#) and [31 U.S.C. 3729](#).

(7) *Length of certified payroll retention.* The contractor or subcontractor must preserve all certified payrolls during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

c. *Contracts, subcontracts, and related documents.* The contractor or subcontractor must maintain this contract or subcontract and related documents including, without limitation, bids, proposals, amendments, modifications, and extensions. The contractor or subcontractor must preserve these contracts, subcontracts, and related documents during the course of the work and for a period of 3 years after all the work on the prime contract is completed.

d. *Required disclosures and access* (1) *Required record disclosures and access to workers.* The contractor or subcontractor must make the records required under paragraphs 3.a. through 3.c. of this section, and any other documents that the contracting agency, the State DOT, the FHWA, or the Department of Labor deems necessary to determine compliance with the labor standards provisions of any of the applicable statutes referenced by § 5.1, available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and must permit such representatives to interview workers during working hours on the job.

(2) *Sanctions for non-compliance with records and worker access requirements.* If the contractor or subcontractor fails to submit the required records or to make them available, or refuses to permit worker interviews during working hours on the job, the Federal agency may, after written notice to the contractor, sponsor, applicant, owner, or other entity, as the case may be, that maintains such records or that employs such workers, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available, or to permit worker interviews during working hours on the job, may be grounds for debarment action pursuant to § 5.12. In addition, any contractor or other person that fails to submit the required records or make those records available to WHD within the time WHD requests that the records be produced will be precluded from introducing as evidence in an administrative proceeding under [29 CFR part 6](#) any of the required records that were not provided or made available to WHD. WHD will take into consideration a reasonable request from the contractor or person for an extension of the time for submission of records. WHD will determine the reasonableness of the request and may consider, among other things, the location of the records and the volume of production.

(3) *Required information disclosures.* Contractors and subcontractors must maintain the full Social Security number and last known address, telephone number, and email address

of each covered worker, and must provide them upon request to the contracting agency, the State DOT, the FHWA, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or other compliance action.

#### 4. Apprentices and equal employment opportunity (29 CFR 5.5)

a. *Apprentices (1) Rate of pay.* Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship (OA), or with a State Apprenticeship Agency recognized by the OA. A person who is not individually registered in the program, but who has been certified by the OA or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice, will be permitted to work at less than the predetermined rate for the work they perform in the first 90 days of probationary employment as an apprentice in such a program. In the event the OA or a State Apprenticeship Agency recognized by the OA withdraws approval of an apprenticeship program, the contractor will no longer be permitted to use apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(2) *Fringe benefits.* Apprentices must be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringe benefits must be paid in accordance with that determination.

(3) *Apprenticeship ratio.* The allowable ratio of apprentices to journeyworkers on the job site in any craft classification must not be greater than the ratio permitted to the contractor as to the entire work force under the registered program or the ratio applicable to the locality of the project pursuant to paragraph 4.a.(4) of this section. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph 4.a.(1) of this section, must be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under this section must be paid not less than the applicable wage rate on the wage determination for the work actually performed.

(4) *Reciprocity of ratios and wage rates.* Where a contractor is performing construction on a project in a locality other than the locality in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyworker's hourly rate) applicable within the locality in which the construction is being performed must be observed. If there is no applicable ratio or wage rate for the locality of the project, the ratio and wage rate specified in the contractor's registered program must be observed.

b. *Equal employment opportunity.* The use of apprentices and journeyworkers under this part must be in conformity with

the equal employment opportunity requirements of Executive Order 11246, as amended, and [29 CFR part 30](#).

c. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. 23 CFR 230.111(e)(2). The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeyworkers shall not be greater than permitted by the terms of the particular program.

**5. Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract as provided in 29 CFR 5.5.

**6. Subcontracts.** The contractor or subcontractor must insert FHWA-1273 in any subcontracts, along with the applicable wage determination(s) and such other clauses or contract modifications as the contracting agency may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses and wage determination(s) in any lower tier subcontracts. The prime contractor is responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this section. In the event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and may be subject to debarment, as appropriate. 29 CFR 5.5.

**7. Contract termination: debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**8. Compliance with Davis-Bacon and Related Act requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract as provided in 29 CFR 5.5.

**9. Disputes concerning labor standards.** As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

**10. Certification of eligibility.** a. By entering into this contract, the contractor certifies that neither it nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of [40 U.S.C. 3144\(b\)](#) or § 5.12(a).

c. The penalty for making false statements is prescribed in the U.S. Code, Title 18 Crimes and Criminal Procedure, [18 U.S.C. 1001](#).

**11. Anti-retaliation.** It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#);

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#); or

d. Informing any other person about their rights under the DBA, Related Acts, this part, or [29 CFR part 1](#) or [3](#).

## V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Pursuant to 29 CFR 5.5(b), the following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchpersons and guards.

**1. Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. 29 CFR 5.5.

**2. Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph 1. of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages and interest from the date of the underpayment. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or

mechanic, including watchpersons and guards, employed in violation of the clause set forth in paragraph 1. of this section, in the sum currently provided in 29 CFR 5.5(b)(2)\* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1. of this section.

\* \$31 as of January 15, 2023 (See 88 FR 88 FR 2210) as may be adjusted annually by the Department of Labor, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990.

