



CITY OF DEL MAR

October 13, 2025

22nd District Agricultural Association Board
c/o Carlene Moore, Chief Executive Officer
2260 Jimmy Durante Boulevard
Del Mar, CA 92014
cmoore@sdfair.com

SENT VIA EMAIL

Re: October 14, 2025, 22nd DAA Board Agenda Item 8F – Potential Amendments to the Exclusive Negotiating Rights Agreement with the City of Del Mar

Dear Honorable Chair and Members of the 22nd DAA Board,

I am writing on behalf of the City of Del Mar (City) to request that any actions to amend the Exclusive Negotiating Rights Agreement (ENRA) between the City and 22nd District Agricultural Association (District) be deferred until the proposed action(s) can be carefully evaluated in collaboration with the City for potential impacts so that the City and Board may make thoughtful and informed decisions.

As you know, State Housing Acceleration Program (HAP) funds totaling \$1.5 million are being used to fund several important development feasibility studies and activities that will provide critically important information to help inform future decisions regarding affordable housing and/or other potential development opportunities to be considered by the District as part of your master and strategic planning efforts.

The way that State HAP funds are being provided to the District to pay for the work being conducted by District consultants is through a Memorandum of Understanding (Attachment A), which was executed earlier this year and provides funding to the DAA on a reimbursement basis. To protect the City and DAA from any financial or contractual risks related to use of the grant funds or obligations with the engaged consultants, any changes to the ENRA need to be carefully considered.

As a reminder, under the amended ENRA schedule, no final decision by the District regarding the siting of affordable housing on District property is required until April 2027.

Thank you for your ongoing partnership and collaboration!

Sincerely,

Terry Gaasterland, Mayor

Del Mar Request to Defer Board Action Re: ENRA

October 10, 2025

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cc: Del Mar City Council

Ashley Jones, City Manager

Leslie Devaney, City Attorney

Ralph Hicks, Assistant City Attorney

Governor's Office – San Diego

Catherine Blakespear, State Senator District 38

Tasha Boerner, State Assemblymember District 77

Terra Lawson-Remer, San Diego County Supervisor

Solana Beach Mayor and City Manager

Kaitlyn Elliott-Norgrove, Del Mar Special Programs & Projects Manager

Donna O'Leary, Fairgrounds Office Manager

**THE CITY OF DEL MAR AND 22nd DISTRICT AGRICULTURAL ASSOCIATION
MEMORANDUM OF UNDERSTANDING
CONCERNING REIMBURSEMENT FOR HOUSING RELATED CONSULTANT
STUDIES**

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is between the City of Del Mar (“City”), a Charter City organized under the laws of the State of California and the 22nd District Agricultural Association (“District”), a California state institution formed under the laws of California; collectively referred herein as the “Parties.” The purpose of this MOU is to provide the general understanding of the Parties and to provide the City the ability to use state grant funds to reimburse the District for all funds it has expended, or will expend, in advancing studies related to the development of affordable housing on the District’s property, which is referred to herein as “eligible work” for reimbursement from the State of California Housing Acceleration Program (HAP) grant funds that were awarded to the City for this purpose.

RECITALS

A. **WHEREAS**, the City is required by state law to develop a Housing Element to meet its allocation of regional housing needs. The City’s Housing Element requires the City to develop strategies that will result in the production of affordable housing units. The District owns certain undeveloped and real property located on the District’s property within the boundaries of the City of Del Mar; and

B. **WHEREAS**, the Parties have entered into an Exclusive Negotiating Rights Agreement (ENRA) that took effect April 15, 2024, and provides for investigation into the feasibility of developing at least 61 lower income housing units on the District’s property and selection of a mutually agreeable site for affordable housing development; and

C. **WHEREAS**, the District has retained or may retain consultant services to provide professional due diligence investigations into the feasibility of locating affordable housing on the District’s property with a goal of identifying prospective development sites for the City to study and consider as a possible affordable housing development site; and

