



CITY COUNCIL Agenda

Council Chamber
1200 Carlsbad Village Drive
Carlsbad, CA 92008

Aug. 25, 2020, 3 p.m.

Welcome to Your City Council Meeting

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

How to watch



City cable channel

Charter Spectrum channel 24
AT&T U-verse channel 99.



City website

carlsbadca.gov/news/cityty.asp

Virtual meeting format

- Per California Executive Order N-29-20, and in the interest of public health and safety, we are temporarily taking actions to prevent and mitigate the effects of the COVID-19 pandemic by holding City Council and other public meetings online only.
- All public meetings will comply with public noticing requirements in the Brown Act and will be made accessible electronically to all members of the public seeking to observe and address the City Council.

How to participate

- **By phone:** Sign up at <https://www.carlsbadca.gov/cityhall/clerk/meetings/default.asp> by 2 p.m. the day of the meeting to provide comments live by phone. You will receive a confirmation email with instructions about how to call in.
- **In writing:** Email comments to clerk@carlsbadca.gov. Comments received by 2 p.m. the day of the meeting will be shared with the City Council prior to the meeting. When e-mailing comments, please identify in the subject line the agenda item to which your comments relate. All comments received will be included as part of the official record. **Written comments will not be read out loud.**
- These procedures shall remain in place during the period in which state or local health officials have imposed or recommended social distancing measures.

Reasonable accommodations

Persons with a disability may request an agenda packet in appropriate alternative formats as require by the Americans with Disabilities Act of 1990. Reasonable accommodations and auxiliary aids will be provided to effectively allow participation in the meeting. Please contact the City Manager's Office at 760-434-2821 (voice), 711 (free relay service for TTY users), 760-720-9461 (fax) or manager@carlsbadca.gov by noon on the Monday before the meeting to make arrangements.

IN THE EVENT A QUORUM OF THE CITY COUNCIL LOSES ELECTRICAL POWER OR SUFFERS AN INTERNET CONNECTION OUTAGE THAT IS NOT CORRECTED WITHIN 15 MINUTES, THE MEETING WILL AUTOMATICALLY BE ADJOURNED. ANY ITEMS NOTICED AS PUBLIC HEARINGS WILL BE CONTINUED TO THE NEXT REGULARLY SCHEDULED MEETING OF THE CITY COUNCIL. ANY OTHER AGENDA ITEMS THE COUNCIL HAS NOT TAKEN ACTION ON WILL BE PLACED ON A FUTURE AGENDA.

More information about City Council meeting procedures can be found at the end of this agenda and in the Carlsbad Municipal Code chapter 1.20. PLEASE NOTE: AS A RESULT OF THE WAIVERS IN EXECUTIVE ORDER N-29-20, THE BROWN ACT PERMITS FULL PARTICIPATION BY OFFICIALS IN MEETINGS THROUGH VIDEO OR AUDIO TELECONFERENCE.

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

CALL TO ORDER:

ROLL CALL:

ANNOUNCEMENT OF CONCURRENT MEETINGS: None.

INVOCATION:

PLEDGE OF ALLEGIANCE:

APPROVAL OF MINUTES:

Minutes of the Special Meeting held Aug. 18, 2020

PRESENTATIONS:

State of the City Video Presentation & City Council Comments

PUBLIC REPORT OF ANY ACTION TAKEN IN CLOSED SESSION:

PUBLIC COMMENT: *In conformance with the Brown Act and California Executive Order No. N-29-20, a total of 15 minutes is provided so members of the public participate in the meeting by submitting comments as provided on the front page of this agenda. The City Council will receive comments as requested up to a total of 15 minutes. All other comments will trail until the end of the meeting. In conformance with the Brown Act, no Council action can occur on these items.*

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

WAIVER OF ORDINANCE TEXT READING:

This is a motion to waive the reading of the text of all ordinances and resolutions at this meeting.

1. **ADVERTISE FOR BIDS FOR THE CARLSBAD CITY LIBRARY PARKING LOT RENOVATION, CIP PROJECT NO. 4744** – Adoption of a resolution approving the plans and specifications and authorizing the city clerk to advertise for bids for the Carlsbad City Library Parking Lot Renovation, Capital Improvement Program Project No. 4744. (Staff contact: Steven Stewart, Public Works and Suzanne Smithson, Library and Cultural Arts)
2. **AGREEMENT WITH URBAN CORPS OF SAN DIEGO FOR CITYWIDE PRESSURE-WASHING SERVICES** – Adoption of a resolution approving a professional services agreement with Urban Corps of San Diego County for citywide pressure-washing maintenance services in an amount not to exceed \$213,970 for the first two years of the agreement. (Staff contact: Michael O'Brien, Public Works)
3. **ADVERTISE FOR BIDS FOR THE FISCAL YEAR 2020-21 PAVEMENT OVERLAY, CIP PROJECT NO. 6001-200L** – Adoption of a resolution approving the plans and specifications and authorizing the city clerk to advertise for bids for the fiscal year 2020-21 Pavement Overlay, CIP Project No. 6001-200L. (Staff contact: Emad Elias, Public Works)

4. ACQUISITION OF 2649 HANCOCK CIRCLE – Adoption of a resolution authorizing the deputy city manager, administrative services to appropriate \$250,000 from the Community Development Block Grant Special Revenue Fund and authorizing the city manager to execute all required documents to complete the acquisition of 2649 Hancock Circle, Carlsbad, California, an affordable housing resale unit, expending Community Development Block Grant funds in the amount of up to \$250,000. (Staff contact: David de Cordova, Community Development)

ORDINANCES FOR INTRODUCTION:

5. WAIVER OF ADJUSTMENTS TO CITY COUNCIL COMPENSATION FOR 2019 AND 2020 – Introduction of an ordinance permanently waiving City Council compensation adjustments for 2019 and 2020. (Staff contact: Cindie K. McMahan, City Attorney’s Department)

City Manager’s Recommendation: Introduce the ordinance.

ORDINANCES FOR ADOPTION: None.

PUBLIC HEARINGS:

6. CARLSBAD TOURISM BUSINESS IMPROVEMENT DISTRICT 2020-21 ANNUAL REPORT ASSESSMENT RATE MODIFICATION – 1) Adoption of a resolution approving the modified annual report of the Carlsbad Tourism Business Improvement District (CTBID) and continuing the CTBID programs and assessments for fiscal year 2020-21; and
2) Introduce an ordinance amending Carlsbad Municipal Code Section 3.37.050 to modify the assessment for the Carlsbad Tourism Business Improvement District. (Staff Contact: Cheryl Gerhardt, Administrative Services Department)

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

DEPARTMENTAL AND CITY MANAGER REPORTS:

7. THE CROSSINGS AT CARLSBAD GOLF COURSE AUDIT AND UPDATE – Receive a presentation on the results of the internal audit of The Crossings at Carlsbad and an update on audit activities. (Staff contact: Laura Rocha and Brigid Okyere, Administrative Services)

City Manager’s Recommendation: Receive the presentation.

COUNCIL COMMENTARY AND REQUESTS FOR CONSIDERATION OF MATTERS:

City Council Regional Assignments (Revised 4/7/20)

Matt Hall Mayor	North County Mayors and Managers City/School Committee Chamber of Commerce Liaison (primary) Clean Energy Alliance JPA (alternate) San Diego County Water Authority San Diego Regional Economic Development Corporation Board of Directors
Keith Blackburn Mayor Pro Tem	Buena Vista Lagoon JPC Encina Wastewater Authority/JAC Board of Directors North County Dispatch Joint Powers Authority Chamber of Commerce Liaison (alternate) SANDAG (1 st alternate) North County Transit District (alternate)

Priya Bhat-Patel
Council Member – District 3 SANDAG (2nd alternate)
North County Transit District (primary)
City/School Committee
League of California Cities – SD Division
Encina Wastewater Authority/JAC Board of Directors (alternate)

Cori Schumacher
Council Member – District 1 SANDAG (primary)
Buena Vista Lagoon JPC
Clean Energy Alliance JPA (primary)
Encina Wastewater Authority/JAC Board of Directors
North County Dispatch Joint Powers Authority (alternate)

Vacant – At-Large
Council Member

PUBLIC COMMENT: Continuation of the Public Comments

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

ANNOUNCEMENTS:

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

CITY MANAGER COMMENTS:

CITY ATTORNEY COMMENTS:

ADJOURNMENT:

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

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

Written Materials

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

Visual Materials

Visual materials, such as pictures, charts, maps or slides, are allowed for comments on agenda items, not general public comment. Please contact the City Manager's Office at 760-434-2820 or manager@carlsbadca.gov to make arrangements in advance. All materials must be received by the City Manager's Office no later than noon the day before the meeting. The time spent presenting visual materials is included in the maximum time limit provided to speakers. All materials exhibited to the City Council during the meeting are part of the public record. **Please note that video presentations are not allowed.**

Decorum

All participants are expected to conduct themselves with mutual respect. Loud, boisterous and unruly behavior can interfere with the ability of the City Council to conduct the people's business. That's why it is illegal to disrupt a City

Council meeting. Following a warning from the presiding officer, those engaging in disruptive behavior are subject to law enforcement action.

City Council Agenda

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

Presentations

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

Consent Items

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

Public Comment

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

Public Hearing

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

Departmental Reports

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

Other Reports

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

City Council Actions

Resolution

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

Ordinance

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

Motion

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



Minutes

Aug. 18, 2020, 2 p.m.

Council Chamber
1200 Carlsbad Village Drive
Carlsbad, CA 92008

CALL TO ORDER: 2 p.m.

ROLL CALL: Hall, Blackburn, Bhat-Patel, Schumacher.

PUBLIC COMMENT ON AGENDA ITEM: None.

CLOSED SESSION:

City Attorney Celia Brewer read the City Council into Closed Session.

Council adjourned into Closed Session at 2 p.m. pursuant to the following:

1. **CONFERENCE WITH LABOR NEGOTIATORS PURSUANT TO GOVERNMENT CODE SECTION 54957.6**

City Negotiators: Geoff Patnoe, Assistant City Manager, Laura Rocha, Deputy City Manager, Judy Von Kalinowski, Human Resources Director, Michele Tackett, Finance Payroll IT Manager, Debbie Porter, Senior Management Analyst, Darrin Schwabe, Senior Management Analyst, Silvano Rodriguez, Management Analyst, and Timothy Davis, Burke, Williams & Sorenson.

Employee Organizations: CCEA, CPOA, CFA and CPMA

If circumstances necessitate the absence of a specified designated representative, an agent or designee may participate in place of the absent representative so long as the name of the agent or designee is announced at an open session held prior to the closed session.

Council Action: No reportable action.

ADJOURNMENT:

By proper motion, the Special Meeting of Aug. 18, 2020 was adjourned at 2:34 p.m.

Mia De Marzo
Deputy City Clerk



CITY COUNCIL
Staff Report

Meeting Date: Aug. 25, 2020

To: Mayor and City Council

From: Scott Chadwick, City Manager

Staff Contact: Steven Stewart, Municipal Projects Manager
steven.stewart@carlsbadca.gov, 760-602-7543
Suzanne Smithson, Library & Cultural Arts Director
suzanne.smithson@carlsbadca.gov, 760-424-2876

Subject: Plans and specifications approval and authorization to advertise for bids for the Carlsbad City Library parking lot renovation project

Recommended Action

Adopt a resolution approving the plans and specifications and authorizing the city clerk to advertise for bids for the Carlsbad City Library parking lot renovation, Capital Improvement Program Project No. 4744.

Executive Summary

Staff is seeking City Council approval of completed plans and specifications for a project to renovate the parking lot at the Carlsbad City Library on Dove Lane along with the authorization to advertise for construction bids.

Carlsbad Municipal Code Section 3.28.080(E) requires City Council approval for all plans and specifications for all construction projects that are to be formally bid when the value exceeds the limits established by the Public Contract Code, including the alternative provisions of the Uniform Public Construction Cost Accounting Act. The Public Contract Code limit is \$200,000 and the estimated construction cost for this Project is \$346,950, so the project is subject to this requirement.

Staff recommends approval of the project plans and specifications and requests authorization for the city clerk to advertise for construction bids for the project.

Discussion

On Aug. 26, 2019, staff executed Task Order No. 3 to Professional Services Agreement PSA19-544CA for DomusStudio Architecture to evaluate and design the Carlsbad City Library parking lot renovation. The purpose of the project is to provide Americans with Disabilities Act-compliant parking stalls closer to the front entrance to the library. There are currently ADA-compliant parking stalls in the northern portion of the parking lot, but these will become inaccessible when the temporary Fire Station No. 2 is constructed in this area. Once the new Fire Station No. 2 is in use and the temporary fire station has been removed, the library will

again have use of these existing ADA-compliant parking stalls and together with the new ones will have almost twice as many on site for patrons.

On Dec. 10, 2019, staff executed Task Order No. 6 to PSA19-544CA for DomusStudio to prepare plans and specifications so the project could be advertised for bidding.

The plans and specifications were completed, reviewed by staff and submitted for permitting. A permit has been obtained from the building division and it is currently on file for the successful bidder to pick up.

The renovation work scope includes:

- Leveling a portion of the existing parking lot and restriping it to accommodate seven ADA-compliant parking stalls
- Modifying a landscape planter by creating a walkway through it
- Creating a lighted crosswalk across the existing drive lane toward the library entrance
- Repairing damaged pavement in the drive lane
- Sealing and restriping the newly created parking lot area in front of the library entrance.

Staff requests City Council approval of these completed plans and specifications so the city clerk can advertise them as part of a request for bids from prospective contractors under Carlsbad Municipal Code Section 3.28.080(C).

Fiscal Analysis

The project was funded in fiscal year 2019-20 with \$50,000 from the General Capital Construction Fund for design. In FY 2020-21, an additional \$425,000 from the General Capital Construction Fund was funded for the other project related costs. The estimated cost for construction is \$346,950. This amount plus an additional 10% for contingency (\$34,695) has been set aside to cover any potential bid variations from the estimated value and any changes that may arise during the work. General Capital Construction funds have been appropriated for this project as shown in the table below:

CARLSBAD CITY LIBRARY PARKING LOT RENOVATION, CIP PROJECT NO. 4744	
Current appropriation	\$475,000
Current expenditures/encumbrances	(\$47,080)
TOTAL AVAILABLE	\$427,920
Construction contract (engineer’s estimate)	\$346,950
Construction contingency (estimated)	\$34,695
Construction management, inspection and material testing (estimated)	\$43,355
TOTAL ESTIMATED CONSTRUCTION COSTS	\$425,000
REMAINING BALANCE AFTER CIP PROJECT NO. 4744	\$2,920
ADDITIONAL APPROPRIATION NEEDED	\$0

Next Steps

With the council's approval, a request for bids to construct the project will be advertised. Responses will be evaluated, and staff will identify the lowest responsive and responsible bidder.

Staff expects to return to the City Council in fall 2020 with a recommendation to award the contract to the identified bidder. Staff estimates project construction will last four months.

Environmental Evaluation (CEQA)

The Project is exempt from the California Environmental Quality Act under State CEQA Guidelines Section 15301(f) – addition of safety or health protection devices for use during construction of, or in conjunction with existing structures, facilities, or mechanical equipment, or topographical features including navigation devices.

Public Notification and Outreach

This item was noticed in accordance with the Ralph M. Brown Act and was available for public viewing and review at least 72 hours prior to the scheduled meeting date.

Exhibits

1. Resolution
2. Location map
3. Plans and Specifications ([on file in the Office of the City Clerk](#))

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, APPROVING THE PLANS AND SPECIFICATIONS AND AUTHORIZING THE CITY CLERK TO ADVERTISE FOR BIDS FOR THE CARLSBAD CITY LIBRARY PARKING LOT RENOVATION, CAPITAL IMPROVEMENT PROGRAM (CIP) PROJECT NO. 4744 (PROJECT).

WHEREAS, the City Council of the City of Carlsbad, California, has determined it necessary, desirable and in the public interest to renovate the parking lot of the Carlsbad City Library on Dove Lane; and

WHEREAS, the plans, specifications and contract documents for the Project have been prepared, are on file in the city clerk's office and are incorporated herein by reference; and

WHEREAS, the Carlsbad Municipal Code (CMC) Section 3.28.080(E) requires City Council to adopt plans and specifications for all construction projects that are to be formally bid when the value exceeds the limits established by the Public Contract Code including the alternative provisions of the Uniform Public Construction Cost Accounting Act, which is \$200,000, and the estimated construction cost for this Project is \$346,950; and

WHEREAS, on May 28, 2020, the city approved a Conditional Use Permit Consistency Determination, and issued a building permit for the designed work; and

WHEREAS, sufficient funds are available to complete the Project; and

WHEREAS, the City Planner has determined that the Carlsbad City Library parking lot renovations are categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301(f) and that no exception to the exemption as set forth in CEQA Guidelines Section 15300.2 applies.

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

1. The above recitations are true and correct.
2. That the City Planner has determined that the Carlsbad City Library parking lot renovation Project designated herein to provide safety and Americans with Disabilities Act improvements is categorically exempt from CEQA pursuant to CEQA Guidelines

Section 15301(f) and that no exception to the exemption as set forth in CEQA Guidelines Section 15300.2 applies.

3. The plans and specifications for the Project are hereby approved and on file in the city clerk's office.
4. The city clerk of the City of Carlsbad is hereby authorized and directed to publish, in accordance with State law, a notice to contractors inviting bids for the construction of the Project, in accordance with the plans, specifications and contract documents referred to herein.

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the __ day of _____, 2020, by the following vote, to wit:

AYES:

NAYS:

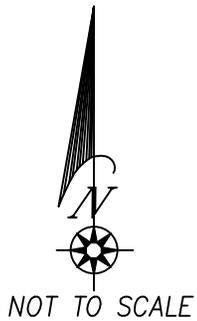
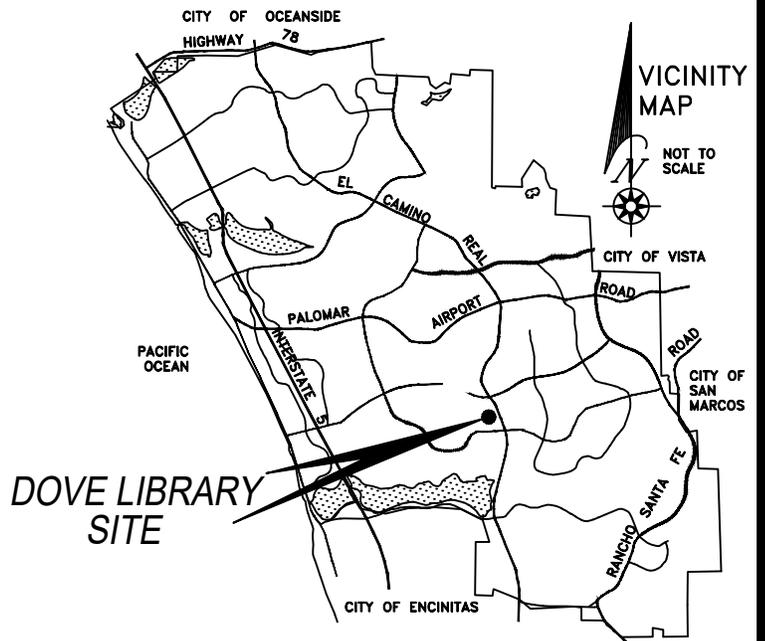
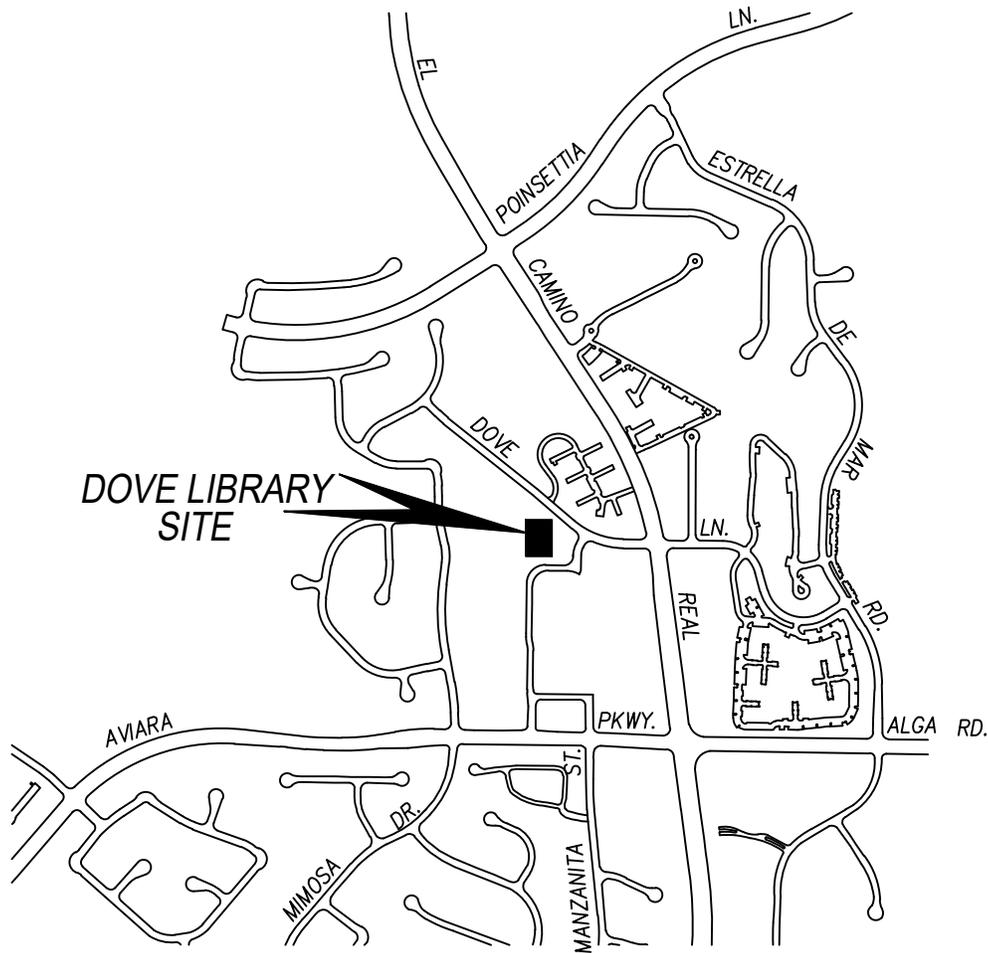
ABSENT:

MATT HALL, Mayor

BARBARA ENGLESON, City Clerk

(SEAL)

LOCATION MAP



VICINITY MAP

NOT TO SCALE

PROJECT NAME

DOVE LIBRARY

EXHIBIT

2



CITY COUNCIL
Staff Report

Meeting Date: Aug. 25, 2020
To: Mayor and City Council
From: Scott Chadwick, City Manager
Staff Contact: Michael O'Brien, Public Works Superintendent
michael.obrien@carlsbadca.gov, 760-434-2996
Subject: Professional Services Agreement with Urban Corps of San Diego County
for Citywide Pressure-Washing Maintenance Services

Recommended Action

Adopt a resolution approving a professional services agreement with Urban Corps of San Diego County for citywide pressure-washing maintenance services in an amount not to exceed \$213,970 for the first two years of the agreement.

Executive Summary

Pressure washing of specific city property is an ongoing need requiring regular pressure-washing cleaning services to maintain the expectations established by city leadership and residents. Since 2017, Urban Corps has been providing pressure-washing services required to keep the downtown sidewalks presentable and the Carlsbad seawall clean, to help clear sediment runoff after rain events and to regularly clear gutters free from algae. This agreement would ensure the uninterrupted continuation of these services. Staff recommends continuing the agreement with Urban Corps for the pressure-washing services to ensure the city fulfills its commitment to maintaining a clean and safe environment for residents and visitors to the City of Carlsbad.