### 3. Withholding for unpaid wages and liquidated damages

a. *Withholding process.* The FHWA or the contracting agency may, upon its own action, or must, upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be considered necessary to satisfy the liabilities of the prime contractor or any subcontractor for any unpaid wages; monetary relief, including interest; and liquidated damages required by the clauses set forth in this section on this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act that is held by the same prime contractor (as defined in § 5.2). The necessary funds may be withheld from the contractor under this contract, any other Federal contract with the same prime contractor, or any other federally assisted contract that is subject to the Contract Work Hours and Safety Standards Act and is held by the same prime contractor, regardless of whether the other contract was awarded or assisted by the same agency, and such funds may be used to satisfy the contractor liability for which the funds were withheld.

b. *Priority to withheld funds.* The Department has priority to funds withheld or to be withheld in accordance with Section IV paragraph 2.a. or paragraph 3.a. of this section, or both, over claims to those funds by:

- (1) A contractor's surety(ies), including without limitation performance bond sureties and payment bond sureties;
- (2) A contracting agency for its procurement costs;
- (3) A trustee(s) (either a court-appointed trustee or a U.S. trustee, or both) in bankruptcy of a contractor, or a contractor's bankruptcy estate;
- (4) A contractor's assignee(s);
- (5) A contractor's successor(s); or
- (6) A claim asserted under the Prompt Payment Act, [31 U.S.C. 3901–3907](#).

**4. Subcontracts.** The contractor or subcontractor must insert in any subcontracts the clauses set forth in paragraphs 1. through 5. of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor is responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1. through 5. In the

event of any violations of these clauses, the prime contractor and any subcontractor(s) responsible will be liable for any unpaid wages and monetary relief, including interest from the date of the underpayment or loss, due to any workers of lower-tier subcontractors, and associated liquidated damages and may be subject to debarment, as appropriate.

**5. Anti-retaliation.** It is unlawful for any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, or to cause any person to discharge, demote, intimidate, threaten, restrain, coerce, blacklist, harass, or in any other manner discriminate against, any worker or job applicant for:

a. Notifying any contractor of any conduct which the worker reasonably believes constitutes a violation of the Contract Work Hours and Safety Standards Act (CWHSSA) or its implementing regulations in this part;

b. Filing any complaint, initiating or causing to be initiated any proceeding, or otherwise asserting or seeking to assert on behalf of themselves or others any right or protection under CWHSSA or this part;

c. Cooperating in any investigation or other compliance action, or testifying in any proceeding under CWHSSA or this part; or

d. Informing any other person about their rights under CWHSSA or this part.

### VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" in paragraph 1 of Section VI refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions: (based on longstanding interpretation)

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;

- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), the contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. Pursuant to 23 CFR 635.116(c), the contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. (based on long-standing interpretation of 23 CFR 635.116).

5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

#### **VII. SAFETY: ACCIDENT PREVENTION**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR Part 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract. 23 CFR 635.108.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and

health standards (29 CFR Part 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704). 29 CFR 1926.10.

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

#### **VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR Part 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 11, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

**IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT** (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)

This provision is applicable to all Federal-aid construction contracts in excess of \$150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.327.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.327.

**X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION**

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200. 2 CFR 180.220 and 1200.220.

**1. Instructions for Certification – First Tier Participants:**

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction. 2 CFR 180.320.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default. 2 CFR 180.325.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 2 CFR 180.345 and 180.350.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900-180.1020, and 1200. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction. 2 CFR 180.330.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 180.300.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov>). 2 CFR 180.300, 180.320, and 180.325.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. 2 CFR 180.325.

\* \* \* \* \*

**2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:**

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

- (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.335;
- (2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property, 2 CFR 180.800;
- (3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification, 2 CFR 180.700 and 180.800; and
- (4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. 2 CFR 180.335(d).
- (5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and
- (6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (USDOT Order 4200.6 implementing appropriations act requirements).

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

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**3. Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders, and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200). 2 CFR 180.220 and 1200.220.

- a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which

this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances. 2 CFR 180.365.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 – 180.1020, and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated. 2 CFR 1200.220 and 1200.332.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold. 2 CFR 180.220 and 1200.220.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (<https://www.sam.gov/>), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily

excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment. 2 CFR 180.325.

\* \* \* \* \*

**4. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:**

a. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:

(1) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;

(2) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(3) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (USDOT Order 4200.6 implementing appropriations act requirements)

b. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal.

\* \* \* \* \*

**XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING**

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000. 49 CFR Part 20, App. A.

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or

cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**XII. USE OF UNITED STATES-FLAG VESSELS:**

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor agrees:

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.

2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the

## ATTACHMENT #2 - To Agreement

### FEDERAL MINIMUM WAGE RATES DETERMINATION

Reference website ~~<https://sam.gov/wage-determination/CA20240018/21>~~ for current wage rates determination.

Per Addendum No. 1 reference website: <https://sam.gov/wage-determination/CA20240018/22> for current wage rates determination.

The wage rates at time of the bid will be applicable to this project.

## Kim Shirley's Council Report for Tuesday, November 19, 2024

**Friday, October 18th- ReGen Monterey Board Meeting-** Compared to our other meetings, this month's meeting had a shorter agenda which was a nice change. After passing typical consent items, we recognized Javier Ayala for his 25 years as a level II sorter in the materials recovery facility (MRF). These recognitions are always nice and meaningful as we are truly grateful for the dedication of our employees!

