



**AGENDA COVER**  
Regular Joint Meeting of the  
**CAPITOLA CITY COUNCIL/  
REDEVELOPMENT AGENCY**  
MEETING DATE: THURSDAY, MAY 12, 2011

CITY COUNCIL CHAMBERS: 420 CAPITOLA AVENUE, CAPITOLA

**CLOSED SESSION**

**5:30 P.M.**

**JOINT CITY COUNCIL/REDEVELOPMENT AGENCY REGULAR MEETING**

**7:00 P.M.**

*Elected Officials*

*Dennis Norton, Mayor  
Michael Termini, Vice Mayor  
Stephanie Harlan, Council Member  
Kirby Nicol, Council Member  
Sam Storey, Council Member  
  
Jacques Bertrand, City Treasurer*

*City Staff Members*

*Jamie Goldstein, City Manager  
John G. Barisone, City Attorney  
Pamela Greeninger, City Clerk  
Mike Card, Chief of Police  
Derek Johnson,  
Community Development Director  
Steven Jesberg, Public Works Director*

**Notice regarding City Council/Redevelopment Agency Meetings:** The Capitola City Council and Redevelopment Agency meet jointly on the 2nd and 4th Thursday of each month at 7:00 p.m., in the City Hall Council Chambers located at 420 Capitola Avenue, Capitola.

**Agenda and Agenda Packet Materials:** The City Council/Redevelopment Agency Agenda and the complete agenda packet are available on the Internet at the City's website: [www.ci.capitola.ca.us](http://www.ci.capitola.ca.us). Agendas are also available at the Capitola Post Office located at 826 Bay Avenue, Capitola.

**Agenda Document Review:** The complete agenda packet is available at City Hall and at the Capitola Branch Library, 2005 Wharf Road, Capitola, on the Monday prior to the Thursday meeting. Need more information? Contact the City Clerk's office at 831-475-7300.

**Agenda Materials Distributed after Distribution of the Agenda Packet:** Pursuant to Government Code §54957.5, materials related to an agenda item submitted after distribution of the agenda packet are available for public inspection at the Reception Office at City Hall, 420 Capitola Avenue, Capitola, California, during normal business hours.

**Americans with Disabilities Act:** Disability-related aids or services are available to enable persons with a disability to participate in this meeting consistent with the Federal Americans with Disabilities Act of 1990. Assisted listening devices are available for individuals with hearing impairments at the meeting in the City Council Chambers. Should you require special accommodations to participate in the meeting due to a disability, please contact the City Clerk's office at least 24-hours in advance of the meeting at 831-475-7300. In an effort to accommodate individuals with environmental sensitivities, attendees are requested to refrain from wearing perfumes and other scented products.

**Televised Meetings:** City Council/Redevelopment Agency meetings are cablecast "Live" on Charter Communications Cable TV Channel 8 and are recorded to be replayed at 12:00 Noon on the Saturday following the meetings on Community Television of Santa Cruz County (Charter Channel 71 and Comcast Channel 25). Meetings are streamed "Live" on the City's website at [www.ci.capitola.ca.us](http://www.ci.capitola.ca.us) by clicking on the Home Page link "View Capitola Meeting Live On-Line." Archived meetings can be viewed from the website at anytime.

**It is the intent of the City Council to adjourn by 11:30 p.m.**



# AGENDA

## Regular Joint Meeting of the CAPITOLA CITY COUNCIL/REDEVELOPMENT AGENCY Thursday, May 12, 2011

### 5:30 P.M - CLOSED SESSION - CITY MANAGER'S OFFICE

An announcement regarding the items to be discussed in Closed Session will be made in the City Hall Council Chambers prior to the Closed Session. Members of the public may, at this time, address the City Council/Redevelopment Agency Directors on closed session items only.

#### **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION** (Govt. Code §54956.9a)

Surf and Sand, LLC vs. City of Capitola, et al. (Surf & Sand Mobile Home Park) [Superior Court of the State of California for County of Santa Cruz, Case #CV 167716]

Surf and Sand, LLC vs. City of Capitola, et al. (Surf & Sand Mobile Home Park) [U.S. District Court N.D., Case No. C09-05542 RS (Judge Richard Seeborg)]

Los Altos/El Granada Investors vs. City of Capitola, et al. (Castle Mobile Estates) [U.S. District Court N.D., Case No. CV 04-05138 JF (Judge Jeremy Fogel)]

#### **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

Significant exposure to litigation pursuant to subdivision (b) of Government Code §54956.9: One Case: Vieira Enterprises, Inc. vs. City of Capitola (Cabrillo Mobile Estates)  
*The City is in receipt of a December 30, 2010, Fair Return rent increase application for Cabrillo Mobilehome Park, which claims that if it is not granted in its entirety, the City will be liable for the unconstitutional taking of Mr. Vieira's property and further claims that the City's past enforcement of its rent control ordinance has already functioned to effect such a taking.*

Initiation of litigation pursuant to subdivision (c) of Government Code §54956.9: One Case.

#### **PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Titles: City Manager and City Attorney

#### **LIABILITY CLAIMS** (Govt. Code §54956.95)

Claimant: Marilyn Bierach

Claimant: Robert and Gay Allen

Claimant: Cathy Sutton

Claimant: Patricia Cox

Claimant: Douglas Rennels

Claimant: Ann Schroedel

Claimant: Stuart Hacker and Pamela-Bone Hacker

Claimant: Vivian E. Blomenkamp

Claimant: Katie Saldana and Charles Kjar

Claimant: Dorothy Houston

Claimant: Teresa Carlisle

Agency claimed against: City of Capitola

**CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Govt. Code §54956.8)**

Property: McGregor Drive, APN 036-341-02 (City of Capitola, Owner)  
City Negotiator: City Manager  
Negotiating Parties: City and Soquel Creek Water District  
Under Negotiation: Real Property Lease/Sale

Property: 426 Capitola Avenue, Portion APN 035-141-33 (City of Capitola, Owner)  
City Negotiator: City Manager  
Negotiating Parties: City and William and Joyce Budisch (520 Pilgrim Drive)  
Under Negotiation: Real Property Sale

**ROLL CALL AND PLEDGE OF ALLEGIANCE**

Council Members/Directors Harlan, Termini, Nicol, Storey,  
and Mayor/Chairperson Norton

**\* \* \* PRESENTATIONS \* \* \***

2010 Capitola Police Department Civilian Employee of the Year Award  
to Records Clerk Tracie Hernandez

2010 Capitola Police Officer of the Year Award  
to Police Officer Andy Dally

Presentation by Maggie Ivy, CEO/Executive Vice President of  
Santa Cruz County Conference and Visitors Council

Presentation by Kathleen Johnson,  
Executive Director of Advocacy, Inc.

**1. REPORT ON CLOSED SESSION**

**2. ORAL COMMUNICATIONS**

A. Additions and Deletions to Agenda

B. Public Comments

*Oral Communications allows time for members of the Public to address the City Council/Redevelopment Agency on any item not on the Agenda. Presentations will be limited to three minutes per speaker. Individuals may not speak more than once during Oral Communications. All speakers must address the entire legislative body and will not be permitted to engage in dialogue. All speakers are requested to print their name on the sign-in sheet located at the podium so that their name may be accurately recorded in the minutes. A MAXIMUM of 30 MINUTES is set aside for Oral Communications at this time.*

## 2. ORAL COMMUNICATIONS - Continued

### C. Staff Comments

D. City Council/RDA Director/Treasurer Comments/Committee Reports  
*City Council Members/Redevelopment Agency Directors/City Treasurer may comment on matters of a general nature or identify issues for staff response or future council/RDA consideration. Council Members/RDA Directors/Committee Representatives may present oral updates from standing committees at this time.*

### E. Committee Appointments

*Council Members/RDA Directors/Committee Representatives may present oral updates from standing committees at this time. Committee appointments may also be made by the City Council/Redevelopment Agency at this time.*

- 1) Consideration of Nomination by Council Member Harlan to fill the West Capitola Neighborhood representative vacancy on the General Plan Advisory Committee and consider designation of GPAC alternates. Staff recommendation: City Council appointment and direction regarding alternate(s).

### F. Approval of Check Register Reports

- 1) City: Approval of City Check Register Reports dated April 22 and April 29, 2011.
- 2) RDA: Approval of Redevelopment Agency Check Register Reports dated April 22 and April 29, 2011.