Discussion

The Public Works Branch contracts with external organizations to provide maintenance services in various ways to fulfill its responsibility to maintain a clean and beautiful community.

This agreement covers work that our current employee base cannot provide, including regularly scheduled pressure-washing maintenance services of routine and as-needed locations. This contract coordinates pressure-washing services for key tourist and heavily traveled public areas to maintain a clean and orderly appearance. Since high groundwater is prevalent in certain areas in the city, algae will build up if not addressed. This agreement will routinely target known areas where algae could create slip hazards in the public right-of-way and will also provide services as needed by city staff. During the rainy season, the city relies heavily on storm clean-up services, such as sediment runoff removal, provided by the Urban Corps pressure-washing team.

Under this agreement, Urban Corps crews will routinely patrol the city to identify and clean up potential slip hazards on the city’s sidewalks and parking lots. In addition, Urban Corps is the primary clean-up crew responsible for removing unsightly and inappropriate waste in public spaces, including tourist areas.

The agreement calls for all pressure-washing equipment and supplies, transportation (pressure-washing truck and trailer) and fuel to be provided by Urban Corps, further lessening the burden of the services on the city and its staff. The equipment provided by Urban Corps is sustainable and includes water recapture capability, ensuring no impact from pressure-washing efforts on our storm drain system, local businesses or residences of Carlsbad.

The Village foot traffic population has increased steadily over the last three years as indicated in the crosswalk-button activation data below. Although the effects of the COVID-19 pandemic and the resulting shelter-in-place mandates have temporarily decreased Village foot traffic, staff expects Carlsbad to continue to see an increase in sidewalk activity. Moreover, staff have seen an increase in eating on the go in the downtown area, further increasing the need for sidewalk pressure-washing services.

The city’s population has also steadily increased by almost 2,000 residents in recent years, while the visitor and tourist volume has increased by more than 1.3 million since 2013, leading to an increased demand of a clean, well-kept community.

	2016	2017	2018
City of Carlsbad residential population*	113,952	115,326	115,897
	2013	2015	2017
City of Carlsbad visitors and tourists**	2,987,000	3,865,000	4,313,000

Figures from *Carlsbad at a Glance/American community Survey-U.S. census Bureau and **2017 Carlsbad Visitor Profile

Urban Corps is a nonprofit corporation that provides underserved young adults, ages 18-26, “with the tools to expand their career opportunities through education, life skills training, and paid work experiences on projects that benefit our communities.” Staff recommends continuing the use of contracted pressure-washing maintenance services with Urban Corps.

The city’s normal bidding process can be waived for quasi-governmental agencies such as Urban Corps under Carlsbad Municipal Code Section 3.28.110(F). Staff recommends awarding a two-year agreement with the option of extending the agreement for up to two additional two-year extensions for a total agreement term of six years.

Fiscal Analysis

The cost of the agreement will not exceed \$105,664 for the first year of the agreement, and in an amount not to exceed a 2.5% increase per each subsequent year of the agreement. These subsequent increases will match the San Diego Consumer Price Index increases up to, but not exceeding, 2.5% per year of the agreement. The first two-year period of the agreement will not exceed \$213,970, subject to budget approval annually.

Total compensation under this agreement shall not exceed \$674,954 for the six years covered by the agreement. The maximum annual agreement cost for contracted pressure-washing maintenance services is shown in the following table:

MAXIMUM ANNUAL COSTS		
Pressure-washing maintenance services		
Term	Agreement fiscal year	Annual agreement amount
1	2020-2021	\$105,664
	2021-2022	\$108,306
2	2022-2023	\$111,013
	2023-2024	\$113,789
3	2024-2025	\$116,633
	2025-2026	\$119,549
TOTAL		\$674,954

Pressure-washing maintenance services have traditionally been funded by the street maintenance budget. Sufficient funds are available in the street maintenance operating and storm drain maintenance budgets for the fiscal year 2020-21 to fund the first year of the agreement. Additional funding for future years included in the agreement will be requested during the city's annual budget process.

Next Steps

After the City Council's approval, staff will execute the agreement so that Urban Corps can continue to provide pressure-washing maintenance services.

Environmental Evaluation (CEQA)

The proposed action is exempt from the California Environmental Quality Act in keeping with State Guidelines Section 15301 (c) - "Existing Facilities," which exempts the repair and maintenance of public facilities involving negligible or no expansion of existing or former use.

Public Notification and Outreach

Public notice of this item was posted in accordance with the Ralph M. Brown Act and it was available for public viewing and review at least 72 hours prior to the scheduled meeting date.

Exhibit

1. Resolution

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, APPROVING A PROFESSIONAL SERVICES AGREEMENT (AGREEMENT) WITH URBAN CORPS OF SAN DIEGO COUNTY (URBAN CORPS) FOR CITYWIDE PRESSURE-WASHING MAINTENANCE SERVICES IN AN AMOUNT NOT TO EXCEED \$213,970 FOR THE FIRST TWO YEARS OF THE AGREEMENT.

WHEREAS, the City Council of the City of Carlsbad, California has determined it necessary, desirable and in the public interest to perform citywide pressure-washing maintenance services to maintain a world-class appearance and ensure requests are responded to in a timely manner; and

WHEREAS, Urban Corps is a nonprofit conservation corporation created by the City of San Diego; and

WHEREAS, Carlsbad Municipal Code Section 3.28.110(F) states that goods, services and/or professional services obtained from or through an agreement with any governmental, public or quasi-public agency may be exempt from the purchasing ordinance, as determined by the awarding authority; and

WHEREAS, the awarding authority has determined that this Agreement is exempt from the purchasing ordinance; and

WHEREAS, Urban Corps has submitted a proposal to provide citywide pressure-washing maintenance services including a not-to-exceed amount of \$213,970 for the first two years of the Agreement and two possible two-year extensions for a total of up to six years; and

WHEREAS, sufficient funds are available in the Street Maintenance Operating Budget to fund this Agreement; and

WHEREAS, the City Planner has determined that the Agreement for city-wide pressure-washing services is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15301(c) and that no exception to the exemption as set forth in CEQA Guidelines Section 15300.2 applies.

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

1. That the above recitations are true and correct.

2. That the City Planner has determined that the Agreement for city-wide pressure-washing services is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15301(c) and that no exception to the exemption as set forth in CEQA Guidelines section 15300.2 applies.
3. That the mayor is authorized and directed to execute the Agreement between Urban Corps of San Diego County and the City of Carlsbad for citywide pressure-washing maintenance services, attached hereto as Attachment A.
4. That the city manager or designee is hereby authorized to extend the Agreement with Urban Corps of San Diego County, consistent with the terms and conditions of the Agreement, as appropriate and based upon satisfactory review of Urban Corps' performance.

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the __ day of _____, 2020, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

MATT HALL, Mayor

BARBARA ENGLESON, City Clerk

(SEAL)

**AGREEMENT FOR CITYWIDE PRESSURE WASHING SERVICES
URBAN CORPS OF SAN DIEGO**

THIS AGREEMENT is made and entered into as of the _____ day of _____, 2020, by and between the CITY OF CARLSBAD, a municipal corporation, ("City"), and URBAN CORPS OF SAN DIEGO COUNTY, a non-profit corporation, ("Contractor").

RECITALS

- A. City requires the professional services of a consultant that is experienced in citywide pressure washing services.
- B. Contractor has the necessary experience in providing professional services and advice related to citywide pressure washing services.
- C. Contractor has submitted a proposal to City and has affirmed its willingness and ability to perform such work.

NOW, THEREFORE, in consideration of these recitals and the mutual covenants contained herein, City and Contractor agree as follows:

1. SCOPE OF WORK

City retains Contractor to perform, and Contractor agrees to render, those services (the "Services") that are defined in attached Exhibit "A", which is incorporated by this reference in accordance with this Agreement's terms and conditions.

2. STANDARD OF PERFORMANCE

While performing the Services, Contractor will exercise the reasonable professional care and skill customarily exercised by reputable members of Contractor's profession practicing in the Metropolitan Southern California Area, and will use reasonable diligence and best judgment while exercising its professional skill and expertise.

3. TERM

The term of this Agreement will be effective for a period of two (2) years from the date first above written. The City Manager may amend the Agreement to extend it for two (2) additional two (2) year periods or parts thereof. Extensions will be based upon a satisfactory review of Contractor's performance, City needs, and appropriation of funds by the City Council. The parties will prepare a written amendment indicating the effective date and length of the extended Agreement.

4. TIME IS OF THE ESSENCE

Time is of the essence for each and every provision of this Agreement.

5. COMPENSATION

The total fee payable for the Services to be performed during the initial Agreement term shall not exceed one hundred five thousand six hundred sixty-four dollars (\$105,664) per Agreement year. No other compensation for the Services will be allowed except for items covered by subsequent amendments to this Agreement. If the City elects to extend the Agreement, the amount shall not exceed one hundred five thousand six hundred sixty-four dollars (\$105,664) per Agreement year. If the City elects to extend the Agreement beyond the initial two-year term, the total fee payable for services during any Agreement year shall not exceed compensation established during the previous Agreement year plus an increase not to exceed 2.5%. The City reserves the right to

withhold a ten percent (10%) retention until City has accepted the work and/or Services specified in Exhibit "A".

Incremental payments, if applicable, should be made as outlined in attached Exhibit "A".

6. STATUS OF CONTRACTOR

Contractor will perform the Services in Contractor's own way as an independent contractor and in pursuit of Contractor's independent calling, and not as an employee of City. Contractor will be under control of City only as to the result to be accomplished, but will consult with City as necessary. The persons used by Contractor to provide services under this Agreement will not be considered employees of City for any purposes.

The payment made to Contractor pursuant to the Agreement will be the full and complete compensation to which Contractor is entitled. City will not make any federal or state tax withholdings on behalf of Contractor or its agents, employees or subcontractors. City will not be required to pay any workers' compensation insurance or unemployment contributions on behalf of Contractor or its employees or subcontractors. Contractor agrees to indemnify City within thirty (30) days for any tax, retirement contribution, social security, overtime payment, unemployment payment or workers' compensation payment which City may be required to make on behalf of Contractor or any agent, employee, or subcontractor of Contractor for work done under this Agreement. At the City's election, City may deduct the indemnification amount from any balance owing to Contractor.

7. SUBCONTRACTING

Contractor will not subcontract any portion of the Services without prior written approval of City. If Contractor subcontracts any of the Services, Contractor will be fully responsible to City for the acts and omissions of Contractor's subcontractor and of the persons either directly or indirectly employed by the subcontractor, as Contractor is for the acts and omissions of persons directly employed by Contractor. Nothing contained in this Agreement will create any contractual relationship between any subcontractor of Contractor and City. Contractor will be responsible for payment of subcontractors. Contractor will bind every subcontractor and every subcontractor of a subcontractor by the terms of this Agreement applicable to Contractor's work unless specifically noted to the contrary in the subcontract and approved in writing by City.

8. OTHER CONTRACTORS

The City reserves the right to employ other Contractors in connection with the Services.

9. INDEMNIFICATION

Contractor agrees to indemnify and hold harmless the City and its officers, officials, employees and volunteers from and against all claims, damages, losses and expenses including attorney's fees arising out of the performance of the work described herein caused by any negligence, recklessness, or willful misconduct of the Contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

The parties expressly agree that any payment, attorney's fee, costs or expense City incurs or makes to or on behalf of an injured employee under the City's self-administered workers' compensation is included as a loss, expense or cost for the purposes of this section, and that this section will survive the expiration or early termination of this Agreement.

10. INSURANCE

Contractor will obtain and maintain for the duration of the Agreement and any and all amendments, insurance against claims for injuries to persons or damage to property which may arise out of or in connection with performance of the services by Contractor or Contractor's agents, representatives, employees or subcontractors. The insurance will be obtained from an insurance carrier admitted and authorized to do business in the State of California. The insurance carrier is required to have a current Best's Key Rating of not less than "A-VII"; **OR** with a surplus line insurer on the State of California's List of Approved Surplus Line Insurers (LASLI) with a rating in the latest Best's Key Rating Guide of at least "A:X"; **OR** an alien non-admitted insurer listed by the National Association of Insurance Commissioners (NAIC) latest quarterly listings report.

10.1 Coverage and Limits.

Contractor will maintain the types of coverage and minimum limits indicated below, unless the Risk Manager or City Manager approves a lower amount. These minimum amounts of coverage will not constitute any limitations or cap on Contractor's indemnification obligations under this Agreement. City, its officers, agents and employees make no representation that the limits of the insurance specified to be carried by Contractor pursuant to this Agreement are adequate to protect Contractor. If Contractor believes that any required insurance coverage is inadequate, Contractor will obtain such additional insurance coverage, as Contractor deems adequate, at Contractor's sole expense. The full limits available to the named insured shall also be available and applicable to the City as an additional insured.

10.1.1 Commercial General Liability (CGL) Insurance. Insurance written on an "occurrence" basis, including personal & advertising injury, with limits no less than **\$2,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

10.1.2 Automobile Liability. (if the use of an automobile is involved for Contractor's work for City). \$2,000,000 combined single-limit per accident for bodily injury and property damage.

10.1.3 Workers' Compensation and Employer's Liability. Workers' Compensation limits as required by the California Labor Code. Workers' Compensation will not be required if Contractor has no employees and provides, to City's satisfaction, a declaration stating this.

10.1.4 Professional Liability. Errors and omissions liability appropriate to Contractor's profession with limits of not less than \$1,000,000 per claim. Coverage must be maintained for a period of five years following the date of completion of the work.

10.2 Additional Provisions. Contractor will ensure that the policies of insurance required under this Agreement contain, or are endorsed to contain, the following provisions:

10.2.1 The City will be named as an additional insured on Commercial General Liability which shall provide primary coverage to the City.

10.2.2 Contractor will obtain occurrence coverage, excluding Professional Liability, which will be written as claims-made coverage.

10.2.3 This insurance will be in force during the life of the Agreement and any extensions of it and will not be canceled without thirty (30) days prior written notice to City sent by certified mail pursuant to the Notice provisions of this Agreement.

10.3 Providing Certificates of Insurance and Endorsements. Prior to City's execution of this Agreement, Contractor will furnish certificates of insurance and endorsements to City.

10.4 Failure to Maintain Coverage. If Contractor fails to maintain any of these insurance coverages, then City will have the option to declare Contractor in breach, or may purchase replacement insurance or pay the premiums that are due on existing policies in order to maintain the required coverages. Contractor is responsible for any payments made by City to obtain or maintain insurance and City may collect these payments from Contractor or deduct the amount paid from any sums due Contractor under this Agreement.

10.5 Submission of Insurance Policies. City reserves the right to require, at any time, complete and certified copies of any or all required insurance policies and endorsements.

11. BUSINESS LICENSE

Contractor will obtain and maintain a City of Carlsbad Business License for the term of the Agreement, as may be amended from time-to-time.

12. ACCOUNTING RECORDS

Contractor will maintain complete and accurate records with respect to costs incurred under this Agreement. All records will be clearly identifiable. Contractor will allow a representative of City during normal business hours to examine, audit, and make transcripts or copies of records and any other documents created pursuant to this Agreement. Contractor will allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.

13. OWNERSHIP OF DOCUMENTS

All work product produced by Contractor or its agents, employees, and subcontractors pursuant to this Agreement is the property of City. In the event this Agreement is terminated, all work product produced by Contractor or its agents, employees and subcontractors pursuant to this Agreement will be delivered at once to City. Contractor will have the right to make one (1) copy of the work product for Contractor's records.

14. COPYRIGHTS

Contractor agrees that all copyrights that arise from the services will be vested in City and Contractor relinquishes all claims to the copyrights in favor of City.

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15. NOTICES

The name of the persons who are authorized to give written notice or to receive written notice on behalf of City and on behalf of Contractor under this Agreement.

For CityName Michael O'BrienTitle Public Works SuperintendentDepartment Public Works
City of CarlsbadAddress 405 Oak Ave.
Carlsbad, CA 92008Phone No. 760-421-9158**For Contractor**Name Yolanda MaederTitle Project ManagerAddress PO Box 80156
San Diego, CA 92138Phone No. 619-235-6884Email ymaeder@urbancorps.org

Each party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

16. CONFLICT OF INTEREST

Contractor shall file a Conflict of Interest Statement with the City Clerk in accordance with the requirements of the City of Carlsbad Conflict of Interest Code. The Contractor shall report investments or interests in all categories.

Yes No

17. GENERAL COMPLIANCE WITH LAWS

Contractor will keep fully informed of federal, state and local laws and ordinances and regulations which in any manner affect those employed by Contractor, or in any way affect the performance of the Services by Contractor. Contractor will at all times observe and comply with these laws, ordinances, and regulations and will be responsible for the compliance of Contractor's services with all applicable laws, ordinances and regulations.

Contractor will be aware of the requirements of the Immigration Reform and Control Act of 1986 and will comply with those requirements, including, but not limited to, verifying the eligibility for employment of all agents, employees, subcontractors and consultants whose services are required by this Agreement.

18. DISCRIMINATION AND HARASSMENT PROHIBITED

Contractor will comply with all applicable local, state and federal laws and regulations prohibiting discrimination and harassment.

19. DISPUTE RESOLUTION

If a dispute should arise regarding the performance of the Services the following procedure will be used to resolve any questions of fact or interpretation not otherwise settled by agreement between the parties. Representatives of Contractor or City will reduce such questions, and their respective views, to writing. A copy of such documented dispute will be forwarded to both parties involved along with recommended methods of resolution, which would be of benefit to both parties. The representative receiving the letter will reply to the letter along with a recommended

method of resolution within ten (10) business days. If the resolution thus obtained is unsatisfactory to the aggrieved party, a letter outlining the disputes will be forwarded to the City Manager. The City Manager will consider the facts and solutions recommended by each party and may then opt to direct a solution to the problem. In such cases, the action of the City Manager will be binding upon the parties involved, although nothing in this procedure will prohibit the parties from seeking remedies available to them at law.

20. TERMINATION

In the event of the Contractor's failure to prosecute, deliver, or perform the Services, City may terminate this Agreement for nonperformance by notifying Contractor by certified mail of the termination. If City decides to abandon or indefinitely postpone the work or services contemplated by this Agreement, City may terminate this Agreement upon written notice to Contractor. Upon notification of termination, Contractor has five (5) business days to deliver any documents owned by City and all work in progress to City address contained in this Agreement. City will make a determination of fact based upon the work product delivered to City and of the percentage of work that Contractor has performed which is usable and of worth to City in having the Agreement completed. Based upon that finding City will determine the final payment of the Agreement.

Either party upon tendering thirty (30) days written notice to the other party may terminate this Agreement. In this event and upon request of City, Contractor will assemble the work product and put it in order for proper filing and closing and deliver it to City. Contractor will be paid for work performed to the termination date; however, the total will not exceed the lump sum fee payable under this Agreement. City will make the final determination as to the portions of tasks completed and the compensation to be made.

21. COVENANTS AGAINST CONTINGENT FEES

Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working for Contractor, to solicit or secure this Agreement, and that Contractor has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon, or resulting from, the award or making of this Agreement. For breach or violation of this warranty, City will have the right to annul this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of the fee, commission, percentage, brokerage fees, gift, or contingent fee.

22. CLAIMS AND LAWSUITS

By signing this Agreement, Contractor agrees that any Agreement claim submitted to City must be asserted as part of the Agreement process as set forth in this Agreement and not in anticipation of litigation or in conjunction with litigation. Contractor acknowledges that if a false claim is submitted to City, it may be considered fraud and Contractor may be subject to criminal prosecution. Contractor acknowledges that California Government Code sections 12650 *et seq.*, the False Claims Act applies to this Agreement and, provides for civil penalties where a person knowingly submits a false claim to a public entity. These provisions include false claims made with deliberate ignorance of the false information or in reckless disregard of the truth or falsity of information. If City seeks to recover penalties pursuant to the False Claims Act, it is entitled to recover its litigation costs, including attorney's fees. Contractor acknowledges that the filing of a false claim may subject Contractor to an administrative debarment proceeding as the result of which Contractor may be prevented to act as a Contractor on any public work or improvement for a period of up to five (5) years. Contractor acknowledges debarment by another jurisdiction is grounds for City to terminate this Agreement.

23. JURISDICTION AND VENUE

Any action at law or in equity brought by either of the parties for the purpose of enforcing a right or rights provided for by this Agreement will be tried in a court of competent jurisdiction in the County of San Diego, State of California, and the parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

24. SUCCESSORS AND ASSIGNS

It is mutually understood and agreed that this Agreement will be binding upon City and Contractor and their respective successors. Neither this Agreement nor any part of it nor any monies due or to become due under it may be assigned by Contractor without the prior consent of City, which shall not be unreasonably withheld.

25. ENTIRE AGREEMENT

This Agreement, together with any other written document referred to or contemplated by it, along with the purchase order for this Agreement and its provisions, embody the entire Agreement and understanding between the parties relating to the subject matter of it. In case of conflict, the terms of the Agreement supersede the purchase order. Neither this Agreement nor any of its provisions may be amended, modified, waived or discharged except in a writing signed by both parties.

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26. AUTHORITY

The individuals executing this Agreement and the instruments referenced in it on behalf of Contractor each represent and warrant that they have the legal power, right and actual authority to bind Contractor to the terms and conditions of this Agreement.

CONTRACTOR
URBAN CORPS OF SAN DIEGO, a non-profit corporation

CITY OF CARLSBAD, a municipal corporation of the State of California

By:

By:

Kyle Kennedy

(sign here)

Matt Hall, Mayor

Kyle Kennedy, CEO

(print name/title)

ATTEST:

By:

Barbara Engleson, City Clerk

(sign here)

(print name/title)

If required by City, proper notarial acknowledgment of execution by contractor must be attached. If a corporation, Agreement must be signed by one corporate officer from each of the following two groups.

Group A
Chairman,
President, **or**
Vice-President

Group B
Secretary,
Assistant Secretary,
CFO **or** Assistant Treasurer

Otherwise, the corporation must attach a resolution certified by the secretary or assistant secretary under corporate seal empowering the officer(s) signing to bind the corporation.

APPROVED AS TO FORM:

CELIA A. BREWER, City Attorney

BY: *Celia A. Brewer*
Assistant City Attorney

EXHIBIT "A"**SCOPE OF SERVICES****CITYWIDE PRESSURE WASHING**

Contractor to provide pressure washing services for the City of Carlsbad at various locations as scheduled by the Contract Manager, and will include two (2) Urban Corps staff members, defined as, one (1) supervisor and one (1) Corps member, scheduled four (4) days per week.

General Staffing

1. Schedule excludes eleven (11) City holidays; one (1) Urban Corps of San Diego, Inc. holiday.
2. Start time and end time of daily assignments will be determined by the Contract Administrator, shifts are generally eight (8) hours including drive time to and from the Urban Corps of San Diego home office.
3. Crews must have the ability to read written instructions, safely lift 50 pounds unassisted, and possess the ability to communicate effectively with City staff.
4. Contractor will provide a mobile phone to the supervisor of each crew.
5. Contractor will provide, but not limited to, all personal protective equipment, vehicles, tools and equipment, wet/dry vacuum, pressure washing tools, trailer, traffic control devices, 55-gallon heavy-duty trash bags and uniforms necessary to complete assigned pressure washing and related miscellaneous maintenance services.