Next we had two items we addressed for actions. The first was a discussion about authorizing the general manager to negotiate a reimbursement agreement with California-American Water Company (Cal Am) for staff time related to the Monterey Peninsula Water Supply Project. Basically, Cal Am's desalination plant would be located right next to ReGen and in their need to move water to Monterey One Water would require that they locate pipes across our property. With this planning, Cal Am would need to work with our employees to talk about their requests for easements and exact placement of their pipes. Such that Cal Am is a private company, we would need our public agency to be reimbursed for this cost in time and effort. After much discussion and a failed vote on the motion to move forward the recommendation that was before us, we ultimately voted to **not** have our employees take up their valuable time in discussing this project with Cal Am and to wait until the supply and demand decision comes from the California Public Utilities and Commission (CPUC). This decision is expected to come before the end of the year (it was supposed to be completed by the end of the summer, but so far, we haven't heard). Since at this time, it's very uncertain if this desalination plant will be completed, many of us felt it was not worth our employees' time taking on this additional task when their plates are already full. Once the CPUC announces their decision then we'll have a better idea regarding the direction of the project. If they give approval, then it makes sense for our employees to spend time on this project. And with that, this agenda item will likely be revisited at the beginning of next year.

The second item was a discussion around the 15-year base term compost operations and lease agreement with Keith Day Company. We've covered this topic in a few different meetings, so this was the final version which allows for two 5-year extensions and allows both parties to terminate after 10 years. The recommended motion for this item included a "subject to approval of form by district legal counsel" because we were still waiting on feedback from the city of Marina. Over the years, there have been several complaints of odors which prompted an odor study. The study did not identify one source and acknowledged that odors could be coming not only from our compost practices but also from the wastewater treatment plant (M1W) as well as the surrounding agricultural fields when they're spreading compost and fertilizers. ReGen has taken these complaints very seriously and has shared with Marina that within the next year or two we will be moving to a covered aerated static pile system which cuts down on odors. Regardless, given these

worries, ReGen reached out to Marina regarding this contract and presented it to their council. At this time, we were still waiting for their counsel to reply to the contract, so our approval of this contract was essentially waiting for Marina's response so we can move forward. The Marina City Manager was at our meeting and shared his appreciation for this cooperation. I'm not expecting to see this again and once the lawyers talk about any small additional details, then I'm sure it will move forward. Update: I signed the final contract on Friday, Nov. 8th after a couple of minor edits from Marina.

After a few additional reports, the last item of consequence was appointing an Ad Hoc Nomination Committee which would consider the board chair and vice chair appointments for next year. I solicited volunteers for this task and Supervisor Wendy Root Askew volunteered. And after some arm twisting, Mayor Bill Peake joined the committee.

**Saturday, October 19th- Repair Cafe-** Kevin and I stopped by this super cool event which was being run by a friend of ours who shared this idea with me last year. These "Repair Cafes" have been run in other cities and she wanted to bring this concept to the Monterey Peninsula. The idea is that people bring items that need fixing and then it prevents these items from ending up in the landfill. I was happy she chose Old Town Hall for this event and I'm grateful that she had sponsors such as the city (thanks for Old Town Hall!) as well as ReGen Monterey who advertised the event. She had all kinds of volunteers who were fixing bikes, small appliances, and helping with clothing items (Kevin had several shirts brought back to life with new buttons!). It wasn't super busy but they seemed to have a steady stream of people. I look forward to hearing her stats on items fixed when she has some time to total it all up. I hope she's able to run more of these in the future.

**Tuesday, October 22nd- City Council Meeting-** If you missed this council meeting then you missed the warm and always generous hospitality of Vice Mayor John Uy! We began this meeting with three proclamations. The first was recognizing October as breast cancer awareness month. The second and third were recognizing LGBTQ+ history month as well as Filipino-American History month. After our Mayor read the first, then Vice Mayor Uy read the remaining two which are both very meaningful for him. After the readings, we broke to eat Filipino food which was a real treat! Big thanks to Vice Mayor Uy and his family for always bringing the party and providing such heartfelt messages for all of us. It's always appreciated!

Once we came back into session, we passed the consent agenda and then passed two items. The first was an approval for our city manager to execute a maintenance agreement for FORTAG with Caltrans. This agreement covers the areas of the trail which are on the Canyon Del Rey (Hwy 218) right of way. The second item we discussed was an amendment to the contract with Julian Treecare for their work clearing the areas along Del Rey Park and Work Memorial Park for fire prevention by reducing potential brush that can easily become fuel for fires. Their original bid did not use up the entirety of our CalFire grant, so we were able to go back and with this amendment, authorize the rest of the grant

to do even more clearing. I'm grateful for this work and the effort our staff has put into this project as it truly will protect our city from a potential fire that could have devastating impacts.

The last item on our agenda was informational and was an opportunity for city manager Guertin to tell us once again how Ron Fucci is looking out for Del Rey Oaks. Knowing that PG&E had a bunch of trees that they were willing to give away (this offsets all of the trees they've been cutting down near wires), Ron took advantage of this and was able to get about 75 trees donated to DRO! It will take some time to figure out where exactly they'll go, but we're excited to have all of these trees beautify our city.