## 3. **CONSENT CALENDAR**

*All matters listed under "Consent Calendar" are considered by the City Council/Redevelopment Agency to be routine and will be enacted by one motion in the form listed below. There will be no separate discussion on these items prior to the time the Council votes on the action unless members of the public or the Council request specific items to be discussed for separate review. Items pulled for separate discussion will be considered following "Other Business."*

- A. Approve Reading by Title of all Ordinances and Resolutions and declare that said Titles which appear on the Public Agenda shall be determined to have been read by Title and Further Reading Waived.
- B. City/RDA: Approve Joint Regular Minutes of April 28, 2011
- C. Receive Planning Commission Action Minutes for the Regular Meeting of May 5, 2011.

## 3. CONSENT CALENDAR - Continued

- D. Deny claim of Marilyn Bierach in the amount of \$2,775 and forward it to the City's liability insurance carrier.
- E. Deny claim of Robert and Gay Allen in the amount of \$13,161 and forward it to the City's liability insurance carrier.
- F. Deny claim of Cathy Sutton in the amount of \$10,000 and forward it to the City's liability insurance carrier.
- G. Deny claim of Patricia Cox in the amount of \$2,362.50 and forward it to the City's liability insurance carrier.
- H. Deny claim of Douglas Rennels in the amount of \$8,500 and forward it to the City's liability insurance carrier.
- I. Deny claim of Ann Schroedel in the amount of \$11,283 plus any unknown damage and forward it to the City's liability insurance carrier.
- J. Deny claim of Stuart Hacker & Pamela Bone-Hacker in the amount of \$12,400 and forward it to the City's liability insurance carrier.
- K. Deny claim of Vivian E. Blomenkamp in the amount of \$6,228.34 plus any unknown damage and forward it to the City's liability insurance carrier.
- L. Deny claim of Katie Saldana and Charles Kjar in the amount of \$10,000 and forward it to the City's liability insurance carrier.
- M. Deny claim of Dorothy Houston in the amount of \$4,619.89 and forward it to the City's liability insurance carrier.
- N. Deny claim of Teresa Carlisle in the amount of \$2,074.82 and forward it to the City's liability insurance carrier.
- O. Authorize funding for a Capital Improvement Project for the Police Department Heating, Ventilation and Air Conditioning (HVAC) System and transfer \$56,000 from the Esplanade Retaining Wall project; and award a contract to Geo. H. Wilson, Inc., in the amount not to exceed \$55,715 for installation of the HVAC System.

## 3. CONSENT CALENDAR - Continued

- P. Accept update report on the Rispin Property Hazard Abatement Project and, by 4/5 vote approval, make the determination that all hazards at the Rispin Property as detailed in the March 1, 2011, Notice of Summary Abatement Order to Abate Dangerous Buildings and Grounds have not been eliminated and there is need to continue action.
- Q. Approve Request by Wharf to Wharf Race, Incorporated, for a Special Event Permit, Entertainment Permit, Encroachment Permit, and Sign Permit for the 39<sup>th</sup> Annual Wharf to Wharf Foot Race to be held on Sunday, July 24, 2011, from 6 a.m. to 12 p.m., and request for a grant of all Permits, Police and Public Works Fees in the Amount of \$8,079.
- R. Ordinance Amending Sections 12.12.040, 12.12.110, 12.12.190, and 12.12.270 of the Capitola Municipal Code pertaining to Community Tree and Forest Management [2<sup>nd</sup> Reading]. Staff recommendation: adopt ordinance.
- S. Adopt resolution designating the City Manager, Finance Director, and Public Works Director as agents of the City of Capitola authorized to provide information and sign agreements with the California State Office of Emergency Services for all matters pertaining to current and future disasters.
- T. Award contract to Bowman and Williams in an amount not to exceed \$32,840 for investigation and engineering work for slope failures in the Pacific Cove Mobile Home Park.
- U. RDA: Receive RDA Treasurer's Report for the quarter ended March 31, 2011 (Unaudited).
- V. Approve agreement with Hope Services in an amount not to exceed \$12,600 for cleaning of the beach and Esplanade sidewalk from June 6 to September 16, 2011, and authorize the Director of Public Works to execute the agreement on behalf of the City.
- W. Set Public Hearing for May 26, 2011, to consider appeal of Planning Commission denial of Project Application #11-028, for a Conditional Use Permit to allow a take-out window at an existing restaurant (Mr. Kebab) at 201 Esplanade in the CV (Central Village Zoning District) [APN 035-211-05].

### 3. CONSENT CALENDAR – Continued

- X. Approve agreement with the City of San Jose Office of Cultural Affairs Public Art Program, Barbara Goldstein, as the Project Manager for the 41st Avenue Public Art Project in an amount not to exceed \$19,800.

### 4. PUBLIC HEARINGS

*Public Hearings are intended to provide an opportunity for public discussion of each item listed as a Public Hearing. The following procedure is followed for each Public Hearing listed: 1) Staff Explanation; 2) Public Discussion; 3) Council Comments; 4) Close public portion of the Hearing; 5) City Council discussion; and 6) Decision.*

NOTE: Any person seeking to challenge a City Council decision made as a result of a proceeding in which, by law, a hearing is required to be given, evidence is required to be taken, and the discretion in the determination of facts is vested in the City Council, shall be required to commence that court action within ninety (90) days following the date on which the decision becomes final as provided in Code of Civil Procedure §1094.6. Please refer to code of Civil Procedure §1094.6 to determine how to calculate when a decision becomes “final.” Please be advised that in most instances the decision become “final” upon the City Council’s announcement of its decision at the completion of the public hearing. Failure to comply with this 90-day rule will preclude any person from challenging the City Council decision in court.

- A. City/RDA: Joint Public Hearing to consider Mobile Home Park Rental Assistance Program Options. Staff recommendation: approve agreement between the City, Redevelopment Agency, and the Housing Authority of the County of Santa Cruz to implement a Mobile Home Park Rental Assistance Program for Capitola. Presentation: Community Development Department.
- B. Public Hearing on Project Application #11-024, 3801 Clares Street, to consider appeal of Planning Commission denial of a Conditional Use Permit for a Medical Office Use (Dialysis Clinic) for an existing building located in the CC (Community Commercial) Zoning District [APN 034-261-47]. Property Owner: Capitola Roth Investments, LLC. Representative: Barry Maner, Entos Design. Presentation: Community Development Department.
- C. Public Hearing to Consider Applications to the State of California Community Development Block Grant (CDBG) Program for Two Planning Technical Assistance (PTA) Grants of \$70,000 each for Capitola Village Hotel Design Alternatives and City Hall/Pacific Cove Area Plan, and a Cooperative Agreement for a Village Hotel. Staff recommendation: adopt Resolution approving applications, and approve Cooperative Agreement regarding Village Hotel Planning & Parking Structure Financing Costs with Barry Swenson Builders. Presentation: Community Development Department.

**5. OTHER BUSINESS**

- A. Support of SB 568 - Ban On Polystyrene Take Out Food Containers. Staff recommendation: Council direction.
  
- B. Consider a Memorandum of Understanding (MOU) between the City of Capitola, County of Santa Cruz, and Soquel Union Elementary School District for use of the Capitola Community Center located at 4400 Jade Street as an Alternate Care Site (ACS). Staff recommendation: approve Memorandum of Understanding.

*AT THIS POINT, ITEMS REMOVED FROM CONSENT CALENDAR WILL BE CONSIDERED*

**6. COUNCIL/RDA DIRECTOR/STAFF COMMUNICATIONS****7. ADJOURNMENT**

Adjourn to a Special Joint Budget Study Session of the City Council/Redevelopment Agency to be held on **Wednesday**, May 25, 2011, at 6:00 p.m., in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.





Item #: 2.E.1)

## CITY COUNCIL AGENDA REPORT

MEETING OF MAY 12, 2011

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

DATE: MAY 5, 2011

SUBJECT: GENERAL PLAN ADVISORY COMMITTEE

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**Recommended Action:** By motion, that the City Council appoint a replacement member on the General Plan Advisory Committee (GPAC) for the West Capitola neighborhood and consider designation of GPAC alternates.