Pressure Washing Services

The Contractor will provide routine and as needed pressure washing services as directed by the Contract Administrator. All pressure washing water shall be recaptured and under no circumstances, shall pressure washing water or debris created by the service be allowed to enter a storm drain or storm drain conveyance system (private or public). Scope includes:

1. Contractor will provide pressure washing services on city owned property, including but not limited to: sidewalks, gutters, cross gutters, parking lots, roadways, buildings, walls, sea wall, fences, signs, decorative tiles and other miscellaneous properties at the direction of the Contract Administrator.
2. Contractor shall perform thorough cleaning of surfaces as directed by the Contract Administrator, including but not limited to: complete and total removal of all oil, chewing gum, liquid and soft drink stains, food stains, ground in dirt, algae, mold, or other items as directed by the Contract Administrator.
3. Contractor will provide algae removal services from city owned locations.
4. Contractor will provide proper equipment to recapture all water used for pressure washing at each site and legally dispose of all cleaning compounds, liquids or other related materials at the direction of the Contract Administrator.
5. Contractor shall provide a safe work environment following all safety requirements for its employees and shall provide safe access and egress for city employees and the general public and follow all Cal OSHA regulations.
6. Contractor will perform as needed maintenance services as directed by the Contract Administrator.

7. Contractor will perform as needed storm responses services (e.g. sandbag deployment).
8. Contractor will leave work zones clean of all debris and material.
9. Contractor at times may be required to provide daily written reports and documentations of work performed or observation.
10. All pressure washing locations and schedules shall be at the direction of the Contract Administrator (and subject to change at any time) and may include routine schedules, post storm debris and sediment clean-up, specialty cleaning (e.g. stains, human excrement, etc.).
11. Routinely patrol the city streets, as directed by the Contract Administrator, to identify and clean up debris (e.g. algae) not reported.
12. If the Contractor determines pressure washing services require implementation of traffic control, e.g. lane closures, the Contractor shall notify the Contract Administrator prior to performing the work and City staff will implement all required traffic control.
13. Contractor will provide as-needed cleanup services in City storage yards.

Cost of Services

Description	Quantity (EA)	Maximum Hours	Hourly Rate	Annual Cost
Supervisor	1.0	1,664	\$30.00	\$49,920
Corps Member Labor	1.0	1,664	\$22.50	\$37,440
Fuel and Vehicle Costs (4 days per week)			\$88/day	\$18,304
Initial Annual Pressure Washing Services Cost				\$105,664



CITY COUNCIL
Staff Report

Meeting Date: Aug. 25, 2020
To: Mayor and City Council
From: Scott Chadwick, City Manager
Staff Contact: Emad Elias, Associate Engineer
emad.elias@carlsbadca.gov, 760-602-7558
Subject: Approval of Plans and Specifications and Authorization to Advertise for Bids for the Fiscal Year 2020-21 Pavement Overlay

Recommended Action

Adopt a resolution approving the plans and specifications, and authorizing the city clerk to advertise for bids for the fiscal year 2020-21 Pavement Overlay, Capital Improvement Program Project No. 6001-200L.

Executive Summary

This Project is part of the City of Carlsbad's ongoing Pavement Management Program. The project will resurface the following streets: El Camino Real from Cannon Road to Faraday Avenue, El Camino Real from Arenal Road to Levante Street, and Batiquitos Drive from Poinsettia Lane to Camino De Las Ondas (see location map, Exhibit 2.) Given the City Council's authorization, staff will advertise the project for construction bids.

Carlsbad Municipal Code Section 3.28.080(E) requires the City Council to adopt plans and specifications for all construction projects that are to be formally bid upon when the value exceeds the \$200,000 limit established by the Public Contract Code, including the alternative provisions of the Uniform Public Construction Cost Accounting Act. The cost of the project is estimated at \$5,205,000, so the project is subject to the requirement.

Staff recommends approval of the plans and specifications, and requests authorization for the city clerk to advertise for construction bids.

Discussion

The program uses a set of ongoing activities and practices to assess the city's roadway pavement conditions. Depending on the pavement conditions, the program uses appropriate treatment methods to preserve and maintain city streets, enhance safety, improve pavement conditions and extend the life of the roadway system. The program relies on computerized pavement condition predictive modeling and analyses, as well as visual observation and engineering assessment by city staff. Staff also evaluate various maintenance and rehabilitation options, and select the most appropriate option based on the pavement conditions and how the work will maximize the value and life of the city's pavement network.

The pavement maintenance and rehabilitation activities on portions of El Camino Real and Batiquitos Drive will be accomplished by utilizing a cost-effective, long-lasting and

environmentally friendly rehabilitation method, referred to as cold in-place recycling. This is a continuous multistep paving process in which the existing asphalt pavement is removed and reused using specialized equipment that cold mills the asphalt pavement. It includes removing the top four inches of the existing asphalt surface and blending the reclaimed material with an asphalt recycling agent. The blended mix is then redeposited and compacted in-place using paving equipment. Once the cold in-place recycling is cured, the pavement is overlaid with a new asphalt surface layer.

As the name implies, this cold process does not require additional heat during the grinding and construction operations, which means less energy is required to produce the final material. Cold processing also reduces the initial project, lifecycle and trucking costs, along with greenhouse gas emissions and other environmental impacts associated with the conventional rehabilitation options. Additionally, the process can be used to repair relatively deep asphalt distresses, such as rutting and fatigue cracking that cannot be fixed by a conventional surface treatment or an overlay.

On top of the cold processed section, the project will add a polymer-modified asphalt concrete surface layer. This layer includes a warm mix additive, which will assist with pavement compaction operation and allow for asphalt production and pavement construction at reduced temperatures. This will result in lower energy consumption, lower quantity of greenhouse gas emissions and lower lifecycle environmental burden, consistent with the City of Carlsbad's Climate Action Plan objectives.

The combination of the cold processing and polymer-modified asphalt concrete with warm mix additive will provide a more durable pavement material, which is expected to provide increased resistance to rutting, fatigue cracking and other pavement distresses and extend the life of the pavement. These pavement improvements will result in enhanced rideability, improved safety, reduced maintenance and overall lifecycle costs.

In addition to creating a new pavement surface, staff typically reviews and refines, if necessary, the striping and pavement markings along the resurfaced roads to improve safety for all modes of travel. Typical striping and pavement marking refinements include adding new bike lanes or enhancing existing bike lanes, where sufficient space exists. In some cases, traffic calming measures such as narrowing travel lanes and/or adding pavement legends that provide guidance to the drivers and bicyclists are implemented.

As part of the project, staff is proposing to narrow the travel lanes in both directions of El Camino Real from Cannon Road to Faraday Avenue, and from Arenal Road to Levante Street, from 12 feet to 11 feet, and add 3-foot-wide striped buffers to the existing 8-foot-wide Class-II, on-road bike lanes.¹ The project will also include adding dashed green pavement markings at the right-turn lanes vehicle-bike conflict zones. These striping modifications are intended to improve safety for bicyclists along El Camino Real by providing greater shy distance between motor vehicles and bicyclists and increasing the visibility of bicyclists along the corridor. Shy

¹ California's Streets and Highways Code defines a Class II bikeways as those that "provide a restricted right-of-way designated for the exclusive or semi exclusive use of bicycles with through travel by motor vehicles or pedestrians prohibited, but with vehicle parking and crossflows by pedestrians and motorists permitted."

distance is the distance from the edge of the traveled way beyond which a roadside object will not be perceived as an immediate hazard by the typical driver to the extent that the driver will react.

Traffic and Mobility Commission recommendation

At its meeting on May 4, 2020, the Traffic and Mobility Commission voted unanimously 7-0 to support staff’s recommendation to implement the Pavement Management Program – Fiscal Year 2020-21 Pavement Overlay Project, Capital Improvement Project No. 6001-200L. The approved minutes for this meeting are provided in Exhibit 3.

Fiscal Analysis

There are sufficient funds available to complete the project. Funding consists of non-jurisdictional fees (generated from trash haulers), gas tax and TransNet funds. Remaining program funds will be used on future pavement rehabilitation and resurfacing projects. The available funds and estimated construction costs are shown in the following table:

PAVEMENT MANAGEMENT PROGRAM, CIP PROJECT NO. 6001	
Current appropriation	\$10,923,694
Current year expenditures/encumbrances	\$1,295,238
TOTAL AVAILABLE	\$9,628,456
FY 2020-21 PAVEMENT OVERLAY, CIP PROJECT NO. 6001-200L	
Construction contract (engineer’s estimate)	\$4,732,000
Construction contingency (estimated)	\$473,000
Construction management, inspection, and material testing (estimated)	\$473,000
TOTAL ESTIMATED CONSTRUCTION COSTS	\$5,678,000
REMAINING BALANCE AFTER CIP No. 6001-200L	\$3,950,456
ADDITIONAL APPROPRIATION NEEDED	\$0

Next Steps

Given the City Council’s approval, staff will advertise a request for bids to construct the project. Responses will be evaluated, and the lowest responsive and responsible bidder will be identified by city staff. Staff will then return to City Council with a recommendation to award the contract to the identified bidder. This is expected to be in early 2021. The typical time from authorization to bid to the execution of the construction contract is four to six months. The construction contract for the project provides for about three months to construct the improvements.

Environmental Evaluation (CEQA)

The project is exempt from the California Environmental Quality Act per Guidelines Section 15301(c) – minor alteration of existing facilities including streets, sidewalks, gutters and similar facilities involving negligible or no expansion.

Public Notification

Public notice of this item was posted in accordance with the Ralph M. Brown Act and it was available for public viewing and review at least 72 hours prior to the scheduled meeting date.

Exhibits

1. Resolution
2. Location map
3. Approved minutes of the May 4, 2020, Traffic and Mobility Commission meeting
4. Plans and specifications ([on file in the Office of the City Clerk](#))

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, APPROVING THE PLANS AND SPECIFICATIONS AND AUTHORIZING THE CITY CLERK TO ADVERTISE FOR BIDS FOR THE FISCAL YEAR (FY) 2020-21 PAVEMENT OVERLAY, CAPITAL IMPROVEMENT PROGRAM (CIP) PROJECT NO. 6001-200L (PROJECT).

WHEREAS, the City Council of the City of Carlsbad, California, has determined it necessary, desirable and in the public interest to resurface city streets in accordance with the city's ongoing Pavement Management Program (Program); and

WHEREAS, the plans, specifications and contract documents for the Project have been prepared, are on file in the city clerk's office and are incorporated herein by reference; and

WHEREAS, the FY 2020-21 Pavement Overlay CIP Project will resurface the following streets: El Camino Real from Cannon Road to College Boulevard, El Camino Real from Arenal Road to Levante Street, and Batiquitos Drive from Poinsettia Lane to Camino De Las Ondas; and

WHEREAS, the Carlsbad Municipal Code (CMC) Section 3.28.080(E) requires City Council to adopt plans and specifications for all construction projects that are to be formally bid when the value exceeds the limits established by the Public Contract Code including the alternative provisions of the Uniform Public Construction Cost Accounting Act, which is \$200,000, and the Project is estimated at \$5,205,000; and

WHEREAS, sufficient Program funds are available to complete the Project; and

WHEREAS, the City Planner has considered the potential environmental effects of resurfacing the city streets described in this Resolution and has determined that the Project will not have a significant effect on the environment because it involves a minor alteration of existing streets, involving negligible or no expansion of use; pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15301(c).

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

1. That the above recitations are true and correct.
2. That the City Planner has determined that the Project to resurface the streets designated in this Resolution is categorically exempt from CEQA pursuant to CEQA

Guidelines Section 15301(c) and that no exception to the exemption as set forth in CEQA Guidelines Section 15300.2 applies.

3. That the plans, specifications and contract documents for the Project, incorporated herein and on file in the city clerk's office, are hereby approved by the City Council.
4. That the city clerk is hereby authorized and directed to publish, in accordance with State law, a notice to contractors inviting bids for the construction of the Project, in accordance with the plans, specifications and contract documents referred to herein.

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the __ day of _____, 2020, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

MATT HALL, Mayor

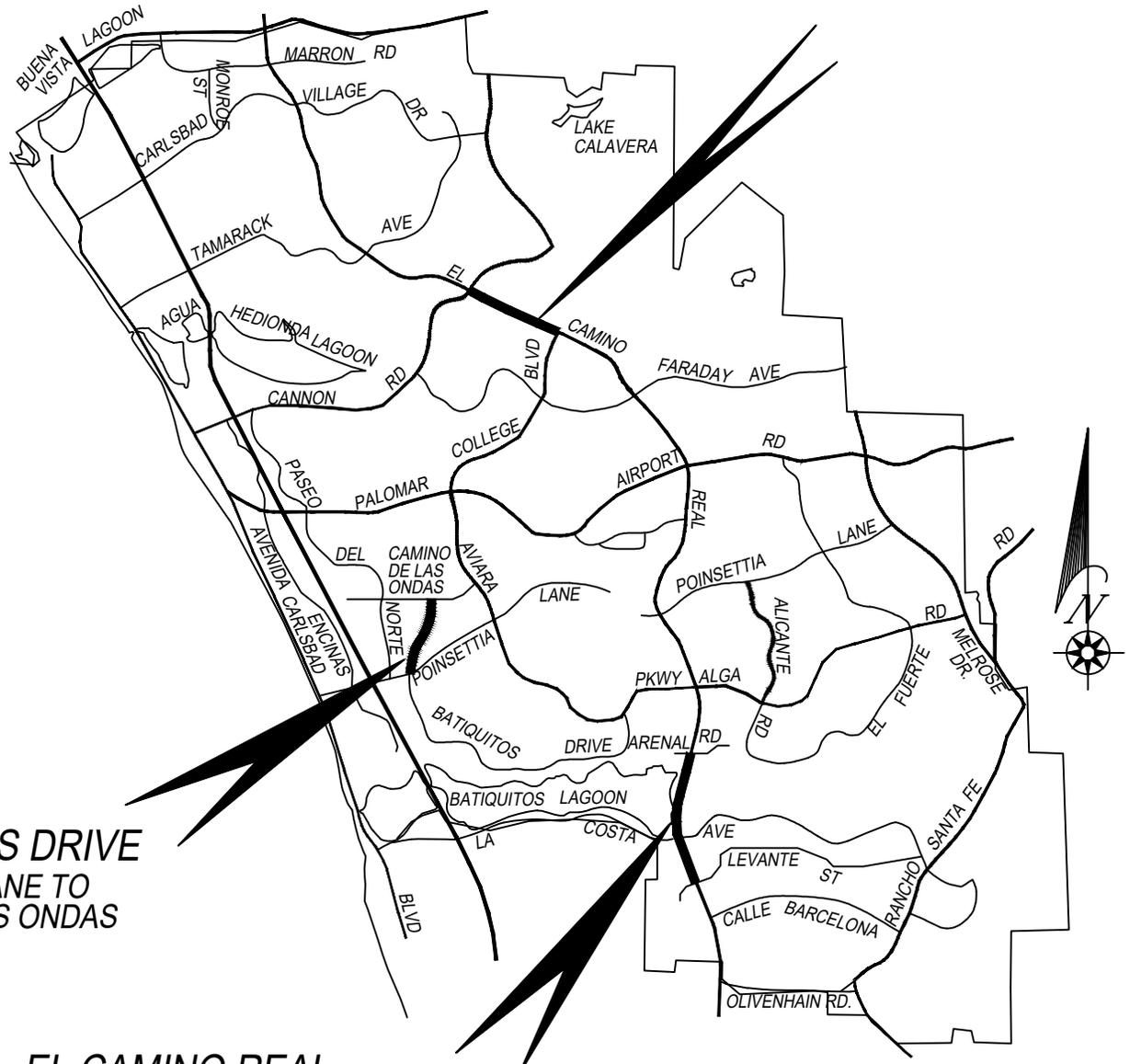
BARBARA ENGLESON, City Clerk

(SEAL)

LOCATION MAP

EXHIBIT 2

*EL CAMINO REAL
CANNON ROAD TO COLLEGE BOULEVARD*



*BATIQUITOS DRIVE
POINSETTIA LANE TO
CAMINO DE LAS ONDAS*

*EL CAMINO REAL
ARENAL ROAD TO LEVANTE STREET*

VICINITY MAP

NOT TO SCALE

PROJECT NAME

2020-21 PAVEMENT OVERLAY

PROJECT NUMBER

6001-2001

EXHIBIT

2

Aug. 25, 2020

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Minutes

Council Chambers
1200 Carlsbad Village Drive
Carlsbad, CA 92008

Monday, May 4, 2020, 3:00 p.m.

CALL TO ORDER: Chair Gocan called the Meeting to order at 3:09 p.m.

ROLL CALL: Present: Gocan, Johnson, Hunter, Penseyres, Fowler, Linke and Perez.

APPROVAL OF MINUTES:

This meeting was conducted virtually via Zoom due to the stay-at-home order for COVID-19.

Motion by Commissioner Linke seconded by Commissioner Hunter, to approve the minutes for April 6, 2020, as amended.

Motion carried 7/0

PUBLIC COMMENTS ON ITEMS NOT LISTED ON THE AGENDA:

No public comments

Transportation and Mobility Manager Schmidt asked the Chair to switch Item 6 – Fiscal Year 2020-21 Pavement Overlay with Item 4 – Traffic Calming on College Boulevard.

DEPARTMENTAL REPORTS:

1. POLICE MONTHLY REPORT – (Staff contact: Lieutenant Christie Calderwood, Police Department)

Staff Recommendation: Informational only

Lieutenant Calderwood reported that the police department continues to enforce a “No Parking” on Carlsbad Boulevard leading to the beach. Due to the COVID-19 the OTS grant program is on pause and is being re-evaluated. The month of May is the National Bicycle and Motorcycle Safety Month.

2. SANDAG RAILROAD TRENCH INFORMATION – (Staff Contact: Hossein Ajideh, Public Works and Linda Culp, SANDAG).

Staff Recommendation: Informational only

Principal Regional Planner SANDAG Culp and Engineering Manager Ajideh presented the Carlsbad Village Railroad Trench Alternatives Analysis with two trench alternatives. Cost estimates/public outreach/evaluation of the positives and negatives of each alternative were presented. Presentation is on file with the office of the City Clerk.

- Commissioner Perez inquired about minimizing the railroad operations during construction.
- Principal Regional Planner SANDAG Culp answered that the railroad operations will continue during construction with minor alterations.
- Commissioner Penseyres inquired about the timeframe to fund the project and start construction.
- Principal Regional Planner SANDAG Culp explained that SANDAG has a list of projects and addresses each one based on the phase of development.
- Commissioner Linke inquired about the funding of the project for the next phases.
- Principal Regional Planner SANDAG Culp explaining that there is no additional funds for this project on SANDAG's side.
- Deputy City Manager Gomez explained that there were funds allocated for this initial phase and used but because of Proposition H requirement (one-million-dollar threshold) the city will have to go to vote for this project.
- Commissioner Fowler inquired about the impact of the Del Mar Bluffs Stabilization project on the Railroad Trench Project.
- Principal Regional Planner SANDAG Culp said that the Del Mar Bluffs project is at the top five on the priority list, but the Railroad Trench project will continue to be active on their list.

Rosita Sisson, a Carlsbad resident, send an email with the following question:

Has the City of Carlsbad made a financial commitment to contribute to the trenching project in any of its phases, including the current phase?

Principal Regional Planner SANDAG Culp said yes, the first phase feasibility studies the city funded part of it (the economic analysis) and the current phase alternatives analysis was funded 100% by the City of Carlsbad.

3. MELROSE AT PALOMAR AIRPORT ROAD IMPROVEMENTS-- (Staff Contact: Brandon Miles and Hossein Ajideh, Public Works)

Staff's Recommendation: Approve staff recommendations

Engineering Manager Ajideh and Associate Engineer Miles presented the Melrose Drive Improvements at Palomar Airport Road, Capital Improvement Program (CIP) Project No. 6034 (Project) providing operational improvements consistent with the city's General Plan Mobility Element. Presentation is on file with the office of the City Clerk.

- Commissioner Hunter inquired about the possibility to include a left turn bicycle lane, it would be a pilot program because there are no left turn bike lanes.
- Engineering Manager Ajideh said that staff can look at the request with the Traffic Division.
- Commissioner Perez asked if for the future presentations if staff could provide a street view, virtual view of the layout.
- Associate Engineer Miles said yes.
- Commissioner Penseyres inquired about the southbound on Melrose Drive if it is possible to make the bike lane wider and painted green.
- Associate Engineer Miles said that staff will work with the Traffic Division to make possible enhancing the bike lane as requested.
- Commissioner Penseyres inquired about the northbound on Melrose Drive and the possibility of having a left turn lane designated for bicycles.

- Associate Engineer Miles answered that staff will work with Traffic Division look at the proper design guidelines on the request.
- Transportation Director confirmed that staff will look at the proper design guidelines and the current measure is to paint the bike lane green on conflicting areas.

Motion by Commissioner Hunter seconded by Commissioner Linke to approve staff recommendation to implement operational improvements on Melrose Drive at Palomar Airport Road CIP Project No. 6034, including the stripping on northbound Melrose Drive.

Motion carried: 7/0

4. FISCAL YEAR 2020-21 PAVEMENT OVERLAY– (Staff Contact: Emad Elias, Public Works)

Staff's Recommendation: Approve staff recommendations

Engineering Manager Ajideh and Associate Engineer Elias presented the Pavement Management Program Implementation - Fiscal Year (FY) 2020-21 Pavement Overlay Project (Project), Capital Improvement Program (CIP) Project No. 6001-200L. Presentation is on file with the office of the City Clerk.

- Commissioner Hunter inquired about the future project to add a third lane on El Camino Real from Jackspar Drive to Sunny Creek Drive and the overlay pavement getting damaged during construction.
- Engineering Manager Ajideh explained that if City Council approves the project to add a third lane on El Camino Real, staff will revise the roads selected for pavement overlay.
- Commissioner Penseyres was happy to see dedicated right turn lane because it makes it safer for cyclists but he pointed out that several intersections do not have dedicated right turn lane and it makes unsafe for the cyclists.
- Deputy City Manager Gomez shared with the commissioners that Street Maintenance Division is now under Transportation Department.
- Commissioner Linke noted that he submitted questions related to this item and he inquired about the Pavement Condition Index (PCI) numbers for the three streets.
- Engineering Manager Ajideh answered that he could share the model numbers of the PCI with him but overall the range of PCI in those areas are mid to high 60 based on the model.
- Commissioner Linke is in favor of doing pavement overlays when necessary and improving bike lanes whenever possible. However, he sees that large proportion of TransNet funds have been used over the years for these repair projects, which instead could use general funds without generating a Proposition H election requirement. Therefore, he would like to see the TransNet funds re-allocated to street improvement projects, like the extension of College Boulevard, which are more likely to be subject to Proposition H.
- Engineering Manager Ajideh said that for the next two years staff will not use the TransNet funds for pavement overlay because of a surplus funds that the city has with Trash Haulers.
- Deputy City Manager Gomez mentioned the availability of the SB 1 funds which is relatively new and will give us an opportunity to review the program's funding holistically.
- Chair Gocan observed that the last pavement overlay looked like a paint over the road, over the cracks and weeds that were growing in the asphalt. She inquired about staff inspecting the job and doing a quality control.

Motion by Commissioner Hunter, seconded by Commissioner Penseyres, to approve staff recommendations to implement the Pavement Management Program - Fiscal Year (FY) 2020-21 Pavement Overlay Project, Capital Improvement Program (CIP) Project No. 6001-200L
Motion carried: 7/0

Motion by vice-Chair Johnson, seconded by Commissioner Perez to take a five minutes break.
Chair Gocan observed that all the commissioners agreed and no vote was taken.

5. RECTANGULAR RAPID FLASHING BEACONS AT THREE LOCATIONS - (Staff Contact: Edd Alberto, Public Works)

Staff's Recommendation: Approve staff recommendations

Associate Engineer Alberto presented the recommendation to install Rectangular Rapid Flashing Beacons (RRFB) at the intersections of Paseo Del Norte/Elder Court, Monroe Street/Magnolia Avenue, and Salk Avenue/Fermi Court. Capital Improvement Program (CIP) Project No. 6070. Presentation is on file with the office of the City Clerk.

