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Reply to: Venice

MEMORANDUM

TO: City Council

FROM: Kelly M. Fernandez, Esq., City Attorney

DATE: April 20, 2021

RE: Ordinance No. 2021-16

Proposed Ordinance No. 2021-16 clarifies and modifies how the valuation of a project is to be substantiated for the purposes of calculating the applicable City building permit fees. Presently, the City Code of Ordinances ("City Code") requires a construction contract to be submitted with building permit applications, which the building official uses to confirm the value of the project. The City's adopted Schedule of Permit Fees and Fire Department Fees ("Schedule") also authorizes the International Code Council (ICC) Building Valuation Data as an alternative to a construction contract for the valuation of new construction. As proposed, Ordinance No. 2021-16 provides three options for calculating or substantiating project valuation, the two presently allowed (a construction contract or the ICC Building Valuation Data) or a detailed construction take off report.

The detailed construction take off report is what Neal Communities began submitting in early 2020 to support project valuations in building permit applications. Via a letter from me to Mr. Patrick Neal on December 17, 2020, the City discontinued its acceptance of the construction take off report due to it being "inconsistent with City Code and the Schedule" since it was not one of the two recognized options for supporting valuation in the City Code or Schedule. Staff and legal

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counsel have since evaluated the propriety and effect of adding the construction take off report to the City Code as an option for substantiating project valuation and believe it to be an acceptable alternative. Mr. Neal referred to this option in his prior correspondence to the City as the “correct” procedure and computation in his opinion. However, upon being provided with the proposed ordinance for comment, Neal Communities has requested further modifications and that no revisions be made until all issues (present claims regarding the calculation of building permit fees and claims for refund) have been addressed. Notwithstanding Neal Communities’ position, City staff and legal counsel recommend that the City Council adopt Ordinance 2021-16 now as it provides three clear options for all building permit applicants to use to value their projects. Neal Communities and the City intend to conduct a pre-suit mediation on the Neal Communities’ claims in the near future. If such a mediation results in the City agreeing to pursue other revisions to the City Code, those revisions can be accomplished at that time.

Please note that as required by state law, Ordinance 2021-16 also provides for a building fee reduction when private providers are used for inspections versus City staff.

Staff recommends approval of Ordinance No. 2021-16 and will be available for questions at the City Council meeting.