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### **BACKGROUND**

On November 23, 2010, the City Council adopted Resolution No. 3845 (Attachment 1) which defined the purpose and composition of the General Plan Advisory Committee (GPAC). On January 27, 2011, the City Council appointed the following members to the General Plan Advisory Committee:

Depot Hill (Sam Storey)	Bruce Arthur
Jewel Box (Kirby Nicol)	Ron Burke
East Capitola (Dennis Norton)	Ann Wilson
West Capitola (Stephanie Harlan)	Rick Halterman
Upper and Lower Village (Michael Termini)	Ed Botorff
Planning Commission	Ed Newman
Traffic and Parking Commission	Linda Hanson
Commission on the Environment	Kristin Jensen Sullivan
Finance Advisory Committee	Jacques Bertrand
Art & Cultural Commission	James Wallace
Economic Development	Gary Wetsel
Committee of the Capitola	
Soquel Chamber of Commerce	

### **DISCUSSION**

The role of the GPAC is to advise city staff and develop recommendations to update the General Plan. The resolution forming the GPAC allows for an eleven (11)-member committee consisting of representatives from various city commissions/committees, as well as one representative each from five (5) identified neighborhoods. Individual council members nominated an applicant from each of the five neighborhoods.

On May 2, 2011, Rick Halterman submitted his resignation (Attachment 2). Councilwoman Harlan recommended the appointment of Mr. Halterman as the West Capitola. Councilwoman Harlan will be making a recommendation to fill this vacancy at the meeting.

Councilman Termini suggested that the Council consider designating individuals to sit as alternates on the GPAC. Staff recommends that the Council consider selecting members from the current list of applicants for each of the neighborhoods. City Staff would also work with each of the City Committees to identify alternate representatives.

Staff recommends that the purpose of the alternate would be to replace an individual member should they resign from the committee. Alternates would be encouraged to attend GPAC meetings, but would not sit in a member's position should they be unable to attend a meeting. Unless they are appointed to fill a vacancy, the alternates would participate only as community participants. The reason for this recommendation is to encourage regular members to attend all meetings, including the alternate, and to ensure that there is continuity in discussion, perspective, and decision-making. It has been Staff's experience that alternate representation not due to a resignation can lead to shifting direction and process inefficiencies.

**FISCAL IMPACT** - None

**ATTACHMENTS**

1. Resolution No. 3845
2. Rick Halterman's Resignation
3. GPAC Membership Composition

**Report Prepared By:** Derek Johnson  
Community Development Director

**Reviewed and Forwarded by**  
**City Manager:** \_\_\_\_\_

COPY

RESOLUTION NO. 3845

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA  
CREATING THE GENERAL PLAN ADVISORY COMMITTEE (GPAC)  
AND DEFINING ITS TERM AND CHARGE**

WHEREAS, the City of Capitola appointed an 18-member General Plan Advisory Committee (hereinafter referred to as the GPAC) to advise the City of Capitola during the last update of the city's General Plan in 1989; and

WHEREAS, numerous reports and technical studies have been completed that have identified portions of the General Plan, Local Coastal Plan, and Municipal Code which necessitate an update; and

WHEREAS, the City of Capitola has collected a General Plan fee since the 2002-2003 fiscal year that has accumulated adequate funds to update the General Plan; and

WHEREAS, Section 30503 of the California Coastal Act of 1976 requires that during the preparation, approval, certification, and amendment of any local coastal program, that the public be provided maximum opportunities to participate; and

WHEREAS, public participation has been a long tradition in land use issues in the City of Capitola and public involvement is essential in updating the 1989 General Plan; and

WHEREAS, the City of Capitola desires to form a GPAC consisting of eleven members to advise Staff, Planning Commission, and City Council on the update of the 1989 General Plan; and

WHEREAS, the Planning Commission, the Traffic & Parking Commission, the Commission on the Environment, the Finance Advisory Committee, the Art and Cultural Commission, and the Economic Development Committee of the Capitola Soquel Chamber of Commerce, have spent countless hours on studies and delving into issues that have improved the City of Capitola; and

WHEREAS, the neighborhoods of Depot Hill, Jewel Box, East Capitola, Upper and Lower Village, and West Capitola contain pockets of residential communities with unique identities and needs; and

WHEREAS, the GPAC members from the Planning Commission, the Traffic & Parking Commission, the Commission on the Environment, the Finance Advisory Committee, the Art and Cultural Commission, and the Economic Development Committee of the Capitola Soquel Chamber of Commerce, will provide continuity and knowledge in updating the 1989 General Plan; and

WHEREAS, soliciting applications from the neighborhoods of Depot Hill, Jewel Box, East Capitola, Upper and Lower Village, and West Capitola will provide broad neighborhood representation on the GPAC; and

WHEREAS, establishing GPAC Ground Rules will provide a framework for collaborative communication among stakeholders and decision-makers; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Capitola that a General Plan Advisory Committee (GPAC) is hereby created, with a composition, term, charge, ground rules, and staff support as defined below:

- 1) The General Plan Advisory Committee shall be comprised in accordance with the following categories of representation with indicated positions to be nominated by the Commission or Committee being represented, subject to Council approval, and others to be appointed by the Council:

Depot Hill Neighborhood	1
Jewel Box Neighborhood	1
East Capitola Neighborhood	1
Upper and Lower Village Neighborhood	1
West Capitola	1
Planning Commission <sup>1</sup>	1
Traffic & Parking Commission <sup>1</sup>	1
Commission on the Environment <sup>1</sup>	1
Finance Advisory Committee <sup>1</sup>	1
Arts and Cultural Commission <sup>1</sup>	1
Economic Development Committee of the Capitola Soquel Chamber of Commerce <sup>1</sup>	1
Total:	11

- 2) Directs Staff to request nominations for one member to serve on the GPAC from the Planning Commission, the Traffic & Parking Commission, the Commission on the Environment, the Finance Advisory Committee, the Art and Cultural Commission, and the Economic Development Committee of the Capitola Soquel Chamber of Commerce to be submitted to the City Clerk by Thursday, January 20, 2011.
- 3) Directs Staff to provide notice and solicit applications to serve on the GPAC from the public from the neighborhoods of Depot Hill, Jewel Box, East Capitola, Upper and Lower Village and West Capitola as shown in Exhibit A to be submitted to the City Clerk by Monday, January 10, 2011.
- 4) Committee members shall serve at the pleasure of the City Council and may, by a majority vote of the Council, be appointed, dismissed, or replaced.
- 5) The GPAC is hereby established for a period of three years, expiring on Wednesday, January 15, 2014, with the possible extension of this term to be considered by the City Council prior to that date.
- 6) The purpose of the GPAC is to advise City Staff and develop recommendations to update the 1989 General Plan.
- 7) The City will provide staff support to the GPAC with the Community Development Director to be primarily responsible for providing this support, to include preparation of agendas, minutes, compilation of material for discussion at GPAC meetings, and assistance with public outreach efforts.
- 8) The Ground Rules for the GPAC as shown in Exhibit A, and as may be amended by the City Council, shall apply to the GPAC upon formation by the City Council, including compliance with the Ralph M. Brown Act governing open meetings for local government bodies.

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<sup>1</sup> To be nominated by the Committee or Commission being represented

BE IT FURTHER RESOLVED that recommendations for City Council appointments to the General Plan Advisory Committee shall be scheduled for the second regular meeting of the Council in January, to be held on Thursday, January 27, 2011.


I HEREBY CERTIFY that the above and foregoing resolution was passed and adopted by the City Council of the City of Capitola on the 23<sup>rd</sup> day of November, 2010, by the following vote:

AYES: Council Members Graves, Norton, Nicol, Begun, and Mayor Storey

NOES: None

ABSENT: None

ABSTAIN: None

  
\_\_\_\_\_  
Sam Storey, Mayor

ATTEST:

  
\_\_\_\_\_  
Pamela Greeninger, City Clerk MMC

## EXHIBIT A

### General Plan Advisory Committee (GPAC) Ground Rules

#### Ground Rules

These ground rules are for the members of the City of Capitola Planning Advisory Committee (GPAC). They provide the basis for collaborative communication among stakeholders and decision-makers. They are also intended to serve as boundaries for fair and civil behavior and group decision making.