**Monday, October 28th- Monterey One Water Meeting-** We had two main action items for this meeting which were both approved. Ironically, they had nothing to do about water and were all about M1W's ability to produce biogas which can then be turned into renewable natural gas (RNG) and sold back to PG&E in the pipelines or can be turned into electricity. Regardless of what they do with their biogas, they're looking to get up and running at the start of next year, so these items will support that effort.

The first item was a contract with a company that will provide food waste in addition to personnel that will help M1W utilize their anaerobic digesters. I know there's some irony in M1W shipping in food waste when ReGen is next door, but we were not able to provide M1W with the amount of food waste that they needed, processed in a manner that can be utilized in the digesters. Their digesters were largely funded with a Calrecycle grant which required a certain amount of food waste to be used in the digesters, satisfying SB 1383 (organic waste composting legislation). It's predicted that after 18 months, the tipping fees M1W will receive for accepting this waste will exceed the total cost of the services, so it was easily accepted by the board.

The second item was a contract for professional engineering services which will help M1W design their "Digester Gas Handling and Heating Improvements." With the increased production of biogas, they'll need to be ready for processing that biogas in the most economic way possible. This contract will provide a plan and the more detailed work needed to set up the system. This was also easily approved.

**Wednesday, October 30th- Joint Planning Commission and City Council Meeting-**

This meeting was to review the latest edits for our 6th cycle Housing Element that was adopted in December. We're still looking for final approval from the State Housing and Community Development (HCD), so this was an effort to look at what's been added to the document since HCD gave their initial feedback (with some additional feedback sessions in between). I was grateful that Denise Duffy posted the document on our website about 2 weeks in advance and then gave all of the council members and planning commissioners opportunities to talk with her about their questions during "office hours." After I reviewed the document, I took advantage of that opportunity and spent about an hour talking with

Denise and Troy (Denise's associate who has done much of the work on the document). Having this time to review was helpful for me to ask questions and get a better understanding of the document.

Overall, the meeting went very well with Denise providing a thorough overview of the new and edited programs that were detailed in the document. We all had an opportunity to ask additional questions and the public was also given a chance to provide feedback. This version of the document is currently at HCD for an informal review, so we should be hearing back in the next 30-60 days for their additional edits. I look forward to continuing the necessary work on this document so we can be compliant with the state. Although it's a huge document that seems like overreach from the state, I do appreciate the effort to create more affordable housing and I look forward to DRO utilizing all of the programs to increase housing for our community.

**Sunday, November 3rd- Airport Meeting with Residents-** When I canvassed this season, many of the comments I received were complaints about the airport. In general, people feel like the noise has greatly increased with the increase in flights and noise guidelines are not being followed (more early and late planes and pattern flying that doesn't follow the established rules). To let people know they weren't alone in their individual comments, I decided to bring them together at a Rosita resident's backyard that backs up to the airport. I also invited Monterey residents from the Monterey Fly Safe Coalition and Airport Board Candidates Uwe Grobecker and Jonathan Ahamdi. Although everyone has a slightly different experience based on where they live, I listened to stories about the increase in noise (I was actually quite surprised at the level of noise we experienced just during the meeting), flight paths over homes, concerns with a lack of communication regarding maintenance of the airport's open space next to the homes on Rosita, the number of repeat touch and goes by the flight school, concern over black dust that they repeatedly see on their window sills, and concern with the clean up of PFAS that was discovered a couple of years ago. In general, there is a level of stress that people are feeling living so close to the airport that is affecting their mental health. What concerns them (and me) is that the airport doesn't seem to value including regular communication to start addressing these concerns. In the end, everyone appreciated the meeting and showed a lot of interest in continuing to meet to see if they can do anything to help elicit some changes. I know it will take a large movement, along with time and coordinated efforts to make some inroads, and I'm happy to provide opportunities to get us working together towards a happier coexistence with the airport.

**Monday, November 4th- MST Board Administrative Performance Committee-** MST's ridership continues to grow each month. The State legislative update shared that our goals for 2025 will largely be the same as this year. The legislators will be back on Dec. 2nd where we'll have over 30 new members, but there are no changes to our delegation. In terms of the Federal update, it was noted that the lame duck session begins Nov. 12th and

they'll be working to keep the government running. There are some proposals for reductions in multimodal transit and rail, so we'll see where that lands.

We also talked about the contactless payment system at MST. It continues to grow. When seniors and veterans register their cards they will automatically get their discounts when they use the contactless payment system. Riders will be able to use their Discover and Diners Club cards, too. The contactless system will also be added to the Rides and paratransit system, as well. They will also be adding "family" or "multi-fare" abilities (having one person tap for multiple people). They're also looking into student fare validation and allowing users to pay with their American Express cards.

**Monday November 4th- MST Board Meeting-** Please see the MST Board Highlights in our agenda packet.

**Wednesday, November 6th- ReGen Monterey Finance Committee Meeting-** The first item we discussed was an update on the LoCi pilot program on our gas wells. Basically, LoCi is a remote system that sits on top of the wellhead which allows remote data collection and adjustments on a more frequent basis (usually a person has to walk out to each wellhead to make the change). This more frequent adjustment has allowed us to increase our gas production and receive higher quality gas which is what we'll need if we start using it to produce renewable natural gas. This system also helps us to reduce our overall emissions. Since this is a pilot program, we'll need to look to see how we can build it out for our entire system. I'm sure we'll be seeing this at the board level soon.