- Commissioner Hunter inquired about the location on Salk Avenue and the reasoning behind the installation of the RRFB; was it because of the TaylorMade Golf course on one side and the test range on the other side.
- City Traffic Engineer Kim said yes and because of TaylorMade Golf course employee's request.
- Commissioner Perez asked if the RRFB is like the ones installed on Tamarack Avenue.
- Associate Engineer Alberto said yes.
- Commissioner Penseyres inquired about the point system for prioritizing crossing locations that staff developed. He believes that intersections with a reported pedestrian collision should be on the top of the list.
- City Traffic Engineer Kim answered that staff uses the point system from the City of San Diego Crosswalk Policy and five points were given if there was a pedestrian-related accident at the intersection.
- Vice-chair Johnson inquired about intersection on Salk Avenue/Fermi Court, there are no schools and very segregated location.
- City Traffic Engineer Kim said it was related to the speed limit on Salk Avenue and the TaylorMade Golf course employees request.
- Chair Gocan explained that the signs are not tall enough and the spacing between the signs should be bigger to make it more visible.
- Associate Engineer Alberto said that staff will consider the request and look to the possibility of making changes.
- City Traffic Engineer Kim said that the RRFB signs are standardized by the FHWA as an interim approval granted to California. The city is following the guidelines found in the FHWA interim approval.

Motion by Commissioner Linke, seconded by Commissioner Hunter to approve staff recommendations to install Rectangular Rapid Flashing Beacons at the intersections of Paseo Del Norte/Elder Court, Monroe Street/Magnolia Avenue, and Salk Avenue/Fermi Court. CIP No. 6070.
Motion carried: 7/0

6. TRAFFIC CALMING ON COLLEGE BOULEVARD - (Staff Contact: John Kim, and Tom Frank, Public Works) –

Staff's Recommendation: Approve staff recommendations

City Traffic Engineer Kim and Transportation Director Frank presented the Traffic Calming on College Boulevard requesting T&MC to support staff's recommendation provided in the staff report as Option 1 – Radar Speed Feedback Signs. Presentation is on file with the office of the City Clerk.

Public comments submitted via email prior to the T&MC meeting:

Calavera Hills Traffic Safety Group, constituted of 21 Carlsbad residents submitted a letter with a survey results on the Traffic Calming on Carlsbad Boulevard options presented by staff. The survey shows that Calavera Hills Traffic Safety Group chose Option 1, as recommended by staff. Letter is on file with the office of the City Clerk.

- Commissioner Perez agreed that Option 1 is a good option but he believes that the speed limit, level of congestion and traffic behavior should be taken in consideration to make an informed decision. College Boulevard is a dynamic road with different speed limits, congestion levels, and traffic behavior throughout the day due to two schools affecting College Boulevard between northern city limits and Cannon Road.
- Commissioner Penseyres does not believe that Option 1 will solve the problem, but it might only delay the problem temporarily. He is in favor of the Option 1 because it was supported by the Calavera Hills Traffic Safety Group.
- Commissioner Linke thanked staff for providing 5 years of collision data where everyone can see the clusters of collisions close to schools. Commissioner Linke inquired about speed data available for this area.
- City Traffic Engineer Kim explained that we have speed survey data on file that was collected to determine speed limits but those are limited to off-peak hours on a given day. Once the speed feedback signs are installed, the city can collect data 24 hours a day.
- Commissioner Linke inquired if the city has data on the efficiency of the speed feedback signs installed on other areas.
- City Traffic Engineer Kim answered that most of the speed feedback signs in the city are located on residential areas and not arterials like College Boulevard. On residential streets, decreases around 5 mph were observed.
- Commissioner Linke inquired about installing a restricted "right turn on red" on the intersection of College Boulevard and Tamarack Avenue.
- Commissioner Linke showed photos of the southern Tamarack Avenue intersection with Carlsbad Boulevard during the morning rush hour, highlighting a school crossing guard's concerns about (1) conflicts between pedestrians crossing College and vehicles going eastbound on Tamarack turning left (north) onto College, and (2) conflicts between bicyclists and vehicles traveling northbound on College.
- Commissioner Linke expressed concern about the cluster of collisions near the Calavera Hills schools and expressed support for speed feedback signs as an initial step. He questioned whether the signs alone would be sufficient to resolve the problem and supported continued exploration of the feasibility of intersection changes.
- City Traffic Engineer Kim said that the city is evaluating if "no right turn on red" could be feasible and if we could restrict the time it would be in operation.

- Commissioner Fowler wanted clarification that College Boulevard was built as a major arterial per standards in the Circulation Element of the previous General Plan.
- Transportation Director Frank explained that California roads were built primarily for vehicles and the new Mobility Element calls for revising the roads as Complete Streets and that will be costly.
- City Traffic Engineer Kim explained that College Boulevard was built as an arterial based on the previous General Plan and once the Mobility Element was implemented College Boulevard continued to be labeled as an arterial.
- Commissioner Hunter inquired about the speed limit survey data when it was done and what was the 85th percentile.
- City Traffic Engineer Kim said that the survey was collected in October of 2018 and the 85th percentile was 48mph based on 100 vehicles.

Motion by Commissioner Hunter, seconded by Commissioner Linke, to approve staff's recommendations to implement Option 1 – Radar Speed Feedback Signs, adding to re-evaluate the item later and collect speed survey data.

Motion carried: 7/0

Motion by Commissioner Hunter, seconded by Commissioner Fowler to take a five minutes break.

Motion carried: 7/0

7. VEHICLE MILES TRAVELED THRESHOLDS AND SCREENING CRITERIA – (Staff Contact: Jason Geldert and Jennifer Horodyski, Community and Economic Development)

Staff's Recommendation: Approve staff recommendations

Engineering Manager Geldert is asking the T&MC to recommend to City Council the adoption of a resolution to approve citywide the Vehicle Miles Traveled thresholds and screening criteria pursuant to Senate Bill 743.

- Commissioner Linke stated that the City of Carlsbad is approaching build-out and asked what proportion of development projects, remain to be done that could be subject to the Vehicle Miles Traveled (VMT) guidelines.
- Engineering Manager Geldert answered that currently we have 2 or 3 projects that will have to evaluate VMT, but did not have exact numbers. He estimated that quite a few projects are expected to be subject to VMT analysis guidelines.
- Commissioner Linke asked about the following hypothetical scenario: In the area that is mostly the Village and the Barrio (light blue area shown in the power point), per capita VMT is 85% or less than the city average so, under the 2,400 ADT threshold, does that mean that anyone could build a residential area up to 240 single-family homes, or 400 apartments, or a 600-unit retirement community and not be subject to the VMT analysis?
- Associate Engineer Horodyski explained that yes, according to the VMT guidelines, if the city average is more than 15%, the area would not be subject to the VMT guidelines.
- Commissioner Linke is concerned that a developer could build a 600-unit apartment complex in one of the light blue zones and be able to say that we are not generating vehicle miles out of the 600 units as an example.

- Engineer Manager Geldert explained that he understands Commissioner Linke concerns and he agrees that any project based on this example would generate VMT however, the metric that we are using is an efficiency metric which means that is a VMT per person.
- Project Manager Cole stated the key here is the efficiency metric uses an existing apartment complex that on average is generating 15 VMT per person and if another apartment complex is built nearby the expectation is that it will be like the existing neighbors.
- Commissioner Linke expressed concern that, with the proposed thresholds, the city would not be able to compel even relatively large developments to fund any mitigation measures like transit or other Transportation Demand Management (TDM) measures that could be used to encourage the new residents to not drive their cars.
- Commissioner Linke asked if there is anything that has been customized or is unique for the City of Carlsbad.
- Associate Engineer Horodyski explained that City of Carlsbad has a couple of thresholds and screening criteria that are unique, one is the threshold for Office projects and the other is the Industrial projects.
- Commissioner Linke inquired about harmonizing CEQA rules/TDM rules/ Growth Management Program (GMP) rules/VMT and Level of Service (LOS).
- Associate Engineer Horodyski explained that staff will continue to require both analysis: one for CEQA one for local Traffic Impact Analysis (TIA) and will combine into one document.
- Engineering Manager Geldert stated that as a result of harmonizing the documents staff will develop TIA guidelines, addressing the rules and regulations cited above.
- Commissioner Perez inquired if the development of Robertson's Ranch will affect VMT.
- Director of Traffic Engineering Ruehr answered that for the analysis of this specific commercial project, Robertson's Ranch, it is assumed that this development would decrease VMT.
- Commissioner Penseyres pointed out that one of the areas in the city under development is around Sage Creek High School and how the VMT would impact the residential development in the area.
- Engineering Manager Geldert answered that when analyzing VMT and it is found above the threshold there are mitigation measures that would be put in place.

Motion by Commissioner Linke, seconded by Commissioner Hunter to recommend to the City Council the adoption of a resolution approving citywide Vehicle Miles Traveled Thresholds and Screening Criteria pursuant to Senate Bill 743.

Motion carried: 7/0

CITY TRAFFIC ENGINEER COMMENTS:

City Traffic Engineer Comments: Attachment A

Transportation Planning and Mobility Manager Schmidt introduced the new Assistant City Attorney, Robby Contreras.

City Traffic Engineer Kim informed the commissioners that the Work Plan 20-2021 will be included in the Agenda for June 1, 2020.

Deputy City Manager Gomez asked the commissioners if they would like to have the Chief Innovation Officer, David Graham facilitating the Work Plan 20-2021 as he did for the Work Plan 19-2020.

Traffic and Mobility Commissioners agreed with Deputy City Manager Gomez suggestion.

TRAFFIC & MOBILITY COMMISSION COMMENTS:

Commissioner Linke mentioned that the first ad-hoc meeting on the Sustainable Mobility Plan went well and he is cautiously optimistic that they can make it better.

Commissioners Penseyres inquired about having an information on the Multimodal Level of Service, to better understand how it works.

Transportation Planning and Mobility Manager Schmidt said that it is staff intention to bring it to the T&MC and give a quick primer on how MMLOS is calculated for bicyclists and pedestrians.

Commissioner Penseyres explained his reasoning behind asking for more frequent street sweeping on a wider bicycle lane is to address the debris that accumulates on the bicycle lane.

Transportation Director Frank answered that staff will consider his request.

ADJOURNMENT:

Chair Gocan adjourned the Traffic & Mobility Commission Meeting on May 4, 2020, at 8:01 p.m.

Eliane Paiva

Eliane Paiva, Minutes Clerk



CITY COUNCIL
Staff Report

Meeting Date: August 25, 2020

To: Mayor and City Council

From: Scott Chadwick, City Manager

Staff Contact: David de Cordova, Housing Services Manager
david.decordova@carlsbadca.gov, 760-434-2935

Subject: Acquisition of 2649 Hancock Circle, an Affordable Housing Resale Unit, and Expenditure of Community Development Block Grant Funds in the Amount of up to \$250,000.

Recommended Action

Adopt a resolution authorizing the city manager to execute all required documents to complete the acquisition of 2649 Hancock Circle. and the deputy city manager, administrative services, to appropriate \$250,000 from the Community Development Block Grant Funds Special Revenue Fund to purchase this affordable housing unit.

Executive Summary

The City of Carlsbad has received notice that an affordable housing unit in the 100-unit Mulberry condominium project in Bressi Ranch, is available for the city to purchase to provide affordable housing in the City of Carlsbad as part of its inclusionary housing efforts.

Staff is recommending the city purchase the home using \$250,000 of the \$269,794 of community development block grant funding approved by the City Council in June 2020 for the purchase of such housing.

The City of Carlsbad Municipal Code does not provide authority to the city manager to proceed with such an acquisition of property, or accept the grant deed for transfer of property ownership, without the prior approval by the City Council. Approving this resolution would allow the city to complete the acquisition process for this affordable housing property. The city will own the property at the end of this transaction, with the intent to resell it to an eligible lower-income buyer.

Discussion

Program Overview

The city adopted an inclusionary housing ordinance in 1993 that requires all residential developments greater than six units to restrict 15% of the total number of homes in a project as affordable to low-income households. Residential developers have the option to produce rental or ownership properties to satisfy the inclusionary requirements. Various conditions are imposed on the inclusionary units to ensure that they remain affordable to low-income households, including a provision giving the city the first option to buy the home at a price

restricted to the maximum of the low-income category in the county's median income at the time the city received notice the property was for sale.

The City Council approved the fiscal year 2020-2021 Community Development Block Grant Program Annual Action Plan on June 16, 2020. This plan allocated \$269,794 in block grant funding to allow the city to exercise its option to buy additional affordable housing resale properties at a restricted price and authorized the use of block grant funds to buy these resale units as they became available. Under this Community Development Block Grant Program Annual Action Plan approval, city staff is authorized to respond to applicable property owners with the city's intent to exercise its option to purchase affordable, restricted price homes as they become available for resale and to use the block grant funds to purchase the units.

Approving this resolution would allow the city to buy an affordable home and then resell it to an eligible lower-income buyer. As the owner, the city could place additional restrictions on the property and could resell it at a lower price to create more affordable housing opportunities.

The property and the purchase

To fulfill its inclusionary housing obligation in 2005, the Bressi Ranch developer built the Mulberry complex of 100 affordable condominiums and sold the units to low-income homebuyers (Exhibit 2). The condominium at 2649 Hancock Circle is one of those affordable units, and would be the city's seventh purchase in this neighborhood.

As a condition of the City of Carlsbad's inclusionary housing program, owners of restricted affordable homes are required to notify the city when they intend to sell their properties and allow the city the option to purchase them at restricted prices. On May 28, 2020, the owner of the affordable housing unit gave the city such a notification, and the city subsequently notified the owner of its intent to exercise its option to purchase the property at a restricted price calculated to be \$236,844. The city and owner then entered into a purchase agreement, and escrow has been opened with the intent of completing the property acquisition by Sept. 1, 2020, but no later than Sept. 22, 2020.

Staff is recommending that the City Council authorize the city manager to execute all required documents to complete the purchase of the subject property, which includes acceptance of the grant deed, and to expend up to \$250,000 in Community Development Block Grant funds to cover the purchase price and all related escrow and other processing fees necessary to complete the acquisition. If the City Council approves this purchase, this would become the eighth affordable housing resale unit the city has acquired.

Fiscal Analysis

The homeowner purchased the home at Mulberry in 2005 at the restricted, subsidized price of \$162,000. The restricted price for the city to buy the affordable residential property from the homeowner at 2649 Hancock Circle is based on the change in area median income levels during the seller's period of ownership. Over the past 15 years, area median income increased by 46.2%, resulting in a restricted purchase price of \$236,844. Staff anticipates that there will be additional acquisition costs including escrow fees.

Staff is requesting that the City Council approve the expenditure of CDBG funds in the amount of up to \$250,000 to cover all acquisition costs for the subject property. As a condition of the

city's option to purchase, a 6% transaction fee, amounting to \$14,211, is to be paid to the City of Carlsbad at the close of escrow because the city is acting as the real estate agent for this sales transaction. Funds paid at the close of escrow will be returned to the CDBG acquisition activity fund. There is \$269,794 available for the property acquisition and there will be \$19,794 remaining in the activity fund after the purchase of the property. The remaining funds can be used for future purchases with available undesignated funds that are accumulated through program income, activities that have been completed under budget or cancelled activities. The undesignated CDBG program balance is currently \$337,215, so there will be approximately \$357,000 available for additional property purchases.

Next Steps

With the City Council's approval, all acquisition documents will be executed by the city manager, and the city will complete the purchase of the home and subsequently record the grant deed to transfer ownership of the home to the City of Carlsbad no later than Sept. 22, 2020, and as early as Sept. 1, 2020. The home will then be resold to a lower-income household at a later date. City staff will be returning to the City Council in the third quarter of 2020 for approval of the program details for the resale of the eight affordable housing resale units the city has purchased.

Environmental Evaluation (CEQA)

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

Public Notification

Public notice of this item was posted in accordance with the Ralph M. Brown Act and it was available for public viewing and review at least 72 hours prior to the scheduled meeting date.

Exhibits

1. City Council resolution
2. Location map

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, AUTHORIZING THE DEPUTY CITY MANAGER, ADMINISTRATIVE SERVICES TO APPROPRIATE \$250,000 FROM THE COMMUNITY DEVELOPMENT BLOCK GRANT SPECIAL REVENUE FUND AND AUTHORIZING THE CITY MANAGER TO EXECUTE ALL REQUIRED DOCUMENTS TO COMPLETE THE ACQUISITION OF 2649 HANCOCK CIRCLE, CARLSBAD, CALIFORNIA, AN AFFORDABLE HOUSING RESALE UNIT, EXPENDING COMMUNITY DEVELOPMENT BLOCK GRANT FUNDS IN THE AMOUNT OF UP TO \$250,000.

WHEREAS, the property owner of 2649 Hancock Circle provided notice to the city on May 28, 2020, indicating the owner's intent to sell or transfer ownership of the restricted affordable housing unit at the noted location; and

WHEREAS, the city responded to the property owner of the restricted affordable housing unit on June 24, 2020, indicating its intent to exercise its option to purchase the property at 2649 Hancock Circle; and

WHEREAS, on June 16, 2020, the City Council approved the fiscal year 2020-2021 Community Development Block Grant (CDBG) Program Annual Action Plan allocating \$269,794 in CDBG funding to allow the city to exercise its option to purchase additional affordable housing resales at a restricted price and authorize the use of CDBG funds to purchase these resale units; and

WHEREAS, the purchase approval by the City Council allows for the city to recapture an affordable home and extend its affordability for an indefinite period of time, if so desired, and to resell it to an eligible buyer at a lower price, if necessary, to implement the city's affordable housing goals and policies.

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

1. That the above recitations are true and correct.
2. That the Deputy City Manager, Administrative Services is authorized to appropriate \$250,000 from the CDBG Special Revenue Fund for the property purchase at 2649 Hancock.

3. That the City Council of the City of Carlsbad, California has determined that it desires to exercise its option to purchase an affordable housing resale unit located at 2649 Hancock Circle, Carlsbad, California, and hereby authorizes the city manager to execute all required documents, including the Acceptance of the Grant Deed (Attachment A), for the purchase of said property, and to expend CDBG funds up to \$250,000 to cover the purchase price and all related escrow and other processing fees to complete the acquisition.

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the ____ day of _____, 2020, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

MATT HALL, Mayor

BARBARA ENGLESON, City Clerk

(SEAL)

RECORDING REQUESTED BY:

Chicago Title Company

**When Recorded Mail Document
and Tax Statement To:**

Geoff Patnoe
City of Carlsbad
1200 Carlsbad Village Drive, Attn: Housing
Services Division
Carlsbad, CA 92008

SPACE ABOVE THIS LINE FOR RECORDER'S USE

Escrow Order No.: 73720010392

Exempt from fee per GC 27388.1 (a) (2); recorded in connection with a concurrent transfer subject to the imposition of documentary transfer tax.

APN/Parcel ID(s): 213-190-04-10

GRANT DEED

The undersigned grantor(s) declare(s)

- This transfer is exempt from the documentary transfer tax.
The grantee is the United States or an agency or instrumentality thereof, a state or territory, or political subdivision thereof, R & T 11922.
 - The documentary transfer tax is \$ _____ and is computed on:
 - the full value of the interest or property conveyed.
 - the full value less the liens or encumbrances remaining thereon at the time of sale.
- The property is located in the **City of Carlsbad**.

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, Rosalinda Chandarlis, an unmarried woman

hereby **GRANT(S)** to City of Carlsbad

the following described real property in the City of Carlsbad, County of San Diego, State of California:

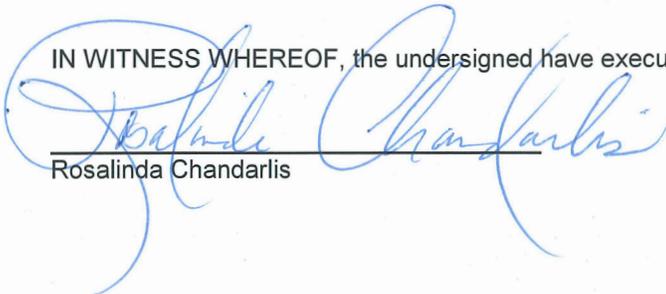
For APN/Parcel ID(s): 213-190-04-10

see attached legal description

PROPERTY COMMONLY KNOWN AS: 2649 Hancock Circle, Carlsbad, CA 92009

Dated: August 18, 2020

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.



Rosalinda Chandarlis

MAIL TAX STATEMENTS AS DIRECTED ABOVE

GRANT DEED
(continued)

APN/Parcel ID(s): 213-190-04-10

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of CA

County of San Diego

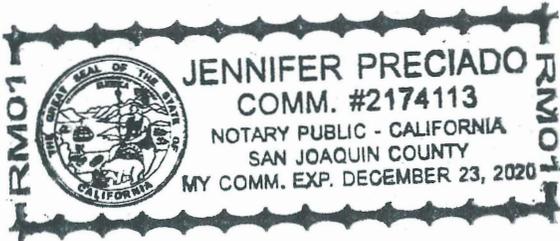
On 8/19/2020 before me, Jennifer Preciado, Notary Public,
(here insert name and title of the officer)

personally appeared Rosalinda Chandarlis,
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Jal



CERTIFICATE OF ACCEPTANCE
(Pursuant to Government Code 27281)

This is to certify that the interest in real property conveyed by the Grant Deed from ROSALINDA CHANDARLIS, AN UNMARRIED WOMAN, to the City of Carlsbad, a municipal corporation (the "City"), is hereby accepted on August 26, 2020, by the undersigned officer or agent on behalf of the City pursuant to authority conferred by City Council Resolution No. 2020-_____ adopted on August 25, 2020, and the City Council consents to the recordation of said document in the Office of the Recorder of San Diego County, State of California.

CITY OF CARLSBAD, a municipal corporation

By: _____

Name: Geoff Patnoe_____

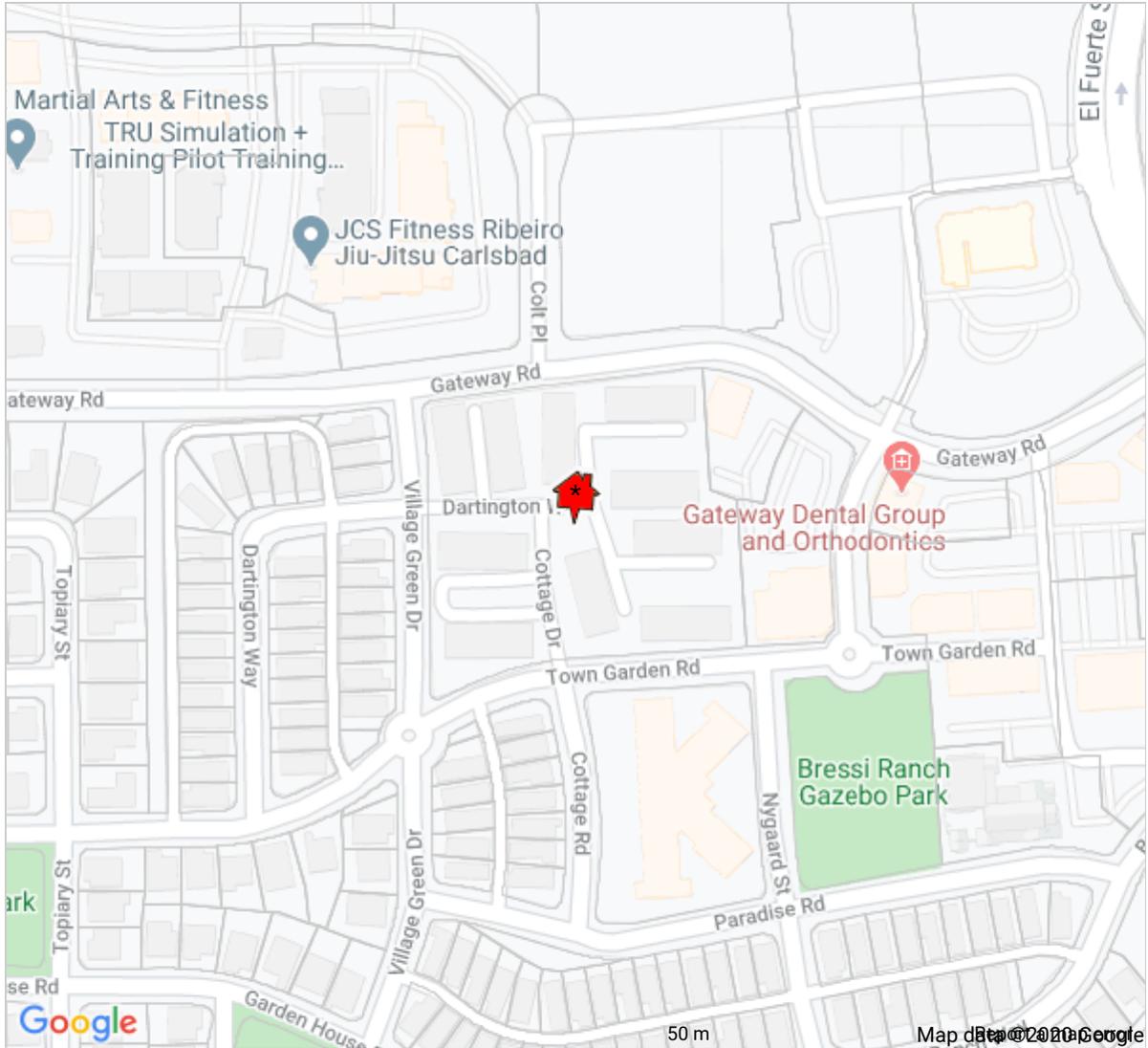
Its: Assistant City Manager_____

Street Map Plus Report

For Property Located At



2649 HANCOCK CIR, CARLSBAD, CA 92009-3052





CITY COUNCIL
Staff Report

Meeting Date: August 25, 2020

To: Mayor and City Council

From: Celia A. Brewer, City Attorney

Staff Contact: Cindie K. McMahon, Assistant City Attorney
cindie.mcmahon@carlsbadca.gov or 760-434-2891

Subject: Waiver of Adjustments to City Council Compensation for 2019 and 2020

Recommended Action

Introduce an ordinance permanently waiving any adjustments to City Council compensation for 2019 and 2020.