#### Basic Conduct and Decision Making:

1. **Role of GPAC:** Advise City Staff in their developing of recommendations for the Planning Commission and City Council during the process of updating the 1989 General Plan.
2. **Meeting Procedure:** GPACs are subject to the Brown Act, which set standards for public notice as to meeting time, date and location as well as items to be discussed. Meetings shall run in a parliamentary style. Substantive issues will have higher priority than matters of procedural detail. The Chair has discretion in guiding discussion of items among Committee members while allowing for appropriate public input. Staff may address the Committee at any time, with timely recognition by the Chair.
3. **Problem Solving Approach:** Disagreements between participants will be regarded as problems to be solved rather than arguments to be won.
4. **Decision-Making:** Decisions will be made by consensus. When consensus cannot be reached, decisions will be made by a majority of the members of the GPAC present and voting. A quorum for this process will be five (5) members. No business can be conducted if fewer members than a quorum are present. Minutes of the GPAC will be kept on file. These minutes shall be available for any interested person to examine.
5. **Clear and Timely Communication:** Every participant is responsible for communicating his or her position on issues under consideration. Each participant is also encouraged to clearly state their intentions and concerns at the earliest possible time in the course of the discussions.
6. **Information Sharing:** Relevant information plays an important role in the development of informed consent. At the same time, too much information or information of limited relevance can cause confusion and slow down the process. Where individual members wish to share written or printed information with the group as a whole, such information should be provided to City Staff at least 72 hours prior to any scheduled meeting to allow for duplication and/or distribution prior to the meeting.
7. **E-mail Communication:** Electronic communications shall be guided by the same general protocols for communication, problem solving and negotiation that are followed when the group is in general face-to-face sessions. All email correspondence shall be directed through the GPAC Chair and City Staff at least 24 hours in advance of meetings if possible. Avoid emailing or phone calls that could possibly create a chain that could violate the Brown Act.
8. **Participation and Observation by Members of the Public:** All GPAC meetings are open to the public and all observers are welcome. Members of the public will have an opportunity to address the GPAC during each meeting for a period of time established by the GPAC Chair. Separate workshops are geared to soliciting a broader public dialogue where public input is encouraged. Members of the public are encouraged to submit written materials in advance of the meetings via the GPAC Chair.


9. **Absence when Decisions are made:** When members cannot attend a meeting of the GPAC, they should communicate their views to the Chair prior to that meeting; however members must be present to vote on decisions. Three (3) consecutive unannounced absences or five (5) consecutive absences by a member shall be grounds for dismissal from the GPAC.
10. **Timely adjournment of evening meetings:** To encourage public participation, evening meetings of GPACs will be organized, agendaed, and run so as to finish at a reasonable hour. If a particular GPAC finds its evening meetings habitually running past 9:30PM, staff and the Chair will work together to shorten the agendas and, if necessary, to expedite committee discussion and action on items.
11. **Conflicts of Interest:** GPAC members are not considered to be "public officials" as defined in §82048 of the California Government Code, and therefore are not subject to the State Political Reform Act and its disclosure provisions (Government Code §§ 81000 et seq.). Nevertheless, GPAC members shall remove themselves from all discussions and votes on matters in which they have any direct personal financial interest, or where the member's professional allegiance and/or personal bias cannot be set aside to allow the member's fair consideration of the issue(s) at hand.
  - a In gauging such extra-legal conflicts of interest and/or duty, each member shall exercise careful judgment and introspection in giving priority to the interests of fairness and objectivity; if there is any reasonable doubt that the member has a conflict, the member shall refrain from participation in the committee's deliberations and vote(s). Should a member not refrain voluntarily, and should the member's participation specifically be challenged by another committee member, staff, or the public, the member's participation on any item of official committee business may be prevented by a two-thirds majority vote of the full committee (i.e., at least two-thirds of the total incumbent committee membership, including the member in question). Pervasive or recurring conflicts of interest and/or duty should lead a member to resign voluntarily from a GPAC, and may be grounds for a dismissal.

**Participant Roles:**

1. **City of Capitola Role:** The City of Capitola convenes General Plan Update process and the agency with the responsibility of writing the General Plan. In this regard, it will rely on the decisions of the GPAC to provide direction for the document that is responsive to neighborhood and community goals, conditions and aspirations.
2. **Group Roles & Responsibilities:** The following points are offered as examples of behavior consistent with constructive dialogue, mutual respect and a commitment to collaboration:
  - a Offer respect of different viewpoints and attention when others speak.
  - b Share the responsibility of ensuring the success of the process and the quality of recommendations.
  - c Make our best good faith effort to work towards reaching an agreement.
  - d Represent the perspectives, concerns, and interests of agencies or constituencies whenever possible to ensure that agreements and recommendations developed by the group are acceptable to the organizations, agencies, or constituents being represented.
  - e Ask questions of each other for clarification and mutual understanding.

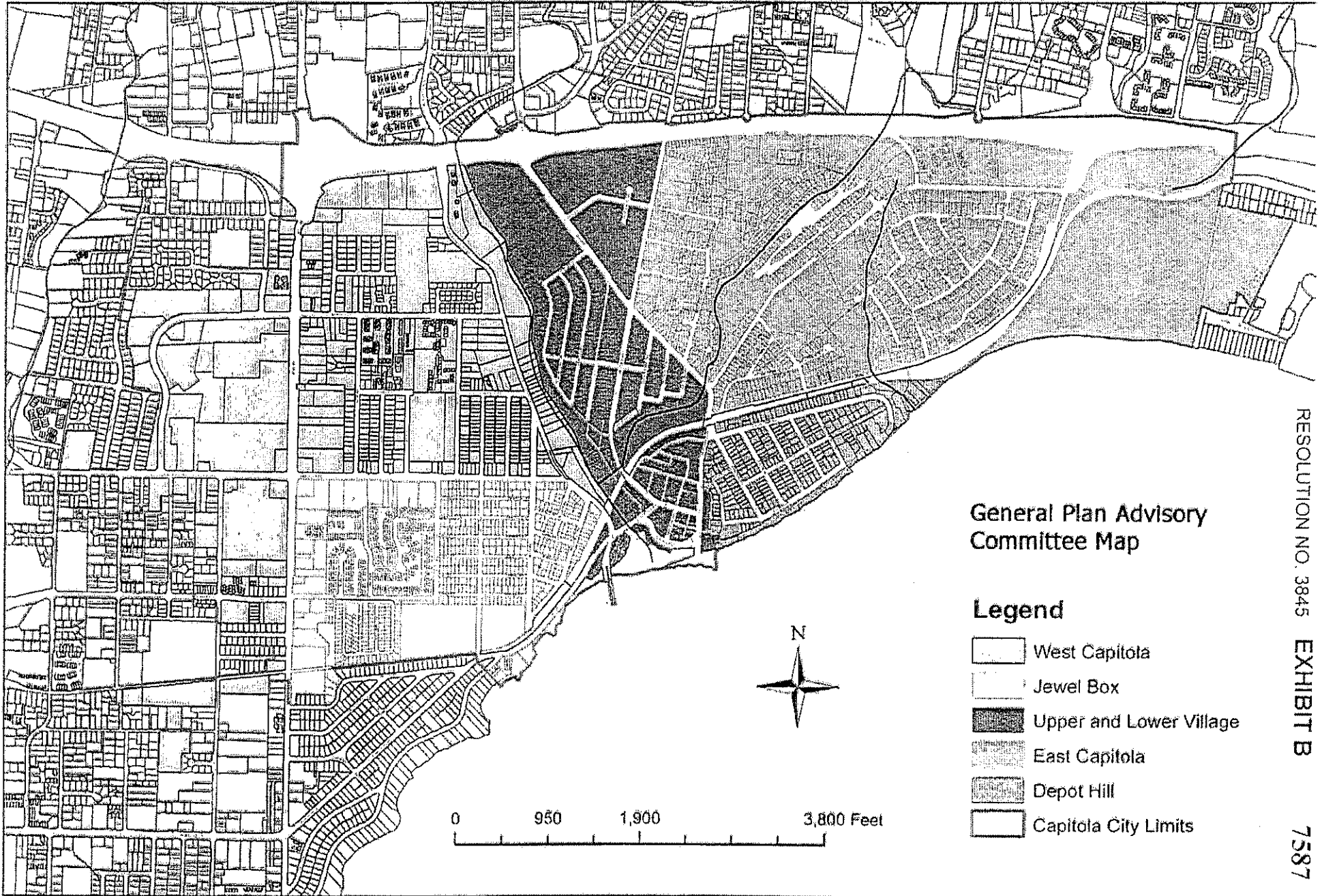
- f Verify assumptions when necessary and avoid characterizing the motives of others.
  - g Acknowledge and try to understand others' perspectives.
  - h Stay focused on the task at hand and share airtime with others.
  - i Refrain from distracting others through side conversations; silence all cell phones during meetings.
  - j Concentrate on the content of discussions and allow the Chair to focus on how to promote productive discussion.
3. **Subcommittees:** When the Chair determines that a specific topic or agenda item requires a higher level of analysis and focus than allowed for during its meetings, it may appoint a Subcommittee to address specific information needs, refine options or resolve differences of opinion outside of its regular meetings. Subcommittees are not empowered to make decisions in place of the group as a whole, but rather to frame and refine issues and information needs for resolution by the GPAC. They must number fewer members than a quorum of the full GPAC. Subcommittees are "opportunistic" and "ephemeral" groups in that they exist only as long as it is necessary for them to accomplish their task.
4. **City Attorney:** Specific legal issues are to be directed through City Staff for a response from the City Attorney.
5. **The Chair and Vice Chair:** The Chair, Vice-Chair, or other duly authorized GPAC member shall speak for the Committee at any applicable non-GPAC public hearing or other meeting as authorized by the GPAC. Individual members of GPAC not so designated, who do testify at a public hearing or other meeting, shall clearly identify themselves as speaking individually as a member of GPAC, and shall clearly indicate that they are not authorized to speak for the full committee.