Next we had a discussion about our CalPERS unfunded actuarial pension liabilities. This is a debt that increases every year and so our conversation was geared towards looking at the various ways we could approach this issue to help us lower interest and costs that accrue every year, beyond just making our minimal payment, which we have already been doing every year. With the recommendation from the staff, we agreed that making an additional payment in January of \$500,000 would help us reduce our ever ballooning costs down to a reasonable amount within the next 10 to 15 years. I was happy to have this conversation and I think it's an interesting one to have with the city, too. This will be coming back to our board for further discussion.

The last items were addressing the purchase of various heavy machinery to replace older versions. Every purchase that's made gets us closer to meeting the low emissions rule for all of our equipment. I truly appreciate our efforts in this area.

**Wednesday, November 6th- Seaside Groundwater Basin Watermaster Meeting-** We began this meeting with two presentations from our neighboring groundwater sustainability agencies (GSAs). The first was a presentation from the Salinas Valley GSA and the second was from Marina Coast Water GSA. It's so interesting because Marina has a lot of projects going on and the Salinas Valley is working hard at figuring out their next steps to

take care of seawater intrusion. These presentations are important since our basins are connected in various ways and how we approach the problem of seawater intrusion can affect all of our basins.

We approved many budget items during this meeting, which had all received prior review from the budget committee. We also approved the declaration of the 2025 water year and that there is no replenishment water available—only what is currently available plus any additional carry-over. Our largest discussion for the meeting was about the amount of replenishment water we would need for seawater intrusion protection for the basin. The less conservative approach shows that we'd need 1,000 Acre Feet/year for 10 years (in other words, putting in that amount and leaving it in the basin). The more conservative approach which takes into account the possibility for multi-year droughts, requires 3,600 Acre Feet/Year for the next 10 years to achieve protection. In the end, we moved that we should use the 36,000 AF in 10 years as a target for planning for protective levels in the basin. We're not sure where this water will come from but it's good to know what we need to shoot for.

**Friday, November 8th- M1W Budget/Personnel Committee-** During today's meeting we recommended approval of the MOU for the agreement with the City of Monterey for their wastewater charges which will now be billed through the county property tax bill. We also recommended approval for some wording that needed to be changed for several of the employee groups that dealt with educational incentive pay. These changes were brought about because CalPERS did an audit of several agencies and found that many were out of compliance. Moving forward, all of the current resolutions now have the correct language.

## Council Report from Vice Mayor John Uy November 19, 2024

### I. Council Report: Regular Meeting of the DRO City Council on October 22, 2024

I had the distinct honor of participating in our City Council meeting on October 22, 2024, a night filled with pride, gratitude, and commitment to our community's shared values. I'm deeply thankful to our Mayor, fellow council members, and each of you for making these moments possible.

As we opened our session, I had the privilege of reading two proclamations that resonate deeply with me and, I hope, with all of you. We declared October as both LGBTQ+ History Month and Filipino-American History Month in Del Rey Oaks. Each proclamation stands as a tribute to resilience, love, and the vibrant diversity that strengthens our city. We celebrated the immense contributions and stories of our LGBTQ+ and Filipino-American communities—stories that show the unbreakable power of love, unity, and pride.

**LGBTQ+ History Month:** This month recognizes the long and courageous journey toward equality and acceptance for the LGBTQ+ community. Our city reaffirms its commitment to inclusivity and respect for all, regardless of sexual orientation, gender identity, or gender expression. We acknowledge the many pioneers who have contributed to advancing equality and creating safe, welcoming spaces for LGBTQ+ individuals.

**Filipino-American History Month:** The Filipino-American community holds a unique place in our city's heritage, with roots stretching back to the earliest Filipino settlers in California. This month commemorates the vibrant culture, enduring spirit, and countless contributions of Filipino-Americans to our social, economic, and cultural life. We honor the sacrifices and successes of Filipino-Americans, particularly those in our own community, and reaffirm our commitment to celebrating our city's diverse cultural heritage.





*Photo caption: Celebrating Filipino-American History Month with a taste of tradition! I was honored to bring Filipino favorites—crispy lumpia and savory pancit—to our City Council meeting. It's a joy to share these dishes with everyone, honoring the rich heritage and contributions of Filipino-Americans to our community. Mabuhay!*

In New Business, we reviewed the **Project Specific Maintenance Agreement (PSMA) with Caltrans for the Fort Ord Recreation Trail and Greenway (FORTAG)**. This project aligns with our goals to expand public access to nature and enhance recreational spaces for residents and visitors alike. The discussion covered several key aspects to ensure that FORTAG will be a long-lasting and sustainable asset to our community.

**Long-Term Maintenance Costs:** A central point of discussion was the financial impact on the city's Public Works operations. I inquired about anticipated maintenance expenses over the next decade, assessing how to incorporate these costs into future budgets without compromising other essential city services.