D. **WHEREAS**, the City has been awarded State of California Housing Acceleration Program (HAP) grant funds to explore and pay for feasibility studies related to the development of affordable housing on the District’s property; and

E. **WHEREAS**, the Parties have agreed that the HAP grant funds will be used to reimburse the District’s consultant for all expenditures incurred by the District to advance these housing feasibility studies as eligible work for reimbursement; and

F. **WHEREAS**, the Parties enter into this MOU to define the protocols and procedures for the City to reimburse the District for its consultant services related to eligible work to complete executed task orders for feasibility studies relating to potential affordable housing on the District’s property including, but not limited to, Vulnerability Assessment Analysis, California Environmental Quality Act (CEQA) Opportunities and Constraints Analysis, Housing Site Feasibility Analysis, Transportation Due Diligence Analysis, and Water/Sewer Capacity Due Diligence Analysis; and

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are acknowledged, the City and the District hereby agree as follows:

I. PURPOSE AND INTENT

The intent of the MOU is to allow the City to timely reimburse the District for funds spent on technical and/or feasibility studies to aid in determining a mutually agreeable site for affordable housing on District property (collectively, the “Feasibility Studies”) while ensuring that the City has complied with all conditions associated with the receipt of HAP grant funds. The District maintains sole and absolute authority to determine whether it will grant the City the right to use any portion of the District’s property for an affordable housing development.

II. CONSULTANT RETENTION, REIMBURSEMENT, AND REPORT SHARING

(a) District Consultant Retention and City Oversight

- (1) The District will manage and control retention of its own consultants to develop the Feasibility Studies. Subject to City approval under Section II(a)(2) below, the City will reimburse the District’s consultant for all costs incurred by District in retaining consultants to develop the Feasibility Studies. The District will follow its own internal contracting procedures to select and retain the consultant to develop the Feasibility Studies.
- (2) Before the District executes a task order for consulting services to develop Feasibility Studies, the District will provide the City with draft task orders and scope of services for City review and approval to ensure consistency with the HAP grant requirements.
- (3) The City shall confirm in writing approval or disapproval of the draft task order and scope of services.
- (4) All consultant services seeking use of HAP grant fund reimbursement for paid invoices covering eligible work must be completed by March 31, 2026.

(b) Reimbursements

- (1) City shall reimburse the District for costs incurred by the District for eligible work completed where the City has approved the task orders and scope of work under Section II(a) of this MOU.
- (2) Upon the District’s receipt and payment of an invoice from a consultant that prepared a Feasibility Study, the District will provide the City with a copy of the paid invoice for review and reimbursement.
- (3) The City will review each invoice and submit the reimbursement funding request to the San Diego Association of Governments (“SANDAG”) with its quarterly

progress report/request for reimbursement reporting, which will occur on the following dates: by July 31, 2025 for invoices paid to cover work April to June 2025, by October 31, 2025 for invoices paid to cover work July to September 2025, by January 30, 2026 for invoices paid to cover work October to December 2025, and by April 30, 2026 for invoices paid to cover work January to March 2026.

- (4) The City will provide the District with a copy of each Quarterly Report.
- (5) The City will transmit reimbursement funds to the District no later than fifteen (15) business days of receipt from SANDAG.

(c) Sharing of Feasibility Study Deliverables with City

The District will transmit Feasibility Study deliverables no later than five (5) business days from the date that the District receives reimbursement payment from the City.

III. DISPUTE RESOLUTION

- (a) Should there be staff level dispute between the City and District then each shall strive to reach a mutually beneficial resolution to the dispute. Failing these efforts, the dispute will be elevated to the City Manager and the District CEO for resolution.
- (b) All other disputes will be submitted to binding mediation.