This is to certify that the above and foregoing is a true and correct copy of Resolution No. 3845 passed and adopted by the Capitola City Council on the 23<sup>rd</sup> day of November, 2010.

  
Pamela Greeninger, City Clerk MMC



# City of Capitola



RESOLUTION NO. 3845 EXHIBIT B 7587

RECEIVED

MAY 03 2011

CITY OF CAPITOLA

Derek Johnson  
Community Development Director  
City of Capitola  
420 Capitola Avenue  
Capitola, CA 95010

May 2, 2011

Dear Derek,

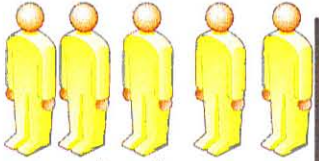
I have very much enjoyed being on the General Plan Advisory Committee. I am unable to attend all the meetings, so am resigning, but hope to participate in future public hearings. Thank you very much.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Halterman". The signature is fluid and cursive, with a long horizontal stroke at the end.

Rick Halterman  
1099 38<sup>th</sup> Avenue Space #16  
Santa Cruz, CA 95062

# Capitola GPAC Membership Composition



**#1-5**  
An At-Large  
Neighborhood Representative

1. Depot Hill
2. Jewel Box
3. East Capitola
4. Upper and Lower Village
5. West Capitola

*Depot Hill*  
BRUCE ARTHUR

*Jewel Box*  
RON BURKE

*East Capitola*  
ANN WILSON

*Upper and Lower Village*  
ED BOTORFF

*West Capitola*  
Vacant



**#6**  
Planning Commission

Ed  
Newman  
*Chairman*



**#7**  
Parking &  
Transportation

Linda  
Hanson



**#8**  
Commission on the  
Environment

Kristin  
Sullivan



**#9**  
Economic  
Development  
Committee

Gary  
Wetsel



**#10**  
Finance Advisory  
Committee

Jacques  
Bertrand



**#11**  
Arts and Cultural  
Commission

James  
Wallace



## CITY COUNCIL AGENDA REPORT

### MEETING OF MAY 12, 2011

FROM: FINANCE DEPARTMENT  
 DATE: May 4, 2011  
 SUBJECT: APPROVAL OF CITY CHECK REGISTER REPORTS

**Recommended Action:** By motion and roll call vote, that the City Council approve the attached Check Register Reports for April 22 and April 29, 2011.

#### **DISCUSSION**

The attached Check Registers for:

Date	Starting Check #	Ending Check #	Total Checks	Amount
4/22/11	66078	66148	71	\$329,470.87
4/29/11	66149	66208	60	\$3,365,760.74
4/22/11 Payroll				\$173,805.65
Total				\$3,869,037.26

The check register of 4/15/11 ended with check #66077.

Wires issued, and a brief description of the expenditure:

Date	Issued to:	Dept.	Purpose	Amount
4/24/11	PERS Payment	CM	CALPERS - Payroll Contr. for 4/22/11 payroll	\$45,094.19

Following is a list of checks issued for more than \$10,000.00, and a brief description of the expenditure:

Check	Issued to:	Dept.	Purpose	Amount
66082	American Traffic Solutions, Inc.	PD	Jul-Nov2010 Redlight Camera	\$23,020.82
66088	CalPERS Health	CM	May2011 Employee Health Ins, Employee funded	\$59,106.42
66095	Design, Community & Environment	CDD	General Plan Expenses	\$66,359.42
66121	Phil Allegri Electric Inc.	PW	PD Relocation, Flood Response	\$43,365.50
66128	SC Regional 911	PD	Q4 Operating Budget	\$63,068.85
66158	Capitola City Treasurer, RDA Acct	CM	Return funds to RDA Account	\$3,141,070.00
66162	Endeman, Lincoln, et al	CM	Feb2011 Rent Control Legal Services	\$34,488.85
66165	Greenwaste Recovery Inc.	CM	Dumpsters, Flood Response	\$19,379.10
66183	Pacific Gas & Electric	PW	City Gas & Electric, all sites	\$36,390.80
66190	Rain for Rent	PW	Pump Rental, Flood Response	\$78,505.15

On March 28, 2002, Council adopted Ordinance 838, which amended the City Municipal Code as follows:

“3.28.010 Auditing. All claims for salaries and wages of officers and employees and payroll-related withholdings, assessments, and attachments against the treasury of the City and all other claims for payment may be audited and allowed by the City Manager or his/her designee prior to payment thereof.”

“3.28.050 Approval. All claims against the City treasury are to be allowed for payment by the City Manager or his/her designee and are to be presented to the City Council as an informational item as part of their regularly scheduled meetings after their issuance for ratification.”

**RESOLUTION NO. 2683** On September 22, 1994, Resolution No. 2683 was passed and adopted by the City Council. This resolution includes the following text:

Be it hereby resolved by the City Council of the City of Capitola that the City Manager is authorized, as cash shortages arise, to make temporary cash loans between and among the General Fund and all other City funds except the Redevelopment Agency; Special Assessment District funds; and The Village and Beach Parking Fund; and

Be it further resolved that such interfund loans shall be repaid by the borrowing fund to the lending fund as soon as, in the opinion of the City Manager, it is fiscally prudent to do so; and

Be it further resolved that the City Manager shall report to the City Council at its next regularly scheduled meeting, the amounts of such Interfund loans actually made; the funds from which and to which such Interfund loans were made; and the anticipated date the loans will be repaid.

The bank statement reconciliation has not been completed for the month. Bank reconciliation is completed and reported in conjunction with the monthly Treasurer’s report. All checks on these registers have been deducted from the corresponding fund’s cash balance. Interfund loans are not recorded on the financial records on a regular basis, except at year-end for financial reporting purposes.

There are several significant timing issues that create cash flow shortages:

- Triple flip delay of Sales Tax from monthly to December and April (~\$500,000/2x year)
- Worker’s Compensation premiums are paid annually in July (\$473,220)
- Self Insurance/Liability is an annual payment due in July (\$52,270)
- Police Communication JPA annual payment (\$459,500), paid quarterly

As of 5/4/11 the total cash available is \$3,878,142. The General Operating Fund has a cash balance of \$1,362,233. Internal Service Funds (#2210 through #2214) were created for City budget purposes and are reclassified for financial reporting into the General Fund. The Compensated Absences Fund (#2216) has a positive cash balance of \$139,996. The Capital Improvement Projects has a positive cash balance of \$1,420,682. By Council direction the Emergency Reserves Fund (#1020) may not participate in cash loans.

For cash flow purposes these funds are available to the General Fund. A consolidation of these cash balances results in a cash position of \$3,878,142.

The following table shows the funds that are consolidated:

**CASH POSITION - CITY OF CAPITOLA 5/4/11**

	<u>Net Balance</u>
General Fund	1,362,233
Worker's Comp. Ins. Fund	56,529
Self Insurance Liability Fund	255,304
Stores Fund	18,707
Information Technology Fund	172,524
Equipment Replacement	304,621
Compensated Absences Fund	139,996
Contingency Reserve Fund	-
Public Employee Retirement - PERS	147,290
Open Space Fund	256
Capital Improvement Projects	1,420,682
<b>TOTAL GENERAL FUND &amp; COUNCIL DESIGNATED FUNDS</b>	<u><u>3,878,142</u></u>

On a fiscal year basis the City's annual budget balances expenditures and revenue in the General Fund. Due to the timing of revenue receipts, during most of the fiscal year General Fund expenditures will outpace revenue.