**Funding Opportunities:** Exploring additional funding sources is essential for a project of this magnitude. I expressed interest in pursuing state and federal grants, as well as potential private

partnerships, to help offset the financial impact of maintaining FORTAG. This proactive approach could help secure the trail’s long-term success.

In the future, as we progress with this project, **the following should be considered and put in mind:**

**Sustainability Measures:** Recognizing the importance of environmental stewardship, we should explore the possibility of integrating sustainable practices within the FORTAG maintenance plan. Suggestions can include using drought-resistant plants and solar-powered lighting, which could mitigate future maintenance costs while aligning with our city’s commitment to environmental responsibility.

**Public Use and Safety:** Safety remains a primary concern, particularly at undercrossing areas where visibility and accessibility are crucial. We should discuss the implementation of regular safety audits and potentially establishing community feedback mechanisms to address public concerns promptly.

**Community Involvement:** FORTAG presents a unique opportunity for community engagement. The Council can propose partnerships with local organizations and volunteer groups for trail maintenance and beautification efforts. By fostering a sense of ownership, we hope to encourage residents to take pride in this public space.

**Impact on Local Traffic:** Given the potential increase in foot and bicycle traffic, the Council should review possible impacts on local roads and parking near the trail’s entry points along Highway 218. Ensuring smooth traffic flow and implementing safety measures for both residents and visitors will be key considerations as the project progresses.

**Coordination with Caltrans:** While Del Rey Oaks will handle the majority of trail maintenance, Caltrans retains responsibility for certain infrastructure aspects. The Council should discuss establishing clear communication protocols between our Public Works Department and Caltrans to address any urgent issues swiftly.

## **II. Council Report: Joint Planning Commission and City Council Special Meeting – October 30, 2024**

On this day, the City Council and Planning Commission received a presentation on the Revised 6th Cycle Housing Element based upon comments from the State Housing and Community Development Department (HCD) and discussed changes to the Adopted 6th Cycle Housing Element.

I want to start by acknowledging the tremendous work that has gone into these revisions to the 6th Cycle Housing Element. I’m deeply grateful to our planning consultant, Denise Duffy and Associates, and to our city hall staff for their dedication, thoughtfulness, and hours of work in

refining this element to ensure it meets the needs of our community. This document is a testament to their dedication to making Del Rey Oaks an inclusive, safe, and forward-looking city. Thank you for all you have done and continue to do.

As I look again at our 6th cycle housing element and examine these revisions, I'm struck by how much progress has been made in areas that truly matter to our residents and our community. I'll start by highlighting some of the positive changes, which I think really bring us closer to creating a balanced, inclusive housing strategy.

**First**, the enhanced focus on affordable housing is something I believe we can all support wholeheartedly. The inclusionary housing policies that require a 20% affordability commitment in new developments demonstrate a genuine commitment to maintaining affordability in our city. For many residents, affordable housing means staying close to family, keeping jobs within reach, and preserving the fabric of our community. By adding density bonuses and streamlining processes for developers who build affordable units, we're encouraging the kind of development that serves everyone, not just a select few.

**Second**, I appreciate the attention given to special needs and vulnerable groups. This revision addresses groups who often face the biggest housing barriers: the seniors, individuals with disabilities, large families, and our homeless population. Programs like home-sharing and the ADU incentives are creative solutions that allow us to meet these needs in ways that are both financially and socially sustainable. I believe these initiatives can really foster a sense of community and stability for those who need it most, and I'm grateful that we're moving forward with a mindset of compassion and inclusion.

**Third**, the efforts to streamline permitting and incentivize ADU development are commendable. Accessory Dwelling Units are a practical solution for our residents who want to contribute to the city's housing needs while enhancing their own properties. Offering fee waivers, streamlined permitting, and even grants make ADUs a viable option for more residents, helping us meet housing needs in an affordable, flexible way that preserves our neighborhoods' character. Thank you for making this process easier and more attractive for our residents.

**Fourth**, I'm encouraged by the addition of Environmental Justice and Safety Elements. These changes reflect a forward-looking commitment to protecting our residents from environmental and safety risks, such as flood and fire hazards. Addressing these issues head-on is essential as we prepare for future growth, ensuring that new developments don't just add housing but contribute to a safer, healthier community for all.

That said, as with any plan of this scope, there are a few areas where we, as residents, may want to look a little closer and make sure we're setting ourselves up for sustainable success.

**One key area of concern** is, of course, water supply. Water is a critical resource, and I know we're all keenly aware of how essential it is to make sure we have a reliable water source to support this growth. Delays in securing water could slow down new housing development and

especially impact our affordable housing goals. I'd encourage us to keep an open line with water authorities to prioritize water availability and explore alternative water solutions if needed. It's important that we keep these plans on track without compromising resources for our residents.

**Another point to consider** is the new mixed-use zoning, especially in terms of increased density. While mixed-use zones and higher-density developments are valuable for meeting housing goals, they may also bring challenges, such as increased traffic, added pressure on infrastructure, and potential changes to our community's character. These projects offer great promise, but they also call for careful oversight. We want to balance density with the infrastructure and resources needed to support it, and I look forward to continuing discussions to ensure this balance is well maintained.

**A third concern** is the reliance on external funding for several affordable housing programs. While grants and external resources are essential, there's a risk of some programs falling short if funding doesn't materialize. This could affect the availability of affordable units and the timeline of our goals. I think it's wise to explore contingency strategies and perhaps build some flexibility into the budget to help keep these initiatives moving forward.