IV. MUTUAL INDEMNIFICATION

(a) The City's Indemnity Obligations

- (1) To the fullest extent of the law, the City of Del Mar will hold harmless, protect, defend (with counsel approved by the District) and indemnify the District, the District's Board and each member thereof, its officers, agents, employees, representatives, and their successors and assigns, from and against any and all losses, liabilities, claims, suit damage, expenses and costs, including reasonable attorney's fees and costs, and expert costs and investigation expenses ("Claims"), which arise out of or are in any way connected to the performance under the MOU or any negligent or wrongful act or omission by City, its officers, employees, representatives, subcontractors, or agents, regardless of whether or not such claim, loss or liability is caused in part by a party indemnified hereunder. The City shall have no obligation, however, to defend or indemnify District if it is determined by a court of competent jurisdiction that such Claim was caused by the sole negligence or willful misconduct of District.
- (2) The City agrees that its duty to indemnify arises upon an allegation of liability based upon the performance or lack of performance under the MOU by City, its officers, agents, representatives, employees, sub-consultants, or anyone for whom the City is liable, and that an adjudication of the City's liability is not a condition precedent to the City's duty to defend. This and all other City indemnity obligations related to the MOU shall survive the termination of this MOU and shall remain in effect for as long as the underlying claim or action remains viable.

(b) The District's Indemnity Obligations

- (1) To the fullest extent of the law, the District will hold harmless, protect, defend (with counsel approved by the District) and indemnify the City of Del Mar, the City's Council or its Boards, Commissions, and each member thereof, its officers, agents, employees, representatives, and their successors and assigns, from and against any and all losses, liabilities, claims, suit damage, expenses and costs, including reasonable attorney's fees and costs, and expert costs and investigation expenses ("Claims"), which arise out of or are in any way connected to the performance under the MOU or any negligent or wrongful act or omission by District, its officers, employees, representatives, subcontractors, or agents, regardless of whether or not such claim, loss or liability is caused in part by a party indemnified hereunder. The District shall have no obligation, however, to defend or indemnify City if it is determined by a court of competent jurisdiction that such Claim was caused by the sole negligence or willful misconduct of City.
- (2) The District agrees that its duty to indemnify arises upon an allegation of liability based upon the performance or lack of performance under the MOU by the District, its officers, agents, representatives, employees, sub-consultants, or anyone for whom the District is liable, and that an adjudication of the District's liability is not a condition precedent to the District's duty to defend. This and all other District indemnity obligations related to the MOU shall survive the termination of this MOU and shall remain in effect for as long as the underlying claim or action remains viable.

V. SEVERABILITY

If any term, condition or provision of this MOU is found by a court of competent jurisdiction to be unenforceable, invalid, or void, the remaining provisions will nevertheless continue in full force and effect and shall not be affected, impaired or invalidated in any way. If there is a conflict between any provision of this MOU and the applicable legislation of the State of California (the 'Act'), the Act will prevail, and such provisions of the MOU will be amended or deleted as necessary in order to comply with the Act. Further, any provisions that are required by the Act are incorporated into this MOU.

VI. GOVERNING LAW AND VENUE

It is the intention of the Parties to this MOU that the access and use rights granted by this MOU and the performance under this MOU, and all suits and special proceedings under this MOU, be construed in accordance with and governed, to the exclusion of the law of any other forum, by the laws of the State of California, without regard to the jurisdiction in which any action or special proceeding may be instituted. Venue shall be established in the Northern County of San Diego in the event of a dispute between the parties.

VII. LEGAL FEES

In the event of any litigation regarding this MOU, the prevailing party shall be entitled

to an award of reasonable legal costs, including court, expert witnesses or consultants and attorneys' fees.

VIII. REIMBURSEMENT AND REPORT SHARING FOLLOWING DISCONTINUATION OF DISCUSSIONS

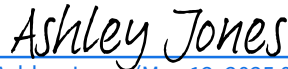
Should the District's Board of Directors vote to discontinue discussions with the City under the ENRA for a period exceeding sixty (60) consecutive calendar days, this MOU shall be deemed terminated. Within five (5) business days of the termination of this MOU, the District shall remit to City for reimbursement any and all outstanding invoices from consultants that the District retained to prepare Feasibility Studies. The City shall reimburse the District for these outstanding invoices in accordance with Section II(b) of this MOU.