Executive Summary/Discussion

On September 25, 2018, the City Council adopted an ordinance amending Carlsbad Municipal Code Section 2.04.010 relating to City Council compensation. Section 2.04.010(A) requires that, in January of each year, the City Council consider whether to adjust its compensation up to the amount established by the San Diego Regional Consumer Price Index or to permanently waive an adjustment.

The question of adjusting City Council compensation was not presented to the City Council in either January 2019 or January 2020. The question was belatedly presented to the City Council at its July 14, 2020 meeting and the City Council voted unanimously to permanently waive compensation adjustments for those two years. Municipal Code Section 2.04.010(A) requires the waiver to be made by ordinance.

Fiscal Analysis

None.

Next Steps

The city clerk will prepare the ordinance for adoption at the next regular council meeting. Once adopted, the city clerk will publish the ordinance or a summary of the ordinance in a newspaper of general circulation within 15 days. The ordinance will be effective 30 days following its adoption.

Environmental Evaluation (CEQA)

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

Public Notification and Outreach

Public notice of this item was posted in accordance with the Ralph M. Brown Act and it was available for public viewing and review at least 72 hours prior to the scheduled meeting date.

Exhibits

1. Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, PERMANENTLY WAIVING CITY COUNCIL COMPENSATION ADJUSTMENTS FOR 2019 AND 2020

WHEREAS, Carlsbad Municipal Code Section 2.04.010 requires any adjustment in City Council compensation be made or permanently waived by ordinance in January of each year; and

WHEREAS, the issue of City Council compensation was not presented to the City Council in either January of 2019 or January of 2020; and

WHEREAS, at this time the City Council wishes to permanently waive any adjustment to the compensation of City Council members for January 2019 and January 2020.

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

1. The City Council waives any adjustments to the compensation of City Council members for January 2019 or January 2020.

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

INTRODUCED AND FIRST READ at a Regular Meeting of the Carlsbad City Council on the _____ day of _____, 2020, and thereafter

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PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the ___ day of _____, 2020, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

APPROVED AS TO FORM AND LEGALITY:

CELIA A. BREWER, City Attorney

MATT HALL, Mayor

BARBARA ENGLESON, City Clerk

(SEAL)



CITY COUNCIL
Staff Report

Meeting Date: August 25, 2020
To: Mayor and City Council
From: Scott Chadwick, City Manager
Staff Contact: Cheryl Gerhardt, Finance Manager
cheryl.gerhardt@carlsbadca.gov, 760-602-2468
Subject: Carlsbad Tourism Business Improvement District Assessment
Modification: Public Meeting, Modified Annual Report Approval, and
Ordinance Introduction

Recommended Actions

1. Conduct a public meeting to allow members of the public to provide testimony and comments on the proposed modification to the Carlsbad Tourism Business Improvement District assessment
2. Adopt a resolution approving the district's modified Fiscal Year 2020-21 Annual Report
3. Introduce an ordinance amending Carlsbad Municipal Code Section 3.37.050 - Carlsbad Tourism Business Improvement District to modify the assessment

Executive Summary/Discussion

The City of Carlsbad established the Carlsbad Tourism Business Improvement District in 2005 under the Parking and Business Improvement Area Law of 1989 (California Streets and Highway Code Section 36500 et seq.). The district generates funds to administer marketing and visitor programs to promote the City of Carlsbad as a tourism visitor destination and to fund projects, programs, and activities, including appropriate administrative charges, that benefit hotels within the district's boundaries. An appointed advisory board makes recommendations on expenditures for the district's programs and activities, makes recommendations for the district's annual budget, and provides end-of-year financial reports.

The district's assessment is currently a flat fee of \$1 per occupied room per night for all transient occupancies, or temporary lodging rentals. The assessment has not been modified since the district was established.

On June 26, 2020, the district's advisory board sent the City Council a letter recommending the City Council modify the assessment to be 2% of gross short-term room rental revenue for all transient occupancies. The additional assessment revenue will enable the district to provide improved services and activities to the assessed businesses.

On July 14, 2020, the City Council adopted a resolution of intention to modify the assessment as recommended. The City Council also scheduled a public meeting for August 25, 2020 and a public hearing for September 1, 2020. All affected businesses were notified of this resolution and of the public meeting and public hearing dates.

The purpose of the August 25, 2020 public meeting is to allow the City Council to receive public comments and testimony on the assessment modification. The purpose of the September 1, 2020 public hearing is to allow the City Council to hear and consider all protests against the assessment modification. If there are written protests from affected business owners who will pay 50% or more of the modified assessment levies, the City Council may not take any further action to modify the assessment for one year.

As part of the process for levying an annual assessment, the advisory board is required to submit a report describing the improvements and activities to be funded with the assessment proceeds. The City Council approved the report for the fy 2020-21 assessment at the City Council's meeting on June 2, 2020 and confirmed the report at its meeting on June 23, 2020. (The confirmation of the report authorizes the assessment to be levied against the affected businesses.) Because the proposed modified assessment will increase the assessment proceeds available for fy 2020-21, the advisory board has provided a modified fy 2020-21 report for the City Council's approval and confirmation.

Modifying the assessment requires the passage of an ordinance amending CMC 3.37.050. Before passage, an ordinance must first be introduced. The City Council may introduce an ordinance amending CMC 3.37.050 at its August 25, 2020 meeting. Doing so would allow the City Council, if there is no majority protest, to adopt the ordinance following the September 1, 2020 public hearing.

Fiscal Analysis

The \$1 per room night assessment rate is estimated to generate \$800,000 in revenues in Fiscal Year 2020-21 for the district's activities. Modifying the assessment to 2% of the gross short-term room rental revenue would generate an estimated \$3.5 million in annual revenue for the district's activities.

Next Steps

A public hearing on the proposed modification is scheduled for Sept. 1, 2020 at 3 p.m., at which the City Council will be asked to determine if there is a majority protest. If there is not, the City Council may confirm the modified FY 2020-21 annual report and adopt the ordinance amending Carlsbad Municipal Code Section 3.37.050 - Carlsbad Tourism Business Improvement District. The ordinance would become effective 30 days after adoption, but would provide for the modified assessment to become effective Nov. 1, 2020.

Environmental Evaluation (CEQA)

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

Public Notification

Public notice of this item was posted in accordance with the Ralph M. Brown Act and it was available for public viewing and review at least 72 hours prior to the scheduled meeting date. In addition, following the adoption of the Resolution of Intention, a notice was mailed to all affected business owners on July 17 which began a mandatory 45-day period during which the owners may protest the modification.

Exhibits

1. City Council resolution
2. Ordinance Amending Carlsbad Municipal Code 3.37.050 - Carlsbad Tourism Business Improvement District
3. Highlighted amendments to CMC 3.37.050
4. Letter from Carlsbad Tourism Business Improvement District Advisory Board
5. Adopted Resolution of Intention
6. Notice of Public Meeting and/or Public Hearing
7. Written protests

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, APPROVING THE MODIFIED ANNUAL REPORT OF THE CARLSBAD TOURISM BUSINESS IMPROVEMENT DISTRICT (CTBID) AND CONTINUING THE CTBID PROGRAMS AND ASSESSMENTS FOR FISCAL YEAR 2020-21

WHEREAS, the Carlsbad Tourism Business Improvement District (CTBID) was formed in accordance with the Parking and Business Improvement Area Law of 1989 (California Streets and Highway Code, § 36500 et seq.) (the “Act”); and

WHEREAS, Section 36533 of the Act requires the CTBID Advisory Board to present a report to the City Council for review and approval for each fiscal year for which assessments are to be levied and collected to pay the cost of the improvements and activities described in the report; and

WHEREAS, the CTBID Advisory Board submitted an Annual Report to the City Council for FY 2020-21, which the City Council approved at its meeting on June 2, 2020 and confirmed at its meeting on June 23, 2020; and

WHEREAS, the CTBID Advisory Board submitted a modified Annual Report to the City Council for FY 2020-21 based on the proposed modification of the CTBID assessment to two percent (2%) of gross short-term room rental revenue for all transient occupancies.

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

1. The above recitals are true and correct.
2. The modified Annual Report for FY 2020-21 (Attachment A) is approved, subject to confirmation after a public hearing on the proposed CTBID assessment modification.

PASSED, APPROVED AND ADOPTED at a Meeting of the City Council of the City of Carlsbad on the ___ day of _____, 2020, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

MATT HALL, Mayor

BARBARA ENGLESON, City Clerk
(SEAL)

**Carlsbad Tourism and Business Improvement District (CTBID)
2020-2021 Modified Annual Report**

Method of Assessment: The CTBID includes all hotel businesses located within the CTBID boundaries. The assessment shall be levied on all hotel businesses, existing and future, within the City of Carlsbad based upon 2% of gross short-term room rental revenue for all transient occupancies as defined in section 3.12.020(7) of the Carlsbad Municipal Code. The amount of assessment shall be separately stated from the amount of the rent and other taxes charged, and each transient shall receive a receipt for payment from the operator. The assessment will be remitted monthly, based on 2% of gross short-term room rental revenue for the previous month.

Assessment Funding Purpose: To administer marketing and visitor programs to promote the City of Carlsbad as a tourism visitor destination and to fund projects, programs, and activities, including appropriate administrative charges that benefit hotels within the boundaries of the District.

2019-20 Work Plan: Last fiscal year, the CTBID contracted with Carlsbad Convention and Visitors Bureau (dba Visit Carlsbad) to provide tourism marketing services for Carlsbad. In addition, \$20,000 in grants were awarded to fund events to increase the overnight stays in Carlsbad hotels.

The previously adopted CTBID 2020-21 budget included a reduced funding level of \$800,000 for Visit Carlsbad. This reduced funding level is the result of reduction in assessment revenue due to Covid-19. The services provided will focus primarily on post Covid-19 marketing recovery efforts. The majority of this will be done by interactive marketing and group sales. Funding also includes managing the visitor center and publications. The increase in the assessment from \$1 per room night to 2% of gross revenue will result in an estimated budget of \$1,200,000, and goes into effect November 1. This increased revenue will provide additional funding for marketing during the recovery. Due to the uncertainty of the tourism economy at this time, the CTBID Board will revisit the budget mid-year as well as the Visit Carlsbad contract to make adjustments based on the needs at that time.

Detail of the modified 2020-21 budget is shown on the following page.

2020-21 CTBID Budget

Program Areas	Description	2016-17 Actuals	2017-18 Actuals	2018-19 Actual	2019-20 Actual	2020-21 Adopted Budget	2020-21 Modified Budget
Carryover Fund Balance		\$655,774	\$722,331	\$696,716	\$640,318	617,131	617,131
<u>Revenues:</u>							
CTBID Assessment	\$1 per room night	1,205,851	1,246,944	1,333,001	1,088,859	800,000	1,200,000
Interest Earnings		1,658	2,535	26,920	21,385		
Total Estimated Revenues		1,207,509	1,249,479	1,359,921	1,110,244	800,000	1,200,000
<u>Expenditures:</u>							
2% Admin. Fee - City	2% of CTBID assessment revenue, for collection of CTBID assessment and accounting for CTBID	24,116	24,896	26,644	21,045	16,000	24,000
CCVB Payment	To operate visitor center, market and promote Carlsbad	978,612	1,130,216	1,244,575	1,040,326	800,000	800,000
Staff support	Staff support to the CTBID - 2% of revenues	19,224	16,972	15,649	20,446	16,000	24,000
Professional Services	Civitas Contract				32,960		12,000
CTBID Grants	Grant program established by CTBID Board	119,000	103,011	129,451	18,654	75,000	35,000
Total Expenses		1,140,952	1,275,095	1,416,319	1,133,431	907,000	895,000
Ending Fund Balance	Contingency for Revenue shortfall	\$722,331	\$696,716	\$640,318	\$617,131	510,131	922,131

Visit Carlsbad Expenses

	2016-17	2017-18	2018-19	2019-20	
	Actuals	Actuals	Budget	Request	
Labor	348,088	406,478	422,051	434,324	
Advertising Campaign	7,095	7,923	156,000	156,000	
Digital MKtg	247,764	235,610	250,000	250,000	
Group	184,259	198,967	301,100	194,500	
PR Contract	95,099	224,353	185,000	190,000	
G&A	27,911	29,323	35,649	30,676	
Other promotion	35,725	39,929	41,800	42,500	
	945,941	1,142,583	1,391,600	1,298,000	37%
Reserves	722332				

Agreement Date

11/8/2019	\$40,000	6 Months	\$6,000/month
paid	(16,480)	12/19/2019	
paid	(6,240)	2/6/2020	
paid	(2,240)	6/30/2020	
	\$15,040		

5/15/2020	\$20,000	6 Months	\$6,000/month
Paid	-8000	6/4/2020	
Paid	-6000	7/23/2020	
	\$6,000		

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, AMENDING CARLSBAD MUNICIPAL CODE SECTION 3.37.050 TO MODIFY THE ASSESSMENT FOR THE CARLSBAD TOURISM BUSINESS IMPROVEMENT DISTRICT

WHEREAS, the City of Carlsbad established the Carlsbad Tourism Business Improvement District (CTBID) in 2005 under the Parking and Business Improvement Area Law of 1989 (California Streets and Highway Code § 36500 et seq.); and

WHEREAS, the CTBID generates funds to administer marketing and visitor programs to promote the City of Carlsbad as a tourism visitor destination and to fund projects, programs, and activities, including appropriate administrative charges, that benefit hotels within the CTBID's boundaries; and

WHEREAS, an appointed advisory board (Board) makes recommendations on expenditures for the CTBID's programs and activities, makes recommendations for the CTBID's annual budget, and provides end-of-year financial report; and

WHEREAS, the CTBID assessment is currently a flat fee of \$1 per occupied room per night for all transient occupancies; and

WHEREAS, the assessment has not been modified since the CTBID was established; and

WHEREAS, on June 26, 2020, the Board sent the City Council a letter recommending the City Council modify the assessment to be 2% of gross short-term room rental revenue for all transient occupancies; and

WHEREAS, the additional assessment revenue will allow the CTBID to provide improved services and activities to assessed businesses; and

WHEREAS, on July 14, 2020, the City Council adopted a Resolution of Intention to modify the assessment as recommended; and

WHEREAS, the City Council conducted a public meeting on August 25, 2020 to receive public comments and testimony on the assessment modification; and

WHEREAS, the City Council conducted a public hearing on September 1, 2020 to hear and consider all protests against the assessment modification; and

WHEREAS, all affected businesses were notified of the Resolution of Intention and of the public meeting and public hearing dates; and

WHEREAS, the City Council did not receive written protests from affected business owners who will pay 50% or more of the modified assessment levies; and

WHEREAS, the City Council received, approved, and confirmed a modified FY 2020-21 annual report for the CTBID.

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

1. The above recitations are true and correct.
2. As of Nov. 1, 2020, Carlsbad Municipal Code Section 3.37.050 is amended to read:

3.37.050 Levy and collection of assessments.

The CTBID will include all hotel businesses located within the CTBID boundaries. An assessment shall be levied on all hotel businesses, existing and future, within the City of Carlsbad of two percent (2%) of gross short-term room rental revenue for all transient occupancies as defined in Section 3.12.020 of the Carlsbad Municipal Code. The amount of the assessment shall be separately stated from the amount of the rent and other taxes charged, and each transient shall receive a receipt for payment from the operator. The assessment will be collected monthly, based on two percent (2%) of gross short-term room rental revenue for the previous month. New hotel businesses within the boundaries will not be exempt from the levy of assessment authorized by Section 36531. Assessments pursuant to the CTBID shall not be included in gross room rental revenue for purpose of determining the amount of the transient occupancy tax. No assessment shall be imposed upon occupancies of any federal or State of California officer or employee when on official business nor on occupancies of any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.

EFFECTIVE DATE: This ordinance shall be effective 30 days from the date of its adoption; and the City Clerk shall certify the adoption of this ordinance and cause the full text of the ordinance or a summary of the ordinance prepared by the City Attorney to be published at least once in a newspaper of general circulation in the City of Carlsbad within fifteen days after its adoption.

INTRODUCED AND FIRST READ at a Regular Meeting of the Carlsbad City Council on the _____ day of _____, 2020, and thereafter

PASSED, APPROVED AND ADOPTED at a Regular Meeting of the City Council of the City of Carlsbad on the ___ day of _____, 2020, by the following vote, to wit:

AYES:

NAYS:

ABSENT:

APPROVED AS TO FORM AND LEGALITY:

CELIA A. BREWER, City Attorney

MATT HALL, Mayor

BARBARA ENGLESON, City Clerk

(SEAL)

**PROPOSED AMENDMENTS TO
CARLSBAD MUNICIPAL CODE SECTION 3.37.050**

3.37.050 Levy and collection of assessments.

The CTBID will include all hotel businesses located within the CTBID boundaries. ~~The~~ An assessment shall be levied on all hotel businesses, existing and future, within the City of Carlsbad ~~based upon a flat fee~~ of two percent (2%) of gross short-term room rental revenue ~~one dollar per occupied room per night~~ for all transient occupancies as defined in Section 3.12.020 of the Carlsbad Municipal Code. The amount of the assessment shall be separately stated from the amount of the rent and other taxes charged, and each transient shall receive a receipt for payment from the operator. The assessment will be collected monthly, based on two percent (2%) of gross short-term room rental revenue ~~on one dollar per occupied room per night in revenues~~ for the previous month. New hotel businesses within the boundaries will not be exempt from the levy of assessment authorized by Section 36531. Assessments pursuant to the CTBID shall not be included in gross room rental revenue for purpose of determining the amount of the transient occupancy tax. No assessment shall be imposed upon occupancies of any federal or State of California officer or employee when on official business nor on occupancies of any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty.

June 26, 2020

Honorable Mayor and Councilmembers
City of Carlsbad
1200 Carlsbad Village Drive
Carlsbad, CA 92008

Re: Carlsbad Tourism Business Improvement District Assessment Modification

Honorable Mayor and Councilmembers:

As the Carlsbad Tourism Business Improvement District ("District") advisory board, we hereby recommend that the City Council modify the District.

Specifically, we request that the assessment rate of the district be modified. The current assessment rate is \$1.00 per paid-occupied-room per night. We request modifying the assessment rate to two percent (2%) of gross short-term room rental revenue.

We ask that you consider this item at your July 14, 2020 meeting. If you have any questions or comments, please contact me at 760-419-7788.

Thank you,



Tim Stripe
Chair, CTBID Advisory Board

Cc: Cheryl Gerhardt

RESOLUTION NO. 2020-134

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARLSBAD, CALIFORNIA, DECLARING ITS INTENTION TO MODIFY THE ASSESSMENT RATE FOR THE CARLSBAD TOURISM BUSINESS IMPROVEMENT DISTRICT, FIXING THE TIME AND PLACE OF A PUBLIC MEETING AND PUBLIC HEARING ON THE MODIFICATION, AND GIVING NOTICE OF THE PUBLIC MEETING AND PUBLIC HEARING

WHEREAS, pursuant to the Parking and Business Improvement Area Law of 1989 (California Streets and Highway Code § 36500 et seq.) (the "89 Law"), the City Council has established the Carlsbad Tourism Business Improvement District ("District"); and

WHEREAS, the 89 Law authorizes the District's advisory board at any time to recommend the City Council modify the basis and method of levying the assessment rate of the District; and

WHEREAS, the District's advisory board submitted a written recommendation that the City Council modify the District assessment rate from \$1 per occupied room night for all transient occupancies to 2% of gross short-term room rental for all transient occupancies; and

WHEREAS, the 89 Law establishes the procedure to modify the assessment rate which includes adopting a Resolution of Intention, providing notice to affected business owners, holding a public meeting, holding a public hearing, and adopting an ordinance modifying the assessment rate.

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

1. The above recitations are true and correct.
2. The City Council declares its intention to modify the District assessment rate from \$1 per occupied-room per night for all transient occupancies to 2% of gross short-term room rental revenue for all transient occupancies.
3. As with the current assessment, the modified assessment would be levied on all hotel businesses, existing and in the future, within the District boundaries.
4. The District boundaries continue to be consistent with the boundaries of the City of Carlsbad.
5. The modified assessment rate would go into effect on November 1, 2020.
6. The improvements and activities proposed for the District that shall be funded by the levy of assessments on businesses within the District boundaries include:
 - a. General promotion of business activities within the District;
 - b. Promotion of public events which benefit businesses in the District and which take place on or in public places within the District;
 - c. Decoration of any public place within the District; and

- d. Acquisition, construction, installation or maintenance of improvements identified in Section 36510 of the 89 Law.
7. Funds remaining at the end of any District term may be used in subsequent years in which the District assessments are levied as long as they are used consistent with the requirements of Carlsbad Municipal Code Section 3.27.070.
8. The CTBID Advisory Board will continue to serve as the advisory board of the District.
9. The District advisory board shall submit an annual report, which shall include a budget for operations and activities to be undertaken by the District for the ensuing calendar year, to the City Council pursuant to Section 36533 of the 89 Law.
10. The time and place for a public meeting for comments on the modification of the District assessment rate is set for 3 p.m. on Aug. 25, 2020 at City Hall, 1200 Carlsbad Village Drive, Carlsbad, CA 92008.
11. The time and place for the public hearing on the modification of the District assessment rate is set for 3 p.m. on Sept. 1, 2020 at City Hall, 1200 Carlsbad Village Drive, Carlsbad, CA 92008.
12. At the public meeting and public hearing, the testimony of all interested persons for or against modifying the District will be heard.
13. A protest against modifying the District, as provided in Section 36524 of the 89 Law, must be made in writing. A written protest may be withdrawn, in writing, at any time before the conclusion of the public hearing. Each written protest shall contain a description of the business in which the person signing the protest is interested, sufficient to identify the business and its address. If the person signing the protest is not shown on the official records of the City of Carlsbad as the owner of the business, then the protest shall contain or be accompanied by written evidence that the person is the owner of the business, or the authorized representative. Any protest as to the regularity or evidence of the proceedings shall be in writing and clearly state the irregularity or defect to which objection is made. Written protests must be received by the City Clerk's Office before the close of the public hearing, and may be delivered to the City Clerk Office at 1200 Carlsbad Village Drive, Carlsbad, CA 92008.
14. If, at the conclusion of the public hearing, there are of record written protests by the owners of businesses within the District that will collectively pay 50% or more of the proposed modified District assessment rate, no further proceedings to modify the assessment rate shall occur for a period of one year from the date of the finding of a majority protest.
15. Further information regarding the proposed modified District assessment rate may be obtained from the City Clerk, at 1200 Carlsbad Village Drive, Carlsbad, CA 92008 or by contacting Cheryl Gerhardt, staff for the Carlsbad Tourism Business Improvement District, at (760) 602-2468.