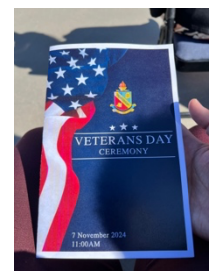
**Finally**, the reduced parking requirements for higher-density projects are worth considering carefully. Reducing parking helps make developments more affordable and environmentally friendly, but we want to make sure we don't inadvertently create parking issues in the surrounding neighborhoods. Residents in high-density areas already face parking challenges, and it would be beneficial to monitor these changes and make adjustments as necessary.

Overall, I am proud of the direction we are moving in and believe that, with the thoughtful oversight of this council and the planning commission, we can ensure these plans benefit all our residents. This housing element takes significant steps toward addressing our housing needs with a fair, practical, and inclusive approach, and I'm deeply grateful to our planning consultant and staff for leading us on this path.

Thank you again for your hard work, your collaboration with HCD, and your commitment to our community. Together, I believe we are building a brighter, more inclusive future for Del Rey Oaks.

### **III. Council Report: Representing Del Rey Oaks in the Veteran's Day Ceremony at the Defense Language Institute Foreign Language Center - November 7, 2024**

As your Vice Mayor, it was my distinct honor to represent our city at a profoundly moving Veteran's Day ceremony held at the Defense Language Institute Foreign Language Center on November 7, 2024. This event was a heartfelt tribute to the veterans whose dedication and



sacrifices have helped protect our freedoms, enrich our communities, and inspire us with their selfless service.



Gathered among elected officials from across the Monterey Peninsula, local leaders, and a community of veterans, I was reminded of the strength that unity brings. It was both humbling and inspiring to meet with so many veterans whose stories of resilience and bravery span generations and conflicts. These heroes have served not only in battle but as beacons of hope and honor, carrying forward the values we hold so dear.



The ceremony at the Defense Language Institute was beautifully conducted, with moments of solemn reflection and gratitude for those who have served and continue to serve. As we stood together in solidarity, I felt a deep sense of pride for our Monterey Peninsula, a community that understands the importance of honoring those who put everything on the line for our nation.

Through this ceremony, I left with a renewed commitment to support our veterans, who deserve our unwavering respect and recognition, not just on this day but every day. On behalf of Del Rey Oaks, I extend my heartfelt thanks to each veteran and their families for their sacrifice and their enduring contributions to the fabric of our nation. Let us honor them by working together to build a community worthy of their courage and legacy.



**IV. Message of Vice Mayor John Uy on Veteran’s Day – November 11, 2024**

Today, as we pause to honor the courage and commitment of our veterans, I am filled with immense pride and gratitude for the heroes among us who have defended the freedoms we cherish. Veteran’s Day is a time to remember that our peaceful, everyday lives have been made possible by the sacrifices of those who stepped forward, raised their hands, and answered the call to serve.

To each veteran, from every branch and every generation, we thank you. Your service is a testament to the resilience and strength of our nation. You have carried forward the ideals of liberty, justice, and unity, often at great personal cost. The values you’ve defended are woven into the fabric of our community, reminding us all of what it means to serve something greater than ourselves.

On behalf of Del Rey Oaks, I want to express our deepest gratitude not only to our veterans but also to the families who stand by them. Your support, sacrifice, and steadfast commitment are a vital part of this legacy of service.

Let us honor our veterans not just today, but every day, by upholding the principles they’ve fought to protect. May we strive to be worthy of their courage and work together to build a community that reflects the spirit of service, unity, and freedom.



**V. Council Report: Regular Meeting of the Seaside County Sanitation District (SCSD) Board of Directors – November 12, 2024**



I am pleased to provide you with an update on our recent **Seaside County Sanitation District (SCSD) board meeting** held on November 12, 2024. *As 1<sup>st</sup> Vice-Chair and your representative on the SCSD board, I am committed to ensuring that our voices are heard and that decisions made reflect the best interests of Del Rey Oaks and our shared community values.*

At the meeting, we addressed several significant items, including two that directly involve potential changes to the SCSD’s policies and voting structure. Here’s a closer look at these agenda items and what they mean for us.

**1. Proposed Amendments to the SCSD Code (Item 6.A)**

The board reviewed a proposal to make specific changes to Titles 1, 4, and 5 of the SCSD code. These changes could impact how the district enforces certain regulations, assesses fees, and manages appeals processes. However, the information presented was minimal, without detailed background, rationale, or impact analysis to help us understand the necessity and potential effects of these changes. Given that modifying our code is a serious matter, I fought and asserted that more substantial information was needed. The Board has sent the item back to SCSD staff, requesting a thorough report with a complete analysis and context before it returns to the board. This decision ensures we can consider these changes carefully and transparently, with clear insights to share with our communities.

**2. Seaside’s Proposal for Weighted Voting (Item 6.B)**

Another significant item was a proposal from the City of Seaside to adopt a weighted voting system in SCSD, which would give the City of Seaside more influence over board decisions based on their population. As your representative, I am particularly mindful of how such a change could impact Del Rey Oaks, whose representation could be diminished if voting power is determined by population size.