To resolve this cash flow issue, in July of this fiscal year a \$1,247,152 loan from Contingency Reserve was transferred to the General Fund. The Contingency Reserve was established to "provide a prudent level of financial resources to protect against temporary revenue shortfalls or unanticipated operating costs, and/or to meet short-term cash flow requirements."

Although it is anticipated the Contingency Reserve loan will be sufficient to provide operational cash in the General Fund, in some fiscal years the General Fund may borrow additional funds from Internal Service Funds, particularly in November and December prior to the receipt of Property Tax revenue.

It is anticipated the Contingency Reserve loan to General Fund will be repaid by June 30, 2011.

**ATTACHMENTS**

Check Registers for April 22 and April 29, 2011.

**Report Prepared By: Linda Benko  
AP Clerk**

**Reviewed and Forwarded  
by City Manager:**

\_\_\_\_\_

Checks dated 4/22/11 numbered 66078 to 66148 for a total of \$329,470.87 have been reviewed and authorized for distribution by the City Manager and City Treasurer.

As of 4/22/11 the unaudited cash balance is \$6,739,541

**CASH POSITION - CITY OF CAPITOLA 4/22/11**

	<u>Net Balance</u>
General Fund	2,474,854
Worker's Comp. Ins. Fund	9,259
Self Insurance Liability Fund	219,604
Stores Fund	12,196
Information Technology Fund	145,422
Equipment Replacement	279,621
Compensated Absences Fund	140,971
Contingency Reserve Fund	-
Public Employee Retirement - PERS	192,627
Open Space Fund	256
Capital Improvement Projects	3,264,733
<b>TOTAL GENERAL FUND &amp; COUNCIL DESIGNATED FUNDS</b>	<u><u>6,739,541</u></u>

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It is anticipated the Contingency Reserve loan to General Fund will be repaid by June 30, 2011.

  
 \_\_\_\_\_  
 Jamie Goldstein, City Manager

4/22/11  
 \_\_\_\_\_  
 Date

  
 \_\_\_\_\_  
 Jacques J.J. Bertrand, City Treasurer

5.4.11  
 \_\_\_\_\_  
 Date

# City Checks Issued 4/22/11

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
66078	04/22/2011	Open			ABACHERLI FENCE CO.	\$2,850.00
	Invoice		Date	Description		Amount
	3274		04/01/2011	Esplanade fence		\$1,365.00
	3284		04/01/2011	Jade St BB fence		\$1,485.00
66079	04/22/2011	Open			AKERS & ASSOCIATES, INC.	\$4,335.11
	Invoice		Date	Description		Amount
	0003757		03/31/2011	Rispin Mansion Hazard Elimination Project- Fund 1200, CIP		\$4,335.11
66080	04/22/2011	Open			ALLIED INSURANCE	\$1,096.00
	Invoice		Date	Description		Amount
	981851510-2011		03/02/2011	Surety Bond Renewal Fund 2213, Self Insurance		\$1,096.00
66081	04/22/2011	Open			ALLSAFE LOCK COMPANY	\$43.60
	Invoice		Date	Description		Amount
	42042		04/05/2011	20 Keys, PD Trailers		\$43.60
66082	04/22/2011	Open			AMERICAN TRAFFIC SOLUTIONS, INC.	\$23,020.82
	Invoice		Date	Description		Amount
	inv001252011		01/27/2011	7/7/10-11/31/10 red light camera		\$23,020.82
66083	04/22/2011	Open			BANK OF AMERICA	\$6,020.66
	Invoice		Date	Description		Amount
	Mar-Apr2011		04/06/2011	City Credit Card Charges, Mar-Apr2011 Fund 1313, General plan=\$330.80 Fund 1315, Public Art=\$38.12 Fund 2211, IT=\$108.00		\$6,020.66
66084	04/22/2011	Open			BAY AREA POLYGRAPH	\$400.00
	Invoice		Date	Description		Amount
	341		03/28/2011	Hiring cost, PD		\$400.00
66085	04/22/2011	Open			BIOTIC RESOURCES GROUP/LYONS	\$250.00
	Invoice		Date	Description		Amount
	02-1828		04/01/2011	Eucalyptus environmental assessment		\$250.00
66086	04/22/2011	Open			BRINKS AWARDS & SIGNS	\$196.25
	Invoice		Date	Description		Amount
	61064		03/29/2011	Plaques for employees of the year		\$196.25
66087	04/22/2011	Open			CA DEPARTMENT OF JUSTICE	\$169.00
	Invoice		Date	Description		Amount
	841544		04/05/2011	Six fingerprint appts		\$169.00
66088	04/22/2011	Open			CalPERS Health Insurance	\$59,106.42
	Invoice		Date	Description		Amount
	0806-000May11		04/15/2011	Employee Health Ins, May 2011 Employee Funded		\$59,106.42
66089	04/22/2011	Open			CAPITOLA PEACE OFFICERS ASSOC.	\$664.62
	Invoice		Date	Description		Amount
	POA4-22-11		04/20/2011	POA Dues, 4-22-11, Employee Funded		\$664.62



# City Checks Issued 4/22/11

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
66090	04/22/2011	Open			CHANTICLEER VET HOSPITAL	\$353.05
	Invoice		Date	Description		Amount
	March 2011		04/03/2011	Animal Control Exp-Mar2011		\$353.05
66091	04/22/2011	Open			Charter Communications	\$129.99
	Invoice		Date	Description		Amount
	Apr-May2011		04/11/2011	Internet Access-Fund 2211, IT		\$129.99
66092	04/22/2011	Open			CLEAN SOURCE	\$2,003.24
	Invoice		Date	Description		Amount
	1169843		03/28/2011	Cleaning supplies		\$2,003.24
66093	04/22/2011	Open			COASTAL WATERSHED COUNCIL	\$2,563.78
	Invoice		Date	Description		Amount
	1075		03/31/2011	Storm Water Educ. and Outreach Services		\$2,563.78
66094	04/22/2011	Open			CRYSTAL SPRINGS WATER CO.	\$119.00
	Invoice		Date	Description		Amount
	March2011		03/31/2011	March Drinking Water Service, All Sites		\$119.00
66095	04/22/2011	Open			DESIGN, COMMUNITY & ENVIRONMENT	\$66,359.42
	Invoice		Date	Description		Amount
	0010921		03/31/2011	General Plan Update (Year 1 of 4)		\$50,481.91
	0010921B		03/31/2011	Green Environ. Econ Dev		\$856.05
	0010921C		03/31/2011	41st Ave, Capitola Mall Analysis		\$15,021.46
				Fund 1313, General Plan		
66096	04/22/2011	Open			DEVCO OIL INC.	\$2,433.03
	Invoice		Date	Description		Amount
	71097		03/25/2011	50 gal diesel fuel		\$207.90
	71096		03/25/2011	542 gal gas		\$2,225.13
66097	04/22/2011	Open			ENTERSECT CORP	\$25.95
	Invoice		Date	Description		Amount
	38532		03/31/2011	EPO monthly usage		\$25.95
66098	04/22/2011	Open			EWING IRRIGATION	\$282.16
	Invoice		Date	Description		Amount
	2999798		03/29/2011	Wattle & shovels - flood control		\$282.16
66099	04/22/2011	Open			GALLI UNIFORM COMPANY	\$309.94
	Invoice		Date	Description		Amount
	17358		03/23/2011	Vazquez, Handcuffs		\$31.68
	17370		03/28/2011	7 Reflective Vests, PD		\$278.26
66100	04/22/2011	Open			GONZALEZ, MARK	\$101.63
	Invoice		Date	Description		Amount
	Mar2011		03/31/2011	Reimb Purch at Home Depot, CVS for traile		\$101.63
66101	04/22/2011	Open			GRANITE ROCK COMPANY	\$2,888.12
	Invoice		Date	Description		Amount
	629391/630247		03/31/2011	Emergency fill material & trucking		\$2,888.12