16. The City Clerk is instructed to provide notice of the public meeting and public hearing by mailing notice and a complete copy of this Resolution of Intention to each and every business owner in the District on or before July 17, 2020.

PASSED, APPROVED AND ADOPTED at a Meeting of the City Council of the City of Carlsbad on the 14th day of July 2020, by the following vote, to wit:

AYES: Hall, Blackburn, Bhat-Patel, Schumacher.

NAYS: None.

ABSENT: None.



MATT HALL, Mayor



BARBARA ENGLESON, City Clerk

(SEAL)



**NOTICE OF PUBLIC MEETING AND PUBLIC HEARING CONCERNING THE MODIFICATION OF THE CARLSBAD
TOURISM BUSINESS IMPROVEMENT DISTRICT ASSESSMENT RATE**

NOTICE IS HEREBY GIVEN that on July 14, 2020, the City Council of the City of Carlsbad adopted a Resolution of Intention to modify the Carlsbad Tourism Business Improvement District (the "CTBID") assessment rate as set forth in the Resolution of Intention.

NOTICE IS HEREBY FURTHER GIVEN that at 3:00 PM on August 25, 2020, at City Hall, 1200 Carlsbad Village Drive, Carlsbad, CA 92008, a public meeting shall be held to allow public testimony regarding the modification of the CTBID assessment rate as set forth in the Resolution of Intention.

NOTICE IS HEREBY FURTHER GIVEN that 3:00 PM on September 1, 2020, at City Hall, 1200 Carlsbad Village Drive, Carlsbad, CA 92008, has been set as the time and place for a public hearing at which time the City Council proposes to modify the CTBID assessment rate as set forth in the Resolution of Intention.

Location: The CTBID includes all hotel businesses located within the boundaries of the City of Carlsbad.

Services: The CTBID is designed to provide specific benefits to payors by increasing demand for overnight visitation to hotels within the CTBID boundaries. Revenues collected shall be used for the following:

- General promotion of business activities within the CTBID;
- Promotion of public events which benefit businesses in the CTBID and which take place on or in public places within the CTBID;
- Decoration of any public place within the CTBID; and
- Acquisition, construction, installation or maintenance of improvements identified in California Streets and Highways Code Section 36510.

Cost: The proposed assessment modification would increase the current assessment rate of \$1 per occupied room per night for all transient occupancies to 2% of gross short-term room rental revenue for all transient occupancies.

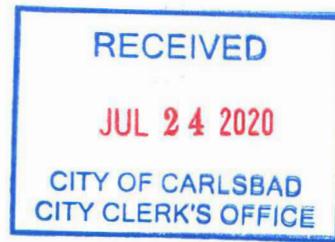
Protest: Any owner of a lodging business within the CTBID that will be subject to the assessment may protest the modification of the CTBID assessment rate. Written protests must be received by the City Clerk of the City of Carlsbad before the close of the scheduled public hearing. If written protests are received from the owners of lodging businesses in the CTBID who 50% or more of the estimated annual assessments to be levied, the CTBID assessment rate shall not be modified.

You may mail a written protest to: Office of the City Clerk, City of Carlsbad, 1200 Carlsbad Village Drive, Carlsbad, CA 92008

COVID-19 pandemic related public health orders may prevent your personal appearance at the public meeting or the public hearing. If your personal appearance is permitted, you may appear at the public meeting or the public hearing and submit a written protest at that time.

Information: Should you desire additional information about the proposed CTBID assessment rate modification contact: Cheryl Gerhardt, Carlsbad Tourism Business Improvement District Staff, 1635 Faraday Ave., Carlsbad, CA 92008

July 22nd, 2020



To whom it may concern,

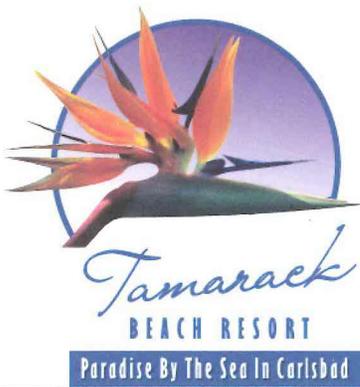
I am the owner of the AirBnB at 2373 Jefferson St., Carlsbad CA 92008. I am already taxed TO DEATH. If you increase the CTBID rate from \$1/room to 2% of gross I will sell my home and move away from this area. You have already failed miserably to address the homeless epidemic and made the beach illegal for a time; this was a criminal decision. I am at the end of my rope. 10% of gross to the City becoming 12% on top of state and federal taxes is literal theft.

I am writing to protest and demand that you not increase these taxes further.

Sincerely,

A handwritten signature in black ink, appearing to read 'Clint Muhe', written in a cursive style.

Clint Muhe



RECEIVED

AUG 03 2020

CITY OF CARLSBAD
CITY CLERK'S OFFICE

July 25, 2020

City Clerk of the City of Carlsbad

This is to protest the proposed modification of the CTBID assessment rate. The proposed change is outrageous in size. To most of the affected properties it would be a 400% increase or more and that is an outrageous increase. If this increased money is truly needed, look to all the Airbnb type rentals that take away from the very properties you are supposed to be helping. They get the benefits from the CTBID tax without supporting their share.

Tamarack Beach Hotel

3200 Carlsbad Blvd

Kenneth and Mary Jo Voertman, Owners

A HELM MANAGED RESORT

RECEIVED

AUG 10 2020

CITY OF CARLSBAD
CITY CLERK'S OFFICE

Annette Granstedt Revocable Trust

20 July 2020

Office of the City Clerk
City Clerk
City of Carlsbad
1200 Carlsbad Village Drive.
Carlsbad Ca. 92008

Dear City Clerk:

I am writing you to protest the proposed modification of the CTBID assessment.

My reason for protesting this assessment is the current climate regarding the COVID-19 pandemic. Not only is this pandemic a fluid situation economically but also socially. The general public has lost income as well as the ability to travel feeling safe. This increased assessment is an unneeded strain on the hospitality industry and our guests at this time. The hospitality industry is already facing waves of cancellations, shutdowns, negative consumer sentiment, decreased prices for lodging, less nights booked, and increasing costs coupled with heightened safety measures.

It is my hope other business owners within the CTBID write into the City to protest this assessment so our voices can be heard. I believe the City of Carlsbad will do what is right for our local business owners and those who come to visit our wonderful city.

Sincerely,

Annette Granstedt
Owner/Trustee of Annette Granstedt Revocable Living Trust

agranstedt56@gmail.com

DocuSigned by:

Annette Granstedt

228DBF6E27B5459...

7/20/2020 | 3:51 PM PDT

August 11, 2020

To: Office of the County Clerk
City of Carlsbad
1200 Carlsbad Village Drive
Carlsbad, CA 92001

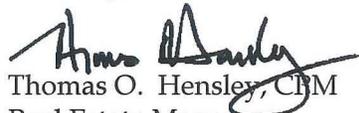
Re: CTBID Assessment Rate Increase

To Whom It May Concern:

As the management agent (The Helm Management Co.) for two commercial properties currently paying the assessment, we want to protest the subject increase rate to 2% of the gross short term rental income.

Both properties located at, 3200 Carlsbad Blvd., Carlsbad, CA 92001, Tamarack Beach Resort Hotel and Tamarack Beach Resort Vacation Owners Association are now paying the assessment. With the Covid-19 crisis resulting in lower incomes and the uncertain future, the owners of the Hotel and the Board of the timeshare association feel this is not the proper time for the business economy to justify this increase.

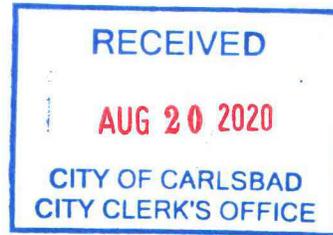
Sincerely,


Thomas O. Hensley, CFM
Real Estate Manager



August 17, 2020

Office of the City Clerk
City of Carlsbad
1200 Carlsbad Village Dr.
Carlsbad, CA 92008



Re: Modification of CTBID Assessment Rate

To Whom It May Concern:

We own a STVR within the coastal area of Carlsbad. At this time, we are opposed to modification of the assessment rate as set forth in the Resolution of Intention we received by mail.

We are not opposed in general to the modification, we are opposed at this time due to Covid-19. We feel with the general decline of the economy, now is not the time to impose additional assessments. At such time as the economy recovers, we would be willing to reconsider and revisit the issue.

Sincerely,

A handwritten signature in blue ink, appearing to read "John and Lorna Hoopes".

John and Lorna Hoopes

Property located at:



CITY COUNCIL
Staff Report

Meeting Date: August 25, 2020

To: Mayor and City Council

From: Scott Chadwick, City Manager

Staff Contact: Brigid Okyere, Internal Auditor
brigid.okyere@carlsbadca.gov, 760-602-2429
Laura Rocha, Deputy City Manager, Administrative Services
laura.rocha@carlsbadca.gov, 760-602-2415

Subject: Audit of The Crossings at Carlsbad Golf Course and Update on Audit Activities

Recommended Action

Receive a presentation on the results of the internal audit of The Crossings at Carlsbad Golf Course and an update on audit activities.

Executive Summary

The City Council approved the Internal Audit Plan for fiscal year 2020-21, which carried forward the previous year's requested audit of The Crossings. The internal auditor is presenting a summary of the audit results and an update on pending audit activities.

Discussion

In August 2019, the City Council approved the internal auditor to include in the fiscal year 2019-20 Internal Audit Plan a performance audit of The Crossings, including specifics related to financial performance, sexual harassment and the city's interaction with and oversight of the golf course.

The Internal Audit Plan for fy 2019-20 included this audit, which was subsequently shifted into the fy 2020-21 Internal Audit Plan. The internal auditor completed the audit of The Crossings in July 2020 and submitted the attached report to the City Council in a council memo on Aug. 6, 2020. The report content includes the audit's objectives, methodology and findings and conclusions. At the end of the report, the internal auditor recommended several corrective actions to the golf course steering committee in response to audit conclusions.

For this report, the internal auditor will present:

- A summary of The Crossings at Carlsbad Golf Course audit results
- The status of ongoing audits performed by the internal auditor
- The status of transient occupancy tax compliance audits for a selection of 12 hotels in the City of Carlsbad performed by an external auditor

Fiscal Analysis

This is an informational item with no fiscal impact. There may be an impact to the city's financial statements depending on how it chooses to implement the first recommendation cited in Report 2020-21 The Crossings at Carlsbad Golf Course. This would be discussed by the Finance Department and brought to the City Council for consideration at a later date.

Environmental Evaluation (CEQA)

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

Public Notification

Public notice of this item was posted in keeping with the Ralph M. Brown Act and it was available for public viewing and review at least 72 hours before the scheduled meeting date.

Exhibits

1. Report 2020-02, The Crossings at Carlsbad Golf Course

To the members of the:
 CITY COUNCIL
 Date 8/6/20 CA CC
 CM ACM DCM (3)



Council Memorandum

Aug. 6, 2020

To: Honorable Mayor Hall and Members of the City Council
From: Brigid Okyere, Internal Auditor
Via: Geoff Patnoe, Acting City Manager *GP*
Re: **The Crossings at Carlsbad Golf Course Audit, Report 2020-02**

This memorandum provides information related to the internal audit of The Crossings at Carlsbad Golf Course.

Background

The City Council approved the Internal Audit Plan for fiscal year 2020-21 which carried forward the previous year's requested audit of The Crossings.

Discussion

The attached report summarizes the results of the internal audit of The Crossings. The audit focused on financial performance of the Golf Course Enterprise Fund, the city's oversight of The Crossings, and JC Management's compliance with key laws related to sexual harassment.

I would like to thank city staff and representatives from JC Management for their cooperation during the audit.

Next Steps

For any questions related to this report, please contact Brigid Okyere at Brigid.okyere@carlsbadca.gov. A brief summary of the report results is tentatively scheduled at the City Council meeting on Aug. 25, 2020. After the meeting, the report will be available on the city website.

Attachment: A. The Crossings at Carlsbad Golf Course Audit, Report 2020-02

cc: Scott Chadwick, City Manager
 Celia Brewer, City Attorney
 Barbara Engleson, City Clerk
 Laura Rocha, Deputy City Manager, Administrative Services
 Gary Barberio, Deputy City Manager, Community Services
 Kevin Branca, Finance Director
 Ryan Green, Assistant Finance Director
 Kyle Lancaster, Parks & Recreation Director



The Crossings at Carlsbad
Golf Course
REPORT

July 2020

Internal Auditor
Brigid Okyere, CPA

Report 2020-02

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INTRODUCTION

Scope and Objectives

- Assess JC Management's compliance with sexual harassment policies and procedures and other mandated guidelines
- Research the current golf market and review The Crossings' overall financial health against other Southern California municipal golf courses to assess financial sustainability
- Assess the financial performance of the pro shop and food and beverage
- Determine whether the responsible city divisions provide adequate oversight of and services to The Crossings

Methodology

- Interviewed JC Management and city staff
- Reviewed JC Management and city policies
- Researched federal and state laws, regulations, and best practices related to sexual harassment in the workplace
- Reviewed JC Management's human resources files of its employees at The Crossings
- Attended monthly Golf Course Steering Committee meetings including representatives from JC Management and the city
- Researched the current golf market and other municipal golf courses in the region
- Analyzed the Golf Course Enterprise Fund and The Crossings' finances

Summary of Conclusions

- At the end of fiscal year 2018-19, the city had advanced and transferred approximately \$76.3 million from the General Fund to the Golf Course Enterprise Fund for The Crossings' construction, debt service payments, and a portion of its operating costs. Although operating revenues at The Crossings have grown in recent years, various factors indicate golf course revenues may not be sufficient to repay the city's General Fund for previously advanced funds.
- The golf course steering committee can enhance its oversight of The Crossings by requesting internal audits performed by JC Management and ensuring the city adheres to various requirements in the management agreement.
- JC Management largely complied with human resources laws related to the prevention, detection and investigation of sexual harassment. Although several former supervisors did not receive sexual harassment training in the required time frame, current supervisors are up-to-date with training requirements. The city's contract with JC Management includes appropriate language addressing sexual harassment prevention at The Crossings and providing additional liability protection for the city.

Background

In April 2000, the City Council of the City of Carlsbad and the Board of Directors of the Carlsbad Municipal Water District formed the Carlsbad Public Financing Authority, a joint powers authority, to assist with the financing, construction, and management of the daily operations of a municipal golf course. The city built the golf course using funds from both revenue bonds and the city's General Fund. The Crossings at Carlsbad opened to the public in the summer of 2007. Appendix B of this report provides a timeline of key historical events from inception of the golf course to the present day. Figure 1 below provides an at-a-glance summary of the property.

Figure 1: At-a-glance summary of The Crossings at Carlsbad

Property offerings	Public 18-hole championship golf course, golf shop, wedding venue, private event space, Canyons Restaurant, Player's Lounge Bar, practice facility
Property size	Approximately 400 acres including 6,835 yard course
Ownership	City owns all property and leases it to the Carlsbad Public Financing Authority
Management structure	Authority contracts with outside firm to manage operations
Current management company	JC Management, LLC
Current management fee structure	Fixed fee \$135,000 / year Plus a percentage fee of 5.5% of total gross revenues in excess of \$5 million, not to exceed the fixed fee amount*
Current debt service	None – 2006 revenue bonds paid off in FY 2016-17

Source: Historical city documents, The Crossings at Carlsbad website, and current management agreement.

*The fixed fee is adjusted by the Consumer Price Index annually.

Management Services

The authority has contracted with an outside firm to manage The Crossings since it opened. Management responsibilities involve the entire operations of The Crossings, including course maintenance, food and beverage services, administration, budgeting, marketing, and hosting tournaments and special events. The authority contracted with Kemper Sports Management Inc. for management and operations of The Crossings from 2006 to 2018. Although not part of the scope of this audit, some adverse events that occurred during Kemper's second contract term are summarized in Appendix C.

Near the end of the second contract term, the authority advertised for proposals to manage and operate the golf course instead of exercising an optional five-year term extension with Kemper. As a result of this process, the authority selected JC Management as the new management company. The authority favored JC Management due to its strong showing in areas such as financial processes and accounting, internal and external auditing, human resources culture, information technology and administration, tournament hosting experience, food and beverage capabilities, sales and marketing, course maintenance and regulatory compliance, local region industry experience, and a leading Southern California affinity program. The company manages several San Diego golf properties, including Encinitas Ranch Golf Course and Ranch Grill, Oaks North Golf Course, Rancho Bernardo Inn Golf Course, Reidy Creek Golf Course, Twin Oaks Golf Course, and Welk Resorts San Diego. JC Management offers centralized tee time booking and an affinity program—JC Player's Card—for its network of courses.

GOLF COURSE ENTERPRISE FUND

The Crossings' finances are set up as a separate city enterprise fund, the Golf Course Enterprise Fund, as it provides business-type services to external customers. By definition, enterprise funds report activity for which a fee is charged to external users for goods or services. The Golf Course Enterprise Fund generates revenue through its operations at The Crossings, including earnings from greens fees from golfers using the golf course, Canyons Restaurant, its practice facility, pro shop, and weddings and other private events. This section provides historical financial information but focuses on the past three fiscal years 2016-17 through 2018-19 for which the city had audited comprehensive annual financial reports.

History of General Fund contributions

The city built The Crossings using funds from both revenue bonds and the city's General Fund. The city has contributed funds from the General Fund to the Golf Course Enterprise Fund numerous times over the years since its initial construction. The city provided some General Fund contributions to the Golf Course Enterprise Fund as advances (i.e., interfund loans), which advance cash from one fund to another with the expectation of repayment. In more recent years, the city transferred money from the General Fund to the Golf Course Enterprise Fund, permanently moving money from one fund to the other. Table 1 on the following page provides a comprehensive picture of these transactions. The city's reasons to contribute these funds include to:

- Fund construction and pre-opening costs. The largest single contribution was a General Fund advance of \$30.3 million in 2006.
- Make debt service payments on \$18.54 million in 2006 bonds used to fund construction and pre-opening costs. The city's General Fund was required to provide funding if the golf course's net income was insufficient to make the bond payments.
- Pay off the remaining obligations associated with the 2006 bonds. In 2016 the city transferred \$14.8 million from the General Fund to the Golf Course Enterprise Fund to pay off the remaining obligations associated with the 2006 bonds and eliminate any future debt service payments.¹
- Cover operating costs. The management agreement requires that in the event gross revenues are insufficient to pay golf course expenses and the management fee, the authority shall remit the necessary funds to JC Management.
- Purchase equipment and machinery necessary for golf course operations. The General Fund advanced over \$1.1 million total in 2013 and 2014 for this purpose and was subsequently repaid.

At the end of fiscal year 2018-19, total outstanding advances and transfers were approximately \$55.5 million and \$20.8 million, respectively, for a total of approximately \$76.3 million in General Fund contributions.

¹ In the years leading up to the bond payoff, the Golf Course Enterprise Fund owed over \$1.1 million per year on principal and interest on its debt. The city reported that paying off the debt would save nearly \$8.4 million in debt-related interest over time.

Table 1: Summary of advances and transfers from the General Fund to the Golf Course Enterprise Fund

FY ended	Advance	Interest accrual	Repayment	Advance balance	Transfers in	Total net advances and transfers
1997	\$1,765,200			\$ 1,765,200		\$1,765,200
1998	972,000			2,737,200		2,737,200
2003				2,737,200	\$ 600,000	3,337,200
2005	1,400,000			4,137,200		4,737,200
2006	30,300,000	\$2,457,101 ¹		36,894,301		37,494,301
2007	7,886,174 ²	1,796,143		46,576,618		47,176,618
2008		2,070,983		48,647,601		49,247,601
2009	1,766,764	1,837,481		52,251,846		52,851,846
2010	1,370,000	1,332,194	\$4,229,417 ³	50,724,623	266,390 ³	51,591,013
2011	1,640,000	1,062,747		53,427,370		54,293,760
2012		881,498		54,308,868	1,644,592 ⁴	56,819,850
2013	561,225 ⁵	622,984		55,493,077	409,605	58,413,664
2014	545,000 ⁵	583,647 ⁶	41,199	56,580,525	998,549	60,499,661
2015		7,684	229,108	56,359,101	1,031,240	61,309,477
2016		5,326	251,743	56,112,684	1,049,795	62,112,855
2017		2,590	480,401	55,634,873	14,811,100 ⁷	76,446,144
2018		1,015	108,980	55,526,908		76,338,179
2019			22,782	55,504,126		76,315,397
	\$48,206,363	\$12,661,393	\$5,363,630	\$55,504,126	\$20,811,271	\$76,315,397

Source: The city's accounting system and historical city documents.

1. The city and authority entered into an advance repayment agreement for eventual repayment of advances with interest; this is the first year interest began accruing.
2. The advance represents net proceeds from the \$18.54 million revenue bond issuance after excluding expenses and several other short-term advances and repayments that occurred within the year.
3. This is not a cash repayment. The city transferred two land parcels at The Crossings recorded in the Golf Course Enterprise Fund to the General Fund. The transfer in represents an adjustment related to the land transfer amount.
4. This is the first year the city began contributing to the Golf Course Enterprise Fund through transfers instead of advances.
5. These two advances represent purchases for operational equipment. The Golf Course Enterprise Fund repaid the General Fund in full over subsequent years.
6. The authority and the city agreed to discontinue the accrual of interest on advances related to debt in this and all subsequent years, with the exception of interest on the short-term advances for operational equipment described in footnote five.
7. This transfer represents funds used to pay off the authority's remaining 2006 revenue bond obligations.

Status of repayment from the Golf Course Enterprise Fund

Several factors indicate the Golf Course Enterprise Fund may not be able to repay the General Fund for previously advanced funds. According to city records, the city originally intended to use revenues in excess of bond payments, after payment of all other expenses of the golf course, to repay General Fund advances. For example, in 2006 the city created an advance repayment agreement with the authority for eventual repayment of existing and subsequent advances with interest. However, the factors listed below indicate this is not likely:

- Although the golf course has been generating increasing operating revenues in recent years, these increases have not been enough to begin repaying the outstanding advances, aside from two short-term advances for operational equipment needs.
- The city's previous external financial auditor determined in 2011 that repayment of the advance with continued interest accrual is highly unlikely.
- The city stopped treating General Fund subsidies to the Golf Course Enterprise Fund as loans in 2012. Instead of recording these subsidies as advances, the city records them as transfers to the Golf Course Enterprise Fund.
- The city discontinued accruing interest on advances in 2014.²

The city does not have an interfund loan policy establishing guidelines in this type of situation. However, some best practices to implement when initiating interfund loans include to:

- Document the interfund loan along with a financial plan reflecting a repayment schedule
- Charge an appropriate borrowing interest rate
- Place a term limit on the loan
- Maintain appropriate accounting records that reflect the balances of loans in every fund affected by the transaction

The city's 2006 repayment agreement addressed both existing advances and any subsequent advances to be made by the city to the authority for the purpose of designing, constructing, maintaining and operating the golf course. However, it did not include a repayment schedule nor did it place a term limit on the General Fund's existing advances. Instead of containing a repayment schedule, the agreement stated repayment shall be made from available funds as determined annually. Similarly, several subsequent requests for advances did not provide supporting documents demonstrating the Golf Course Enterprise Fund's ability to repay the loans, repayment schedules, or term limits.