To responsibly consider such a proposal, I voted to postpone any action on this item until after March 2025, allowing SCSD staff ample time to develop a comprehensive report. We specifically requested an analysis that includes the potential benefits and drawbacks of weighted voting, as well as how it could affect regional cooperation and fairness across all member cities. While the City of Seaside has expressed strong interest in this change, we believe it is crucial to approach it with a complete understanding of its implications and to ensure our residents’ voices are represented fairly.

## Engagement and Transparency

I want to emphasize that the board's decisions reflect a commitment to keeping all constituents informed and involved. We are asking SCSD staff to engage more openly with all member cities and provide us with robust information so that we can make well-informed decisions. Our priority is to uphold transparency and fairness in SCSD operations, ensuring that each city's unique needs and contributions are respected.

## Next Steps

Moving forward, we anticipate receiving more detailed reports on these items, which will allow us to conduct a careful review and engage with our residents on any significant changes. I will continue to advocate for transparency and equitable representation on behalf of Del Rey Oaks.

## VI. Council Report: AMBAG Board of Directors Meeting – November 13, 2024

It is an honor to share with you the meaningful work happening at the Association of Monterey Bay Area Governments (AMBAG) as we envision and plan a sustainable, resilient future for our region. On November 13, 2024, the AMBAG Board came together with hearts and minds focused on long-term growth, transportation, environmental sustainability, and community well-being.



During the meeting, we delved into plans for the future of our region through the ambitious **2050 Metropolitan Transportation Plan/Sustainable Communities Strategy (MTP/SCS)**. This plan will play a vital role in shaping the future of transportation, housing, and sustainability across our communities, focusing on creating a connected, resilient, and equitable region.

At its heart, the 2050 MTP/SCS is a bold, forward-looking roadmap that aims to address the pressing needs of today while anticipating the challenges and opportunities of tomorrow. This plan is not just about managing growth but about thoughtfully aligning it with environmental stewardship and social equity. Our goals are to reduce traffic congestion, improve air quality, promote more efficient land use, and make our communities safer and more accessible for everyone.

Here are some key aspects of the MTP/SCS that are particularly exciting:

**Integrated Transportation Networks:** The plan prioritizes the development of a sustainable transportation network that includes expanding public transit options, enhancing pedestrian

and bike-friendly routes, and supporting the transition to electric vehicles. By doing so, we aim to reduce greenhouse gas emissions while making it easier and safer for residents to get around, whether they're commuting to work, running errands, or enjoying our beautiful region.

**Smart Growth and Housing:** As our communities grow, the MTP/SCS emphasizes housing development that is close to transit hubs, employment centers, and essential services. This approach, known as "smart growth," helps reduce long commutes, preserve open spaces, and ensures that housing remains affordable and accessible for all income levels. Del Rey Oaks and surrounding areas stand to benefit greatly as we pursue balanced development that respects our landscapes and minimizes environmental impact.

**Climate Resilience and Sustainability:** Preparing for climate change is central to the MTP/SCS. The strategy includes plans to protect infrastructure from the impacts of climate change, such as sea-level rise and extreme weather. We are also committed to ensuring that transportation options are not only sustainable but resilient, so our infrastructure can adapt to future conditions.

**Public Engagement and Local Collaboration:** Developing a plan this comprehensive requires collaboration, and AMBAG is dedicated to involving local communities throughout the process. By gathering input from residents, local leaders, and stakeholders, we're ensuring that the MTP/SCS reflects the diverse needs and values of each community. This collaborative spirit strengthens the plan and reinforces our commitment to inclusive, responsive governance.

The 2050 MTP/SCS is about building a future where transportation and land use meet the needs of our environment, economy, and residents. I am inspired to see AMBAG leading this transformative effort and am honored to represent Del Rey Oaks in these conversations. As this plan takes shape, I look forward to updating you on our progress and inviting you to be a part of this exciting journey toward a sustainable, vibrant Monterey Bay Area.

Thank you for your trust and support in making Del Rey Oaks a forward-thinking and resilient community.

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**MST HIGHLIGHTS**  
**Board of Directors Meeting**  
**November 4, 2024**

**RECOGNIZED NOVEMBER EMPLOYEE OF THE MONTH**

The MST Board adopted Resolution 2025-07 recognizing Natalie Flores, Associate Planner, as the November 2024 Employee of the Month for her outstanding contribution to MST and to the entire community.

**RESOLUTION OF APPRECIATION**

The MST Board adopted Resolution 2025-08 in appreciation of the Honorable California State Senator Anna Caballero for her support of Monterey-Salinas Transit District.

**BLACK OAK CLEANING SERVICES CONTRACT**

The MST Board authorized the General Manager/CEO or their designee to enter into a three (3) year contract with Black Oak Cleaning Services, with the option to extend for three (3) additional one (1) year periods for \$64,580/year for the initial three (3) year term, and \$66,480/year for the option years, with a total contract value not to exceed \$393,180

**BUS STOP REMOVAL POLICY**

The MST Board approved the Bus Stop Removal Policy.

**APPROVED GENERAL MANAGER/CEO PERFORMANCE INCENTIVE**

The MST Board approved a 5% Incentive Pay for the General Manager/CEO.

**NEXT MST BOARD MEETING**

The next regular MST Board meeting is scheduled for December 9, 2024.