# City Checks Issued 4/22/11

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
66102	04/22/2011	Open			HAINES & COMPANY, INC.	\$1,025.88
	Invoice		Date	Description		Amount
	302505		04/04/2011	Network Service Charge Fund 2211, IT		\$1,025.88
66103	04/22/2011	Open			HERNANDEZ, TRACIE	\$233.12
	Invoice		Date	Description		Amount
	Apr2011		04/13/2011	Reimb Travel exp, Legal Update School		\$233.12
66104	04/22/2011	Open			HOWARD, CHARLIE	\$1,100.00
	Invoice		Date	Description		Amount
	04/03-04/08/11		04/18/2011	FY 10/11 In-House Mechanic		\$800.00
	04/11-04/15/11		04/18/2011	FY 10/11 In-House Mechanic		\$300.00
66105	04/22/2011	Open			ICMA RETIREMENT TRUST 457	\$6,282.50
	Invoice		Date	Description		Amount
	ICMA4-22-11		04/20/2011	Retirement Plan Contributions Employee Funded		\$6,282.50
66106	04/22/2011	Open			INDUSTRIAL SAFETY SUPPLY	\$61.12
	Invoice		Date	Description		Amount
	389820-01		03/23/2011	Safety Vests, Public Works		\$61.12
66107	04/22/2011	Open			JIMMIE SMITH PLUMBING, INC.	\$1,904.21
	Invoice		Date	Description		Amount
	W01471		04/13/2011	Repair sewer under wharf-Fund 1311, Whar		\$1,904.21
66108	04/22/2011	Open			LIUNA PENSION FUND	\$528.00
	Invoice		Date	Description		Amount
	Pension-Apr11		04/20/2011	Pension Dues, April 2011, Employee Funde		\$528.00
66109	04/22/2011	Open			LOOMIS	\$1,205.44
	Invoice		Date	Description		Amount
	10850795		04/01/2011	Apr Armored Car Service, PD		\$1,205.44
66110	04/22/2011	Open			MATTERN, MARK	\$50.00
	Invoice		Date	Description		Amount
	2011-00000659		04/14/2011	Sports Officials Vball, Dodgeball Futsal Apri		\$50.00
66111	04/22/2011	Open			McMENAMIN, GEORGE	\$351.25
	Invoice		Date	Description		Amount
	15		04/19/2011	Install fabric @ Bay Ave conservation easer		\$226.25
	Rispin Tree		03/31/2011	Eucalyptus globulus environmental assessn		\$125.00

## City Checks Issued 4/22/11

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
66112	04/22/2011	Open			MID-COUNTY AUTO SUPPLY	\$759.20
	Invoice		Date	Description		Amount
	256294		03/24/2011	auto parts, F-450 Dumptruck		\$20.87
	256591		03/28/2011	auto parts, PD Impala		\$28.36
	256377		03/25/2011	auto parts, Sweeper-Fund 1310, Gas Tax		\$42.28
	256625		03/28/2011	auto parts, Parks 1999 F-250		\$56.20
	256780		03/29/2011	auto parts, All Vehicles		\$69.00
	256682		03/28/2011	auto parts, Ford van		\$306.26
	256931		03/30/2011	auto parts, F-350 Van		\$16.10
	256903		03/30/2011	auto parts, Parks 1999 F-250		\$4.57
	256871		03/30/2011	auto parts, Silver Impala		\$29.45
	256978		03/30/2011	auto parts, Parks 1999 F-250		\$21.75
	257123		04/01/2011	PW F-250		\$21.80
	257373		04/04/2011	PD F-350		\$45.13
	257360		04/04/2011	PW F250		\$20.87
	257501		04/05/2011	PD F350		\$41.20
	257547		04/05/2011	PD F350		\$35.36
66113	04/22/2011	Open			MILLER'S TRANSFER & STORAGE CO.	\$167.60
	Invoice		Date	Description		Amount
	81923		04/05/2011	Records Handling (Mar) and Storage (Apr)		\$167.60
66114	04/22/2011	Open			MISSION LINEN SUPPLY	\$771.49
	Invoice		Date	Description		Amount
	Mar2011		04/01/2011	March Mat & Uniform Cleaning, all sites		\$771.49
66115	04/22/2011	Open			MONTEREY BAY SYSTEMS	\$870.68
	Invoice		Date	Description		Amount
	101203		03/24/2011	CY2011, Q1 Copier Lease & Maint, PD		\$458.39
	100996		03/23/2011	CY2011, Q1 Copier Lease & Maint, PD		\$412.29
66116	04/22/2011	Open			NICHOLS, LIZ	\$41.92
	Invoice		Date	Description		Amount
	2011-Q1		04/15/2011	Mileage Reimb, Q1 CY2011		\$41.92
66117	04/22/2011	Open			NIXON-EGLI EQUIPMENT CO.	\$6,433.38
	Invoice		Date	Description		Amount
	21101076		03/22/2011	Sweeper parts		\$4,848.35
	21101093		03/23/2011	Sweeper Parts		\$2,136.62
	21101216		04/01/2011	Sweeper parts		\$3,038.71
	21101249		04/05/2011	Sweeper Parts		\$1,191.83
	21101400		04/14/2011	return sweeper parts Fund 1310, Gas Tax		(\$4,782.13)
66118	04/22/2011	Open			NORTH BAY FORD	\$140.20
	Invoice		Date	Description		Amount
	219742		04/11/2011	PD 072		\$140.20

City of Capitola  
**City Checks Issued 4/22/11**

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
66119	04/22/2011	Open			ORCHARD SUPPLY HARDWARE	\$384.33
	Invoice		Date	Description		Amount
	6009-2437068		04/06/2011	Misc.		\$10.37
	6011-1212587		04/01/2011	Concrete - flood		\$97.92
	6009-4766364		04/04/2011	Replace Broken Pump - flood		\$119.05
	6014-4794707		04/12/2011	Wet/Dry Vac, Rec Center		\$76.46
	6009-3527380		04/07/2011	shop broom		\$20.74
	6011-1212620		04/01/2011	Auto Parts		\$59.79
66120	04/22/2011	Open			PALACE ART & OFFICE SUPPLIES	\$2,790.67
	Invoice		Date	Description		Amount
	898870		04/01/2011	Paper-PD		\$46.87
	898855		04/01/2011	Office Supplies, city Hall		\$217.41
	898889		04/01/2011	Office Supplies, PD new location, post flood		\$313.49
	898971		04/01/2011	Trailer Supplies, PD, Post Flood		\$66.88
	898909		04/01/2011	Office supplies, PD, post flood		\$54.06
	898879		04/01/2011	Office Supplies, PD new location, post flood		\$213.69
	899397		04/05/2011	Office Supplies, Temp PD Relocation		\$57.48
	899189		04/04/2011	Office Supplies, Temp PD Location		\$454.84
	13813		04/04/2011	Office Supplies, Temp PD Location		\$414.71
	8991891		04/07/2011	Office Supplies-PD		\$20.46
	899814		04/07/2011	Office supplies NOT CORRECT RETURN I		\$501.74
	899449		04/08/2011	Office Supplies		\$26.19
	13837		04/07/2011	Cabinet, IT Office		\$388.71
	898173-adj		03/29/2011	adj inv to original amt; cr taken separately		\$3.78
	900648		04/14/2011	Office Supplies, City hall		\$10.36
				Fund 2210, Stores=\$253.96		
				Fund 2211, IT=\$388.71		
66121	04/22/2011	Open			PHIL ALLEGRI ELECTRIC, INC.	\$43,365.50
	Invoice		Date	Description		Amount
	15883		04/04/2011	Emergency lights at Corp Yard		\$1,850.00
	15882		04/04/2011	Electrical Room, City Hall, Flood Response		\$922.50
	15885		04/04/2011	Power to Temp PD Location, post flood		\$12,999.10
	15909		04/12/2011	Temp power, repair wiring, repair/replace pe		\$27,593.90
66122	04/22/2011	Open			PK SAFETY SUPPLY	\$274.77
	Invoice		Date	Description		Amount
	126901		03/29/2011	Safety supplies, Corp Yd		\$274.77
66123	04/22/2011	Open			ROM, HILLEL	\$37.50
	Invoice		Date	Description		Amount
	2011-00000658		04/14/2011	Sports Officials Vball, Dodgeball Futsal Apri		\$37.50
66124	04/22/2011	Open			ROTO-ROOTER	\$286.00
	Invoice		Date	Description		Amount
	30475		04/06/2011	Drain cleaning-Fund 1311, Wharf		\$286.00
66125	04/22/2011	Open			SACRAMENTO BAG MANUFACTURING I	\$1,267.75
	Invoice		Date	Description		Amount
	141414		03/28/2011	Sandbags - flood		\$1,267.75