Given the information above, the city should consider whether historical advances are, in essence, permanent transfers.

Governmental accounting standards state that if repayment is not expected within a reasonable time, the interfund balances should be reduced and the amount that is not expected to be repaid should be reported as a transfer from the fund that made the loan to the fund that received the loan. According to the director of the Finance Department, the city and the city's external financial auditor annually assess reporting the \$55.5 million advance in the city's comprehensive annual financial report, known as the CAFR. Additionally, the city's financial auditor has consistently provided the city with unmodified opinions on its CAFR in recent years, which include the outstanding advance. Although in the past the city has determined it's appropriate to present this advance in the CAFR, repayment still may be unlikely given the factors listed above.

The Finance Department should consider the information above and return to the City Council with its assessment of whether to continue reporting the Golf Course Enterprise Fund's advance balance. As part of this analysis, the Finance Department should evaluate if and when it anticipates golf course

² Excluding the two short-term advances for operational equipment needs in fiscal years 2013 and 2014.

cash flows to be adequate to begin repaying the General Fund. If so, it should estimate annual payments at that date and formalize a repayment plan. If not, it should record a special item reducing the interfund loan, as appropriate. This option does not preclude the city from transferring funds from the Golf Course Enterprise Fund to the General Fund in the future if cash flows are sufficient.

Lastly, if the city plans to initiate any significant advances or interfund loans in the future, the City Council should consider asking the Finance Department to create an interfund loan policy in keeping with best practices. At the very least, any subsequent requests for advances to the Golf Course Enterprise Fund should follow best practices.

Recommendation:

1. **Evaluate advance balance:** To ensure that the city is appropriately recording the advances to the Golf Course Enterprise Fund, the Finance Department should return to the City Council by the end of calendar year 2020 with its assessment and any proposed changes.

The golf market

Research indicates the golf industry is facing challenges with a decreasing number of golfers and an oversupply of golf courses. The city constructed The Crossings at the tail end of a 20-year golf supply expansion and more courses have closed than opened every year since 2006. According to the National Golf Foundation, golf participation remains well below the all-time high of 30-plus million golfers in 2003 – an estimated 24.3 million people played golf on a course in 2019. The Crossings' financial performance depends on more than just the golf market as its food and beverage department comprises nearly half of total operating revenues. For example, in fiscal year 2018-19, total operating revenues were nearly \$8 million, and food and beverage revenues made up 46 percent of this total.

JC Management has continued its efforts to attract both new golfers and non-golfers to The Crossings. Research suggests a core group of highly committed golfers account for the majority of spending and rounds played, and older generations are playing golf at almost twice the frequency as younger generations. Accordingly, future golf growth is dependent on converting more people trying out the sport into committed players and making golf more welcoming and less intimidating for beginners. JC Management's sales and marketing plan for fiscal year 2019-20 focused on introducing the golf course to new players as one of its primary strategies. According to information provided by its marketing manager, JC Management increased the property's community events from 2017 to 2019 for this purpose: it increased its golf community events from nine to 13 and its food and beverage events from 12 to 19. For example, JC Management introduced Western Wednesdays, which provides live music on a weekly basis, and continued the property's other happy hour type events, like Buckets and Brews.

Research also shows rapid growth of "off-course" activities such as Top Golf and disc golf. In addition to the 24.3 million traditional golfers, 9.9 million people participated in off-course activities at places like driving ranges, indoor golf simulators or golf entertainment venues. In June 2018, JC Management and the golf course steering committee considered introducing driving range technology to The Crossings to grow the game and drive revenue with non-golfers. At the time, JC Management projected the return on investment would generate additional income. However, other capital improvements have since taken priority. JC Management's general manager stated they have continued to research different technology for an additional entertainment experience at The Crossings if this becomes an option in the future.

The local industry

According to the National Golf Foundation, golf is the No. 1 outdoor pay-for-play, individual participation sport in the United States and as a result, its revenues and spending are tied to outside factors such as the weather and economy. Although the region's weather is conducive to a year-round golf industry, more than 90 golf courses in San Diego offer many options for golfers. These courses may be public, private, require memberships, or allow golfers to pay each time they play.

Table 2 on the following page compares operating financial information between The Crossings and other city-owned golf courses in the region.³ In fiscal year 2018-19, The Crossings generated the highest operating revenues compared to other 18-hole municipal golf courses. However, The Crossings had the largest operating loss of the group, in part due to having the highest total depreciation costs compared to the selection of golf courses.

Several cities' municipal golf courses listed below have faced similar financial challenges as The Crossings and received General Fund contributions to support their golf operations. For example, the City of Yorba Linda provided various advances from its General Fund to its Black Gold Golf Course Fund for capital projects and to pay off the remaining principal balance of its related revenue bonds; its fiscal year 2018-19 advance balance was approximately \$20 million. Yorba Linda also stated in its fiscal year 2018-19 CAFR that it has evaluated its cash flows, estimated annual payments, and is working to formalize a repayment plan. In another example, the City of La Quinta transferred \$450,000 to support golf course operations in fiscal year 2018-19. La Quinta's fiscal year 2018-19 CAFR also states the city evaluated repayment terms and collectability of the General Fund's outstanding \$5.55 million advance to its Golf Course Enterprise Fund. As a result, it recorded a special item loss for the early retirement of this interfund loan.

³ Privately owned courses do not provide publicly available financial information consistent with information presented in city comprehensive annual financial reports and were therefore excluded from this analysis.

Table 2: Comparison of FY 2018-19 operating financial information for a selection of Southern California municipal golf courses

City	Course (holes)	Rounds played	Operating revenues	Operating expenses before depreciation	Operating income (loss) before depreciation	Depreciation	Operating income (loss)
Carlsbad	The Crossings (18)	64,185	\$7,978,896	\$7,507,062	\$471,834	\$3,527,563	\$(3,055,729)
Municipal Golf Courses JC Management considers part of its competitive set							
Encinitas	Encinitas Ranch (18)	68,190	4,994,117	3,715,510	1,278,607	346,579	932,028
Indian Wells	Indian Wells Golf Resort (36)	74,589	15,108,397	15,172,027	(63,630)	2,143,751	(2,207,381)
La Quinta	SilverRock (18)	44,949	3,773,396	4,304,239	(530,843)	254,683	(785,526)
Palm Desert	Desert Willow (36)	92,169	8,830,896	7,510,449	1,320,447	1,057,971	262,476
Palm Springs	Tahquitz Creek (36)	87,255	5,156,635	4,551,294	605,341	191,094	414,247
San Clemente	San Clemente (18)	80,567	2,300,476	1,806,350	494,126	334,988	159,138
Yorba Linda	Black Gold Golf Club (18)	59,237	6,042,347	5,409,052	633,295	753,536	(120,241)
Other municipal golf courses in the region							
Anaheim	Anaheim Hills and Dad Miller (36)	105,952	\$4,306,000	4,462,000	(156,000)	495,000	(651,000)
Coronado	Coronado Golf Course (18)	88,203	3,410,058	3,755,962	(345,904)	233,951	(579,855)

Source: Fiscal year 2018-19 comprehensive annual financial reports for all cities listed

Note: JC Management provided a list of competitive golf courses in the region. Although most are presented above, the table does not include the cities of Chula Vista and Oceanside, The Vineyard in the City of Escondido, and Balboa Park in the City of San Diego. The comprehensive annual financial reports for these cities do not provide comparable information to include in this table. For example, the City of San Diego combines its financial information for Balboa Park and Torrey Pines with the city's other golf course in its comprehensive annual financial report. Additionally, cities that lease/rent their golf course properties to private companies do not present operating information in a comparable manner.

Financial Performance

The Crossings' major revenue sources are split up into two major categories, or "departments":

- Golf: Revenues earned primarily through green fees, the pro shop, driving range, member dues, and club rental.
- Food and Beverage: Revenues earned primarily through banquets, Canyons Restaurant, Player's Lounge, the snack bar, tournaments and the beverage cart.

Figures 2 and 3 below illustrate operating revenues and expenses for both departments for the past ten years. Expenses include all costs of sales, payroll, taxes and benefits, maintenance costs, and other operating expenses directly attributable to each department.

Figure 2: Golf revenues, expenses, and net income for the past ten years

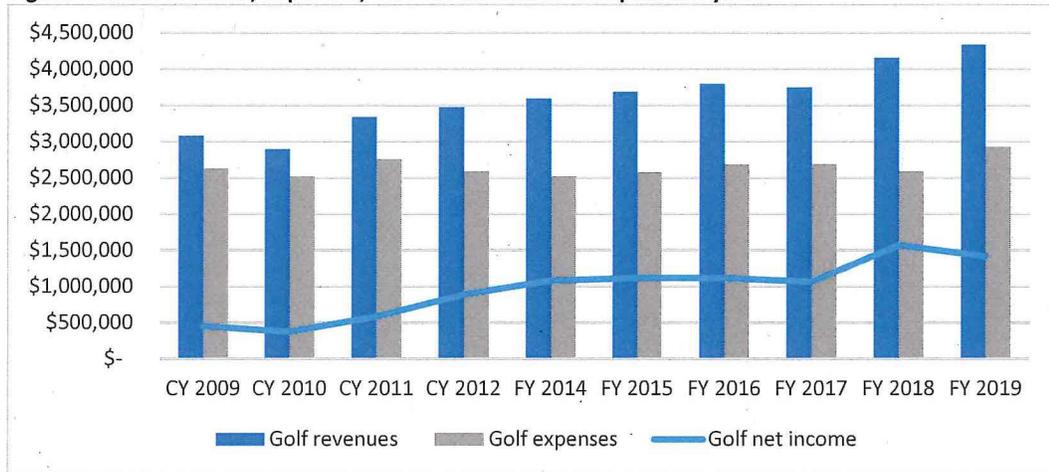
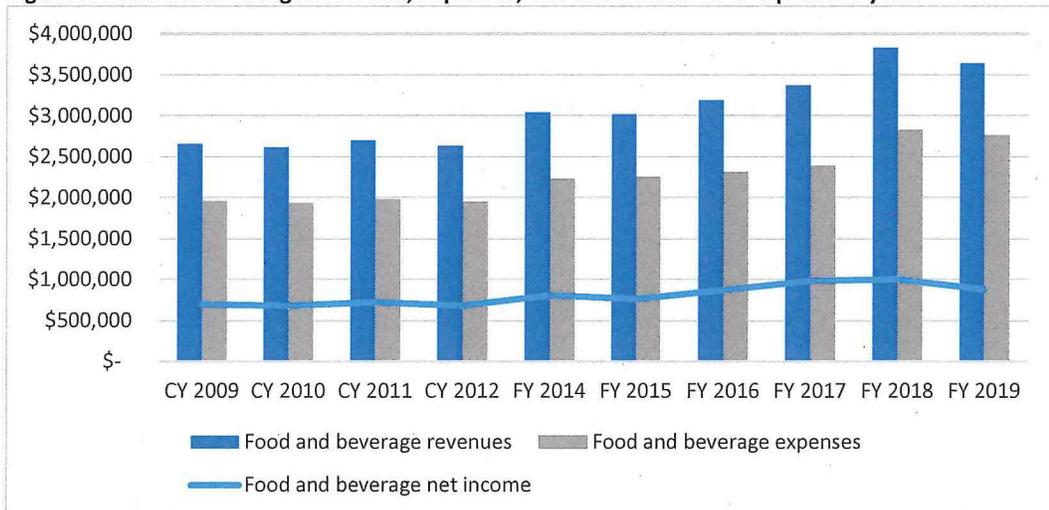


Figure 3: Food and beverage revenues, expenses, and net income for the past ten years



Source: Financial statements provided by JC Management and Kemper

Note: Financial information transitioned from a calendar year (CY) to a fiscal year (FY) basis beginning January 2013. Thus, the 6-month period beginning January 2013 is excluded from the table for continuity.

As shown in figures 2 and 3 on the previous page, both departments operated at a profit during the past ten years. However, food and beverage revenue decreased in the most recent fiscal year 2018-19. According to city records, this is due to a couple reasons:

- A liquor license transfer limited beverages sales for 59 days⁴ and
- The Canyon's restaurant closed for 11 days due to a fire

The assistant finance director stated that based on comparative data from prior year sales during the same time, the limit on beverage sales caused a significant loss of revenue. Additionally, the assistant finance director estimated the closure because of a fire to have caused a loss of sales of approximately \$27,000. However, this represents only the direct impact; the fire's impact was far greater than the direct sales impact because it affected banquets, holiday events and loyal customers returning to The Crossings.

The golf course incurs other expenses in addition to those directly associated with its golf and food and beverage operations presented in figures 2 and 3 that affect its operating income or loss.

Examples of these expenses include the following:

- Administrative and general costs
- Sales and marketing costs
- The fixed and percentage management fees
- Expenditures related to capital improvements
- Depreciation expenses each year for its fixed assets. These expenses reduce the Golf Course Enterprise Fund's net income but do not represent an outflow of cash.

Table 3 below provides a summary of Golf Course Enterprise Fund operating activity over the past ten fiscal years while Table 4 on the following page provides a detailed look at the past three fiscal years.

Table 3: Summary of Golf Course Enterprise Fund operating revenues and expenses for the past ten fiscal years (in thousands)

	2019	2018	2017	2016	2015	2014	2013	2012	2011	2010	2009
Total operating revenues	\$7,979	\$7,973	\$7,119	\$6,988	\$6,709	\$6,635	\$6,278	\$6,127	\$5,850	\$5,625	\$5,801
Operating expenses:											
Operations	7,507	6,992	6,619	6,320	6,302	6,228	5,983	6,043	6,170	6,264	6,582
Depreciation	3,528	3,567	3,488	3,502	3,492	3,469	3,296	3,478	3,478	3,478	3,744
Total operating expenses	11,035	10,559	10,107	9,822	9,794	9,697	9,279	9,521	9,648	9,742	10,326
Operating income (loss)	\$(3,056)	\$(2,586)	\$(2,988)	\$(2,834)	\$(3,085)	\$(3,062)	\$(3,001)	\$(3,394)	\$(3,798)	\$(4,117)	\$(4,525)

Source: The city's comprehensive annual financial reports.

Note: The golf course operations expenses for fiscal years 2008-09 and 2015-16 include general and administrative expenses of \$109,091 and \$46,766, respectively.

⁴ This time period encompassed not only a license transfer, but also adjusted the licensed premises areas of the clubhouse and golf course to comply with the California Department of Alcohol Beverage Control requirements.

Table 4: Detailed operating financial information for the Golf Course Enterprise Fund for fiscal years 2016-17 to 2018-19 (in thousands)

	2018-19	2017-18	2016-17	\$ Change from FY 2016-17 to 2018-19	% Change from FY 2016-17 to 2018-19
Revenue:					
Course and ground	\$3,555	\$3,351	\$3,093	\$462	15%
Pro shop	536	538	438	98	22%
Practice center	243	250	214	29	14%
Food and beverage	3,645	3,834	3,374	271	8%
Total revenue	7,979	7,973	7,119	860	12%
Expense:					
Management fee	272	267	249	23	9%
Payroll and related	3,386	3,207	2,950	436	15%
Course and ground	1,145	1,043	1,185	(40)	(3%)
Pro shop	75	63	56	19	34%
Food and beverage	317	299	262	55	21%
General and admin.	882	780	656	226	34%
Cost of sales	1,186	1,276	1,093	93	9%
Depreciation	3,528	3,567	3,487	41	1%
Capital outlay (net)	244	57	169	75	44%
Total expense	11,035	10,559	10,107	928	9%
Operating income (loss)	\$(3,056)	\$(2,586)	\$(2,988)	\$(68)	2%

Source: The city's accounting system and financial statements from JC Management and Kemper.

Note: The expense item "Payroll and Related" encompasses salary and benefits expenses attributable to all operating segments (i.e., Pro Shop, Food & Beverage, etc.)

Revenues

As shown in Table 3 on the previous page, overall operating revenues and expenses have increased in the past ten years – revenues by 38 percent and expenses by seven percent. Course and ground revenues experienced the largest dollar increase in the past three fiscal years as demonstrated in Table 4. Course and ground revenues consist primarily of green fees. As shown in Table 5 below, from fiscal years 2016-17 to 2018-19, paid rounds increased by nine percent while green fees increased by double that at 18 percent. The golf rates at The Crossings did not increase until July 2019 after this three-year period and the resident rate did not increase at all. Therefore, the increase in greens fee revenue is entirely due to more paid rounds and higher rates paid to golf. According to the vice president of JC Management, this is because JC Management uses third party discount websites less (i.e., Golf Now), the JC Players Card on average yields higher green fee revenue than the previous "The Crossings" card, and because the mix of business when golfers are playing yields higher revenue.

Table 5: Paid rounds and greens fee revenue for fiscal years 2016-17 to 2018-19

	2018-19	2017-18	2016-17	% Change from FY 2016-17 to 2018-19
Paid rounds	58,770	54,486	53,964	9%
Greens fees	\$3,402,722	\$3,149,285	2,887,615	18%

Source: Financial and operating information from JC Management and Kemper

Expenses

As shown in Table 4 above, the most significant contributors to the overall increase in expenses from fiscal year 2016-17 to 2018-19 include:

- Payroll and related costs
- general and administrative costs

The payroll and related costs include salaries, bonuses, benefits, and any other compensation for all employees at The Crossings. This category is separate from the management fee paid to JC Management for operating the golf course; in both of the past two fiscal years JC Management's performance met the threshold to receive the full percentage management fee. According to the vice president of JC Management, bonuses and commissions are vital elements to attract and retain high-quality employees. Nonetheless, in the most recent budget discussions for the upcoming fiscal year 2020-21, the steering committee scrutinized these areas and removed all of the budgeted bonuses and budgeted approximately a third less for commissions compared to the prior year because of projected financial challenges the golf course may face as a result of the COVID-19 health emergency.

Table 6 below provides a detailed analysis of total payroll split up by operating segment. It shows the majority of the increase in payroll and related costs is within food and beverage and golf.

Table 6: Payroll by operating segment for The Crossings from fiscal years 2016-17 to 2018-19

	2018-19	2017-18	2016-17	Change from FY 2016-17 to 2018-19
Food and beverage payroll	\$1,518,170	\$1,550,586	\$1,289,658	\$228,512
Golf payroll	1,453,896	1,195,817	1,188,238	265,658
Administration and general payroll	266,154	307,571	281,759	(15,605)
Sales and marketing payroll	147,327	153,149	190,645	(43,318)
Total payroll	\$3,385,547	\$3,207,123	\$2,950,300	\$435,247

Source: Financial statements from JC Management and Kemper

The increase in both food and beverage and golf payroll is partially due rising minimum wage costs. California's minimum wage for employers like JC Management increased from \$10.50 per hour in January 2017 to \$13 per hour in January 2020, and will increase by \$1 per hour again in January 2021 and 2022. In addition, golf payroll increased because of the city's decision to convert the starter and players assistant volunteer positions to paid employees for liability reasons. JC Management currently employs 24 additional part-time employees to fill these roles as a result of the city's decision.

Although these factors explain a large portion of the increase in hourly payroll costs, it is difficult to determine the cause of any remaining variances. Kemper managed the golf course for the majority of the three-year period presented above and JC Management reports management and salary costs differently than its predecessor. JC Management does not have access to detailed payroll records for the previous management company and past operating financial reports do not contain this detailed information. Therefore, available payroll information is either inconsistent or insufficient to perform additional analysis for management and salaried employees. This highlights the need for prompt expense analysis and oversight as mentioned later in this report.

General and administrative costs produced the second largest increase to expenses. Again, it is difficult to analyze this category due to the change in accounting for expenses that occurred when JC Management took over in late fiscal year 2018-19. The change in accounting for expenses may explain at least a small portion of the total increase. Some of the expense accounts that experienced the largest increases from fiscal years 2017-18 to 2018-19 included costs for credit card commissions, advertising, repair and maintenance of furniture and equipment, utilities, and legal expenses. These account variances appear to have resulted from normal increases to operating costs. For example, the vice president of JC Management asserted credit card commissions increased in alignment with the increase in revenues. Additionally, The Crossings incurred higher costs when it transitioned to a new credit card processing provider to improve PCI compliance, the level of security required to process credit card transactions. However, the increase in legal expenses was primarily due to a one-time occurrence explained later in this report.

In conclusion, at the end of fiscal year 2018-19, the city had not contributed money from the General Fund to the Golf Course Enterprise Fund since it paid off the remaining revenue bond obligations in fiscal year 2016-17. The Golf Course Enterprise Fund's operating revenues have increased in nearly every year since it has opened. Yet, the fund is still operating at a loss in part due to high depreciation costs. Although the Golf Course Enterprise Fund may yield a smaller operating loss or generate operating income in the future depending on operations at The Crossings, this isn't guaranteed and it may be years before and if it occurs. Therefore, the city should continue to diligently monitor the fund—with increased accountability and transparency measures discussed later in this report—to determine whether more significant changes to operations at The Crossings are necessary in the future.

Although it falls outside of the audit period, the City Council approved a \$500,000 transfer from the General Fund to the Golf Course Enterprise Fund as part of the budget for fiscal year 2020-21 before this report was completed. This will be transferred if additional cash is needed to cover current operating expenses due to the financial effect of COVID-19.

OVERSIGHT OF THE CROSSINGS

Although this audit assessed the city's general oversight of the management of The Crossings, the review period focused on the two years beginning when JC Management's agreement with the city began in March 2018.

Golf course steering committee oversight

A golf course steering committee made up of city employees assists in oversight and management of the golf course. This committee is unlike the city's number of boards and commissions that provide input to the City Council in that its current members are not appointed, it does not hold public meetings and it does not have specific meeting requirements. City records indicate members generally include the following individuals:

- Deputy city manager, administrative services
- Director, Finance Department
- Director, Parks & Recreation Department
- Assistant director, Finance Department
- Parks services manager, Parks & Recreation Department
- Parks planning manager, Parks & Recreation Department

Although the committee does not take minutes for its monthly meetings, it retains agendas and monthly reports provided by the management company. The steering committee met and received updated summary reports from JC Management for every month since the company began managing The Crossings. JC Management provides these summary reports to the steering committee members prior to the meeting to allow time to review and prepare for discussion. The reports generally include both qualitative and quantitative information, including financial performance, food and beverage, sales and marketing, paid rounds, course maintenance, among other items. Further, the reports compare monthly financial information with prior year and budgeted figures. During these meetings, JC Management and the steering committee discuss the summary reports and other topics that may include updates on capital projects, personnel, special events, and improvements and repairs at the property. The steering committee also reviews the annual budget and capital improvement plan.

In addition to these regular monthly meetings, the city assesses compliance with golf course operations and maintenance standards on a monthly basis and documents the results quarterly. Currently, the Parks & Recreation Department's parks services manager performs these assessments. The city performed these assessments for every complete quarter that JC Management operated The Crossings during the audit period from March 2018 through March 2020. For the same period, JC Management's golf course superintendent also recorded standard pesticide application information that the city's Municipal Golf Course Turf and Pest Management Plan requires.

Although the steering committee has demonstrated consistent oversight, it does not keep record of significant analysis it performs and key decisions it makes. As mentioned earlier, the steering committee does not keep minutes for its monthly meetings with the management company. Based on observations of several steering committee meetings, members ask questions, challenge operational decisions, agree on specified outcomes, and approve plans and proposals. However, there is no record of these key responsibilities.