IX. ENTIRE UNDERSTANDING

This MOU contains the entire understanding of the Parties. The Parties, by signing the MOU, agree that there is no other written or oral understanding between the Parties with respect to the obligations to be performed. Each Party has relied on its own examination of the MOU, advice from its own attorneys of the MOU itself. Each of the Parties in this MOU agrees that no other party, agent, or attorney of any other party has made any promise, representation, or warranty whatsoever which is not contained in this MOU.

Dated: 05/12/2025

CITY OF DEL MAR



Ashley Jones (May 12, 2025 09:24 PDT)

By: Ashley Jones, City Manager

Dated: 05/13/2025

22ND DISTRICT AGRICULTURAL ASSOCIATION



Carlene Moore (May 13, 2025 23:27 PDT)

By: Carlene Moore, Chief Executive Officer

5.7.25 City DM and DAA MOU Reimbursement

Final Audit Report

2025-05-13

Created:	2025-05-12 (Pacific Daylight Time)
By:	Kaitlyn Findley-Thorn (kthorn@sdfair.com)
Status:	Signed
Transaction ID:	CBJCHBCAABAA_hv7U0raeFpxwgbMx2gmW-ritpB-QDV

"5.7.25 City DM and DAA MOU Reimbursement" History

-  Document created by Kaitlyn Findley-Thorn (kthorn@sdfair.com)
2025-05-12 - 8:54:21 AM PDT- IP address: 192.108.227.2
-  Document emailed to ajones@delmar.ca.us for signature
2025-05-12 - 8:55:18 AM PDT
-  Email viewed by ajones@delmar.ca.us
2025-05-12 - 9:23:13 AM PDT- IP address: 104.47.74.126
-  Signer ajones@delmar.ca.us entered name at signing as Ashley Jones
2025-05-12 - 9:24:49 AM PDT- IP address: 24.165.81.160
-  Document e-signed by Ashley Jones (ajones@delmar.ca.us)
Signature Date: 2025-05-12 - 9:24:51 AM PDT - Time Source: server- IP address: 24.165.81.160
-  Document emailed to Dustin Fuller (dfuller@sdfair.com) for approval
2025-05-12 - 9:24:52 AM PDT
-  Email viewed by Dustin Fuller (dfuller@sdfair.com)
2025-05-12 - 9:24:55 AM PDT- IP address: 44.240.129.190
-  Document approved by Dustin Fuller (dfuller@sdfair.com)
Approval Date: 2025-05-12 - 9:36:48 AM PDT - Time Source: server- IP address: 68.107.87.206
-  Document emailed to Kaitlyn Findley-Thorn (kthorn@sdfair.com) for delegation
2025-05-12 - 9:36:50 AM PDT
-  Email viewed by Kaitlyn Findley-Thorn (kthorn@sdfair.com)
2025-05-12 - 9:36:52 AM PDT- IP address: 44.240.129.190
-  Document signing delegated to Carlene Moore (cmoore@sdfair.com) by Kaitlyn Findley-Thorn (kthorn@sdfair.com)
2025-05-12 - 10:41:49 AM PDT- IP address: 192.108.227.2



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2025-05-12 - 10:41:50 AM PDT

 Email viewed by Carlene Moore (cmoore@sdfair.com)

2025-05-12 - 10:41:53 AM PDT- IP address: 44.240.129.190

 Document e-signed by Carlene Moore (cmoore@sdfair.com)

Signature Date: 2025-05-13 - 11:27:06 PM PDT - Time Source: server- IP address: 99.50.207.167

 Agreement completed.

2025-05-13 - 11:27:06 PM PDT