For example, the management agreement requires JC Management to obtain prior written consent if the actual amount expended per calendar month for golf course expenses is greater than 2 percent of the amount budgeted for that calendar month. The steering committee did not formally document its approval for four months' that exceeded this threshold since JC Management took over March 2018 through the end of calendar year 2019. Instead, the steering committee reviews the expenditures

and revenues of the golf course on a monthly basis, after-the-fact, and requests that JC Management explain significant variances. Although the committee's current monthly monitoring controls appear to be effective tools to mitigate excessive spending, it does not document that it performed such analysis. Therefore, the steering committee should perform and document some type of short-term and more long-term trend analysis of expenses to recognize and monitor any undesirable changes to spending at The Crossings. Similarly, the committee should keep records of any other important decisions or agree-upon outcomes.

To complement its existing oversight, the steering committee could also benefit by requesting JC Management's internal audits of The Crossings. During the contract procurement process, the steering committee cited JC Management's strong internal audit program as one of its reasons for selecting the company. According to the JC Management, its audit program is intended to ensure all internal control and compliance policies are being following and financial compliance. Its audit procedures include a comprehensive assessment of accounting, golf operations, food and beverage, administration, golf course maintenance, among other areas. JC Management's internal audit program also offers a unique percentage scoring system, allowing users of the audit reports to easily interpret results.

Since JC Management took over operations in March 2018, its internal auditor performed three full property reviews and two reviews specifically on safety and security. These reviews include valuable information but were not shared with or requested by the steering committee in the past. The assistant finance director agreed that reviewing golf course related internal audits conducted by JC Management is best practice. Because these audits could provide important information to enhance the steering committee's oversight, the steering committee should request copies of and discuss internal audit results during monthly meetings as appropriate.

Recommendations:

2. **Document monitoring of golf course spending:** To more effectively monitor spending at The Crossings, the steering committee should immediately begin to perform and document its expense analysis and investigation and resolution of significant variances impacting the Golf Course Enterprise Fund's financial performance.
3. **Document decision-making:** To ensure proper oversight and adherence to the management agreement, the steering committee should immediately begin to document its formal approvals, significant analysis, and key decisions for its records.
4. **Request and act on internal golf course audits:** To enhance its oversight, the steering committee should immediately begin to request JC Management's internal audits pertaining to The Crossings and respond to results accordingly.

Executive director oversight

The authority has designated the executive director (i.e., the city manager) as the individual responsible for administering the agreement on behalf of the authority. The executive director's responsibilities outlined in the agreement are fairly extensive and require consistent attention. The executive director should consider formally designating—in writing—a member of his or her staff to serve as the project manager to help carry out the responsibilities of administering the agreement. Designating a project manager will help ensure the city is adhering to requirements in the agreement and that operating results receive the appropriate level of attention from city leadership. The executive director should consider selecting a designee from the steering committee who has historical knowledge of The Crossings, given that the steering committee meetings meet several requirements described in the operating agreement. For example:

- The agreement requires that every three months, the executive director meet with JC Management to discuss the operating results of The Crossings. Although the executive director does not currently meet with JC Management quarterly, the meetings between JC Management and the steering committee on a monthly basis exceed this requirement.
- The agreement requires that JC Management deliver monthly profit and loss statements and annual sets of financial statements to the authority. Although these monthly statements are not currently delivered to the executive director, the steering committee members review operations and financial information monthly with JC Management.

Previously, the former city manager issued a memorandum selecting the former administrative services director as his authorized designee in affairs of the golf course. According to the director of the Parks & Recreation Department, the presumption is that the recently reclassified position of deputy city manager, administrative services now serves as the authorized designee. However, this is not a formal designation and may lead to confusion with the management company as to the main point of contact. The agreement also requires that JC Management be notified of any changes to the designated project manager. The executive director could write a new memorandum selecting his designee and promptly notify JC Management.

Recommendations:

5. **Officially designate a project manager:** To assist with the executive director’s responsibilities described in the management agreement, the steering committee should ensure that one of its members is formally designated by the executive director to be the authorized project manager through a written memorandum.

Board of directors of the authority oversight

The Carlsbad Public Financing Authority Board of Directors is currently made up of the City Council members. The agreement requires that on or before April 1 of each year, JC Management submit to the authority – subject to the written approval of the executive director – the annual plan for the next operating year, consisting of the following:

- An operating budget containing bona fide good faith estimates of all golf course expenses
- A capital improvement plan
- Recommendation for all fees and charges
- Course maintenance plan
- Marketing and business plan
- Hours of operation

During the first seven years of golf course operation, staff brought the individual golf course budget to the board on a calendar year basis for discussion and approval during a City Council meeting. In 2013, the city transitioned the budget process for the golf course from a calendar year to a fiscal year basis and stopped bringing forward the golf course budget as a separate item, instead including the golf course budget in the city budget process. There were no resolutions from the authority approving the golf course budgets after this transition period until recently for the city’s fiscal year 2019-20 budget.

Additionally, there is no evidence that for the past three fiscal years 2017-18, 2018-19, and 2019-20 the steering committee submitted all components of the annual plan to the executive director and obtained written approval as required. The steering committee must do this to comply with the agreement and ensure the annual plan receives appropriate attention from leadership. Before this audit was published, the steering committee brought all components of the fiscal year 2020-21 annual plan to the executive director and received appropriate approval in June 2020.

SEXUAL HARASSMENT PREVENTION AND TRAINING

On several occasions, people made public comments at City Council meetings regarding JC Management and the larger network of JC-affiliated companies. The chief executive officer of JC Management is involved in several other business enterprises. Specifically, records indicate JC Management's affiliate company is invested in Terranea Resort—a luxury resort in Rancho Palos Verdes. Recent news reports quote staff at this resort raising allegations of supervisory misconduct. Terranea Resort is managed by a separate hotel management company from JC Management. Although this portion of the audit assessed JC Management's compliance at The Crossings with key laws related to sexual harassment, JC Management is neither an investor, employer, nor the hotel operator for Terranea.

The City's Responsibility

The city does not provide management or supervision of JC Management's employees at The Crossings. According to guidance from the U.S. Equal Employment Opportunity Commission, an employer is liable for sexual harassment by non-employees over whom it has control (e.g., independent contractors or customers on the premises), if it knew, or should have known about the sexual harassment and failed to take prompt and appropriate corrective action.⁵ Although the city does not act as an employer of JC Management's employees with respect to workplace matters, the nature of any allegation of sexual harassment and the context in which an alleged incident occurred impacts the city's potential liability.

Neither the city's agreement with JC Management nor its template for service agreements require that contractors adopt or implement the city's Administrative Order No. 45, Respectful Workplace and Non-discrimination Policy.⁶ The City Attorney's Office stated that the city would not typically require contractors to adopt or implement the city's specific policy because contractors often work for multiple entities with their own specific policies, which may differ in detail from the city's policy. Requiring a contractor to adopt or implement the city's specific policy may create joint liability risk because the more control the city exercises over the details of the contractor's policy, the more likely the city will be found to be a joint employer. However, the city currently takes certain other measures to help prevent sexual harassment at The Crossings and provide additional protection for the city. The list below summarizes the city's key efforts to prevent and respond to any potential allegations of misconduct at The Crossings:

- The city's agreement with JC Management addresses indemnification, liability, insurance, and covenants against discrimination with a requirement to include a similar provision in all subcontracts entered into by JC Management in connection with work being performed under the agreement. The city's template for service agreements contain comparable provisions. According to the City Attorney's Office, sexual harassment is a form of sex discrimination and would therefore be prohibited under this covenant against discrimination.

⁵ The U.S. Equal Employment Opportunity Commission is responsible for enforcing federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy, gender identity, and sexual orientation), national origin, age, (40 or older), disability or genetic information.

⁶ The city's Administrative Order No. 45 Respectful Workplace & Non-discrimination Policy outlines: 1) the behaviors, practices and activities that are expected in the workplace, 2) the responsibilities of employees, managers/supervisors and the Human Resources Department, and 3) the actions that will be taken to ensure the policy is affirmed.

- A provision in the agreement states, "JC Management shall comply with all applicable laws of governmental bodies having jurisdiction with respect to the Golf Course site and JC Management performance of this Agreement." This provision seeks to require vendors to comply with relevant provisions of local, state, or federal law and covers all updates to law, including those pertaining to sexual harassment.
- A provision in the agreement requires that "JC Management shall notify the Authority and its General Counsel of any claims or lawsuits relating to the Golf Course within two (2) business days after JC Management receives notice of such claims or lawsuits" which helps ensure that the city is notified and can provide prompt action in response, if appropriate.
- According to a manager in the city's Human Resources Department, if the city received any sexual harassment-related complaints at The Crossings, city staff would directly investigate them immediately, as appropriate. Specifically, if the city's Human Resources Department received a complaint about the contract workers within their own group, the department would immediately reach out to the contract management to ensure they are aware, that they are creating a safe work environment and that they will be taking necessary steps to investigate and correct the situation as needed. The department would continue to work closely with the contract management and follow up to confirm the complaint has been addressed.

Although every incident is highly situational, based on the reasons summarized above, the city has taken steps to prevent misconduct at The Crossings and reduce the city's likelihood of facing joint or indirect liability for allegations of misconduct brought by an employee against JC Management.

JC Management's compliance with state law

As described above, the city's agreement with JC Management includes a covenant against discrimination and states JC Management shall comply with all applicable laws of governmental bodies having jurisdiction with respect to the golf course site and JC Management's performance of the agreement, including those pertaining to harassment. The internal auditor assessed the company's compliance with key human resources laws related to harassment.⁷ Table 7 on the following page provides a summary of this detailed review.

⁷ Sexual harassment is a form of sex discrimination that violates Title VII of the Civil Rights Act of 1964 and California's Fair Employment and Housing Act. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment. Sections of the California Government Code and California Code of Regulations address sexual harassment prevention and training.

Table 7: Summary of JC Management’s compliance with key laws related to sexual harassment

Question	Analysis performed	Conclusion
Did JC Management provide its supervisors at The Crossings with sexual harassment training as required by California law?	Reviewed personnel files for 24 employees JC Management considers supervisory to determine whether they received training appropriate in content, length, and frequency.	See writeup below
Did JC Management develop a written policy covering harassment, discrimination, and retaliation as required by California law?	Reviewed JC Management’s personnel handbook and addendum packet, including its written harassment, discrimination, and retaliation prevention policy.	Yes
Did JC Management ensure employees at The Crossings acknowledge receipt of aforementioned policy as required by California law?	Reviewed JC Management’s personnel files for 34 employees for evidence they received the company policy and appropriate pamphlet related to sexual harassment.	Yes*
Did JC Management handle any internal complaints or allegations of misconduct at The Crossings in accordance with California law and its own policy?	Reviewed all complaint/investigation files provided by JC Management and assessed that documentation supports JC Management followed key principles of an effective complaint system including prompt response and thorough investigation.	Yes
Did JC Management post employment notices related to harassment at The Crossings as required by California law?	Observed notices posted at The Crossings during a visit to the property.	Yes

*This conclusion only applies to the selection of 34 personnel files reviewed.

Source: State and federal laws, JC Management’s policies, personnel files, auditor observation, and city documents.

As demonstrated in Table 7 above, JC Management complied with key California laws related to sexual harassment prevention, detection, and investigation assessed as part of this audit, with the exception of meeting the training requirements for several supervisors. At the time of the review in March 2020, California law requires an employer such as JC Management to provide at least two hours of sexual harassment training and education to all supervisory employees within six months of their assumption of a supervisory position and once every two years.⁸ Of the 24 employees JC Management considers supervisory that work(ed) at The Crossings between March 2018 and March 2020, four former employees did not receive the required training.

- JC Management promoted one employee to a supervisor position shortly after it began managing the golf course in March 2018 who did not receive the two-hour training. It appears this was an oversight, as the employee later attended a one-hour sexual harassment training JC Management provides for its non-supervisor employees.
- Three employees assumed supervisor positions and subsequently separated from the company between the dates JC Management provided in-person group trainings in May 2018 and September 2019. Nonetheless, JC Management did not ensure they took its alternative online training within six months of assuming their supervisor positions.

⁸ California law defines a supervisor as an individual having the authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct them, or to adjust their grievances, or effectively to recommend that action, if, in connection with the foregoing, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment. JC Management provided a list of 24 individuals that worked at The Crossings during March 2018 to March 2020 that it determined meet this definition.

According to the company's director of human resources, this was unfortunately an oversight while the human resources team was in transition. The city's internal auditor did not find any records in the personnel files for these four supervisors indicating they were associated with an incident of sexual harassment. Additionally, JC Management's director of human resources asserted that the current process to ensure supervisors receive role-appropriate training includes having the human resources team assess and approve required trainings for each employee hired or promoted in a role, assigning and tracking deadlines, logging completed training in the human resources information system once completed, and auditing training reports generated from the system on a monthly basis. With the exception of the employees noted above, the remaining supervisors met training requirements as of the March 2020 review date, indicating JC Management has since corrected this deficiency.

JC Management representatives confirmed the company did not require employees at The Crossings to sign mandatory arbitration clauses as a condition of employment. According to California law, effective January 1, 2020, a person shall not, as a condition of employment, require any applicant for employment or any employee to waive any right to file and pursue a civil action or a complaint with any court or other governmental entity of any alleged violation. To review all of JC Management's personnel files for documentation including this type of clause would have been ineffective, because there were hundreds of files and no guarantee that such documentation would be included in those files if it existed. Therefore, this topic was discussed with several JC Management representatives, including its human resources director and vice president. Both confirmed no such clause existed as a condition of employment for any of JC Management's employees at The Crossings.

Requirement to notify the city of any claims or lawsuits

During the review of JC Management's human resources files, the city's internal auditor identified an out-of-court settlement payment made in August 2018 to a former employee for \$15,000 in response to a wrongful termination claim. JC Management's files demonstrate that it conducted a related investigation before the claim was filed that followed both its company policy and best practices for conducting a workplace investigation.⁹

The city did not receive formal notice of this claim as required by the management agreement. The agreement requires that JC Management notify the authority and its general counsel of any claims or lawsuits relating to the golf course within two business days after JC Management receives notice of such claims or lawsuits. Additionally, the City Attorney's Office should have had the opportunity to reasonably approve any legal counsel retained by JC Management in connection with such matters and the legal fees. Yet, current representatives from the City Attorney's office were unaware of the claim. Current city employees from the steering committee were also unaware of this incident.

Key city employees who may have known about this incident are no longer employed with the city. According to JC Management's vice president, he discussed this incident and its resolution at length with the city's former parks and recreation director and member of the golf course steering committee. However, given the agreement's language, JC Management should have formally notified the City Attorney's Office within two days of receiving the claim. In the future, a member of the steering committee or the executive director's designee should ensure that JC Management fulfills this requirement within the time frame.

Additionally, the vice president of JC Management explained that legal costs to handle this lawsuit in court could have far exceeded the cost of settling out of court. For reference, the \$15,000 in legal

⁹ Best practices referenced are those published by the Society for Human Resources Management (SHRM)—the world's largest human resource management association. The purposes of SHRM include promoting the use of sound and ethical human resource management practices in the profession, and establishing, monitoring and updating standards for the profession.

costs incurred are minor compared to the approximately \$7.5 million in total golf course operations expenses incurred in fiscal year 2018-19. According to the agreement, all costs and expenses, including attorneys' fees relating to the handling of claims (including employment related lawsuits), shall be a golf course expense. Therefore, it is in the city's best interest to pursue the lowest cost option to save the city money.

SUMMARY OF RECOMMENDATIONS

Golf Course Steering Committee

1. **Evaluate advance balance:** To ensure the city is appropriately recording the advances to the Golf Course Enterprise Fund, the Finance Department should return to the City Council by the end of calendar year 2020 with its assessment and any proposed changes.

Management response: Management agrees with the recommendation and analysis. We concur with the factors highlighted in the report and agree that the golf course advances are not likely recoverable at this point. Therefore, the advances should no longer be recognized as an asset for financial reporting purposes. Management plans to continue tracking all advances and transfers made from the General Fund to the golf course to ensure the data is available. Management has also consulted with its external auditors and they are in agreement with the proposed accounting treatment. We are proposing to eliminate the advances from our accounting records.

2. **Document monitoring of golf course spending:** To more effectively monitor spending at The Crossings, the steering committee should immediately begin to perform and document its expense analysis and investigation and resolution of significant variances impacting the Golf Course Enterprise Fund's financial performance.

Management response: Management analyzes spending at The Crossings through monthly meetings, detailed reviews of the monthly profit and loss statement, and investigations of significant variances; however, the associated documentation of such activities was not well maintained. Management agrees with the recommendation and is now maintaining better documentation of its monitoring control.

3. **Document decision-making:** To ensure proper oversight and adherence to the management agreement, the steering committee should immediately begin to document its formal approvals, significant analysis, and key decisions for its records.

Management response: Management agrees with the recommendation and began documenting its formal approvals and key decisions in July 2020.

4. **Request and act on internal golf course audits:** To enhance its oversight, the steering committee should immediately begin to request JC Management's internal audits pertaining to The Crossings and respond to results accordingly.

Management response: Management agrees with the recommendation and in July 2020 requested all previous JC Management internal auditor documents involving The Crossings as well as all future reports.

5. **Officially designate a project manager:** To assist with the executive director's responsibilities described in the management agreement, the steering committee should ensure that one of its members is formally designated by the executive director to be the authorized project manager through a written memorandum.

Management response: Management agrees with the recommendation and plans to execute a formal designation of the Executive Director's responsibilities.

THE CROSSINGS AT CARLSBAD AUDIT REPORT

APPENDICES



TO: Brigid Okyere, Internal Auditor, Administrative Services, City of Carlsbad

FROM: John McNair, Vice-President JC Resorts

SUBJECT: Management Response to the City of Carlsbad's The Crossings at Carlsbad Golf Course Audit

DATE: July 23, 2020

Thank you for undertaking this audit and assisting in providing feedback on the operation and management of The Crossings at Carlsbad Golf Course.

We concur with the recommendations and have already begun implementation as they relate to the onsite management of the operation. JC Resorts will work with the Steering Committee to track and report specific budget variances, improve oversight by distributing the company conducted internal audit reports, and work closely with the designated Project Manager to better able to service the city of Carlsbad and its residents.

We look forward to providing an update on the progress made as we enter the new fiscal year.

Appendix B: Historical Timeline of The Crossings

Calendar	
Year	Description
1989	The citizens of Carlsbad approved Proposition G allowing the city to spend more than \$1 million of tax revenue on the construction of a public golf course and other recreational facilities.
1994	The City Council approved the first purchase of land for the potential future development of a municipal golf course.
2000	The City Council of the City of Carlsbad and the Board of Directors of the Carlsbad Municipal Water District formed the Carlsbad Public Financing Authority, a joint powers authority to finance, construct and operate the golf course.
2003	The California Coastal Commission approved negotiated revisions to the project to produce the final entitlement/permit for the golf course project. The authority approved proceeding with the development of the golf course project.
2005	The authority approved the final construction documents and awarded key construction contracts. The authority approved a transfer from the General Fund balance to the Golf Course Enterprise Fund up to \$30.3 million for the project and a bond sale.
2006	The authority approved agreements with Kemper Sports Management Inc. for consulting and grow-in services prior to the golf course's opening date and for operations and management commencing on the opening date for a five-year term and one five-year extension option. The authority approved the issuance and sale of \$18.54 million in revenue bonds to finance a portion of the costs of acquiring and constructing the golf course. The city and the authority entered into an advance repayment agreement for the eventual repayment of advances with interest to the city for funds the city advanced to for the purpose of designing, constructing, maintaining, and operating the golf course.
2007	The Crossings opened to the public in the summer.
2013	The authority awarded a new five-year operations and management agreement to Kemper with one five-year extension option.
2014	Kemper identified irregularities in The Crossings' bank account and notified the city.
2015	The authority and the city agreed to discontinue the accrual of interest on the advance between the city and the authority, effective retroactively to July 1, 2014.
2016	The authority authorized a \$14,811,000 appropriation of funds to prepay its remaining obligations associated with the revenue bonds issued in 2006.
2018	The authority approved a new five-year agreement for golf course management and operations with JC Management, LLC.

Source: The current and previous management agreements, reports on internal investigations, bond documents, and other city records.

Appendix C: Previous management company

Kemper operated the golf course from 2006 until the end of the second agreement term in the beginning of 2018. In late 2014, a Kemper employee identified irregularities in The Crossings' bank account. In response, Kemper hired an external audit firm to conduct internal investigations which resulted in the following findings:

- \$319,378 in misappropriated funds including transactions from 2007 to 2014.
- \$313,974 in suspicious activity involving deposits made from 2009 to 2014.

Kemper's general manager also contacted the Police Department to report the incident. The Police Department conducted an investigation, arrested the former employee responsible, and forwarded the case to the District Attorney for prosecution. The individual was formerly charged and eventually plead guilty to embezzlement.

In late 2015, Kemper paid the city the total of \$633,352 that was identified by the firm as misappropriated funds and suspicious activity. The city took several additional actions in response to the findings:

- In 2015, the city contracted with a firm to perform an engagement for the period 2006-2014, the objectives of which were to review internal controls and transactions. The firm identified and reported on a number of issues.
- Later in 2015, an employee of the city's Finance Department wrote a follow-up report summarizing whether Kemper resolved any of the issues identified in the prior engagement. The report concluded that Kemper corrected many deficiencies, but some corrective actions were still under consideration.
- In 2017, an employee of the city's Finance Department reviewed internal controls at The Crossings for fiscal year 2016-17. Specifically, the employee tested the approvals and validity of cash disbursements and key controls for appropriate design and operational effectiveness. The report concluded cash disbursements were appropriate and valid, but found that several key controls were not operating as designed.

Based on these reports, Kemper corrected many identified deficiencies and planned to consider implementing several others corrective actions. As part of this audit, the city's current internal auditor looked for but was unable to locate any additional documentation demonstrating whether Kemper did, in fact, implement corrective actions for several outstanding recommendations before its management agreement terminated. Despite this, these engagements demonstrate city staff's prompt response once they were made aware of the misappropriated funds. These engagements also highlight repeated efforts on the city's part to improve internal controls and operations at The Crossings.

Appendix D: Assessment of data reliability

In performing this audit, the city's internal auditor relied on the city's integrated financial accounting system, or IFAS, to assess the golf enterprise fund's revenue and expenses for fiscal years 2016-17 through 2018-19. To verify completeness of the data, the internal auditor compared it to the city's audited financial statements for fiscal years 2016-17, 2017-18, and 2018-19 and determined that the data were materially complete. The internal auditor verified the accuracy of the revenue and expense totals by selecting revenue and expense categories from the data and tracing totals to supporting financial reports provided by the management companies. The internal auditor found that the Finance Department had not always grouped and reported specific revenue and expense items in categories consistently. For example, the Finance Department recorded the incentive management fee in the general and administrative expense category in one year and in the management fee expense category the following year. To help account for this issue, the internal auditor manually adjusted several totals, as appropriate, for presentation in the audit report. Although this may affect the precision of the numbers presented, there is sufficient evidence in total to support the findings, conclusions, and recommendations. The internal auditor also used historical data from this system for fiscal background or contextual information that does not materially affect findings, conclusions, or recommendations. Thus, the internal auditor determined a data reliability assessment of those data was not necessary.

The internal auditor also reviewed a selection of JC Management's personnel records to assess compliance with key human resources laws related to sexual harassment. The internal auditor interviewed JC Management employees knowledgeable about the records. The internal auditor verified completeness of the records by haphazardly selecting personnel files from JC Management's paper files and ensuring that each employee existed in JC Management's human resources information system and verified accuracy of the records by tracing key information against sources of corroborating documentation from personnel records. Consequently, the internal auditor found JC Management's personnel records to be sufficiently reliable for the purposes of analyzing its compliance with key human resources laws related to sexual harassment.