## City Checks Issued 4/22/11

Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
04/22/2011 Invoice Mar2011	Open	Date 04/15/2011	Description Citation Surcharges, Mar2011	SCC AUDITOR-CONTROLLER	\$7,807.00
04/22/2011 Invoice IN0056581	Open	Date 04/18/2011	Description Fees - Pass through Permit Fees	SCC ENVIRONMENTAL HEALTH SVC	\$1,151.00
04/22/2011 Invoice SCR911-Q4	Open	Date 03/15/2011	Description SC Regional 911, Q4 Operating Budget	SANTA CRUZ REGIONAL 911	\$63,068.85
04/22/2011 Invoice 1935	Open	Date 04/03/2011	Description Relocate PD Workstations to Temp Location	SERVICESYS, LLC	\$350.00
04/22/2011 Invoice 45351 132713&159308	Open	Date 04/01/2011 03/30/2011	Description Computer Supplies for PD Relocation Staples Charges, IT Dept Fund 2211	STAPLES	\$459.05
04/22/2011 Invoice 8223	Open	Date 04/12/2011	Description Rispin Mansion Hazard Elimination Project-I Fund 1200, CIP	THACHER & THOMPSON ARCHITECTS,	\$1,592.50
04/22/2011 Invoice 2011-00000657	Open	Date 04/14/2011	Description Sports Officials Vball, Dodgeball Futsal Apri	THILL, WENDY	\$80.00
04/22/2011 Invoice 13659	Open	Date 04/11/2011	Description Apr2011 Admin Fee, Employee Flex Plan	TLC ADMINISTRATORS, INC.	\$175.00
04/22/2011 Invoice PARS4-22-11	Open	Date 04/20/2011	Description PARS Contribution, Employee Funded	UNION BANK OF CALIFORNIA	\$528.80
04/22/2011 Invoice 954791151	Open	Date 04/09/2011	Description Shipping-PD	UNITED PARCEL SERVICE	\$18.61
04/22/2011 Invoice LIUNA-Apr11	Open	Date 04/20/2011	Description Union Dues, April 2011	UPEC LIUNA LOCAL 792	\$1,762.50
04/22/2011 Invoice 4637353	Open	Date 03/23/2011	Description Subdivision Map Review	URS Corporation	\$1,440.00

City of Capitola  
**City Checks Issued 4/22/11**

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
66138	04/22/2011	Open			VERIZON WIRELESS-ACCT#572015869-i	\$37.36
	Invoice		Date	Description		Amount
	0964841094		04/03/2011	Wireless Service, Apr2011 Fund 2211, IT		\$37.36
66139	04/22/2011	Open			WALTER, ERIK	\$270.00
	Invoice		Date	Description		Amount
	2011-00000660		04/14/2011	Sports Officials Vball, Dodgeball Futsal Apri		\$270.00
66140	04/22/2011	Open			WATTS MASONRY, INC.	\$831.00
	Invoice		Date	Description		Amount
	1339		04/01/2011	Repair stone planters, Village		\$831.00
66141	04/22/2011	Open			WILLIAMS TREE SERVICE, INC.	\$2,220.00
	Invoice		Date	Description		Amount
	6083		03/28/2011	Emergency tree removal-oak		\$2,220.00
66142	04/22/2011	Open			ZUMAR INDUSTRIES INC.	\$705.90
	Invoice		Date	Description		Amount
	129141		03/24/2011	Street name signs-Fund 1310, Gas Tax		\$705.90
66143	04/22/2011	Open			Gnibus, Matt	\$150.00
	Invoice		Date	Description		Amount
	41211		04/14/2011	Green Building Logo Revisions		\$150.00
66144	04/22/2011	Open			Humphrey, Stacy	\$96.00
	Invoice		Date	Description		Amount
	12131159		04/15/2011	Cite 12131159 Refund		\$96.00
66145	04/22/2011	Open			Linnemon, Devon	\$150.00
	Invoice		Date	Description		Amount
	2000827.002		04/13/2011	Invoices 4/13/11 Capitola Recreation		\$150.00
66146	04/22/2011	Open			Mennie, Kelly	\$250.00
	Invoice		Date	Description		Amount
	2000828-002		04/13/2011	Invoices 4/13/11 Capitola Recreation		\$250.00
66147	04/22/2011	Open			Milbank, Virginia	\$25.00
	Invoice		Date	Description		Amount
	11130206		04/15/2011	cite 11130206 refund		\$25.00
66148	04/22/2011	Open			Ultsch, Barbara	\$248.00
	Invoice		Date	Description		Amount
	2000829-002		04/13/2011	Invoices 4/13/11 Capitola Recreation		\$248.00

Type Check Totals: Count 71 Total \$329,470.87

Checks dated 4/29/11 numbered 66149 to 66208 for a total of \$3,365,760.74 have been reviewed and authorized for distribution by the City Manager and City Treasurer.

As of 4/29/11 the unaudited cash balance is \$3,776,484

**CASH POSITION - CITY OF CAPITOLA 4/29/11**


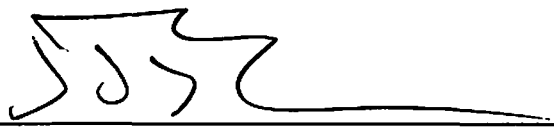
	<u>Net Balance</u>
General Fund	1,257,475
Worker's Comp. Ins. Fund	56,529
Self Insurance Liability Fund	255,304
Stores Fund	18,707
Information Technology Fund	174,119
Equipment Replacement	304,621
Compensated Absences Fund	140,971
Contingency Reserve Fund	-
Public Employee Retirement - PERS	147,821
Open Space Fund	256
Capital Improvement Projects	1,420,682
<b>TOTAL GENERAL FUND &amp; COUNCIL DESIGNATED FUNDS</b>	<u><u>3,776,484</u></u>

On a fiscal year basis the City's annual budget balances expenditures and revenue in the General Fund. Due to the timing of revenue receipts, during most of the fiscal year General Fund expenditures will outpace revenue.

To resolve this cash flow issue, in July of this fiscal year a \$1,247,152 loan from Contingency Reserve was transferred to the General Fund. The Contingency Reserve was established to "provide a prudent level of financial resources to protect against temporary revenue shortfalls or unanticipated operating costs, and/or to meet short-term cash flow requirements."

Although it is anticipated the Contingency Reserve loan will be sufficient to provide operational cash in the General Fund, in some fiscal years the General Fund may borrow additional funds from Internal Service Funds, particularly in November and December prior to the receipt of Property Tax revenue.

It is anticipated the Contingency Reserve loan to General Fund will be repaid by June 30, 2011.

  
 \_\_\_\_\_  
 Jamie Goldstein, City Manager  
  
  
 \_\_\_\_\_  
 Jacques J.J. Bertrand, City Treasurer

4/29/11  
 \_\_\_\_\_  
 Date  
  
 5.4.11  
 \_\_\_\_\_  
 Date

City of Capitola  
**City Checks Issued 4/29/11**

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
66149	04/29/2011	Open			ALLSAFE LOCK COMPANY	\$59.71
	Invoice		Date	Description		Amount
	42026		03/11/2011	Wharf message board-Fund 1311, Wharf F		\$52.19
	42012		03/16/2011	Keys		\$7.52
66150	04/29/2011	Open			AUTOMATED TEST ASSOCIATES	\$25.00
	Invoice		Date	Description		Amount
	37305		04/25/2011	Wharf meter reading April 2011		\$25.00
				Fund 1311, Wharf Fund		
66151	04/29/2011	Open			B & B SMALL ENGINE REPAIR	\$537.25
	Invoice		Date	Description		Amount
	239031		04/11/2011	Blower		\$512.24
	239416		04/15/2011	Rewind spring		\$25.01
66152	04/29/2011	Open			BEYERS, FRED, C	\$99.00
	Invoice		Date	Description		Amount
	2011-00000672		04/22/2011	Sport League Officials April 7 to April 23 20		\$99.00
66153	04/29/2011	Open			BIG CREEK LUMBER	\$24.90
	Invoice		Date	Description		Amount
	2948178		04/18/2011	Misc.-Fund 1311, Wharf Fund		\$24.90
66154	04/29/2011	Open			BIGGS CARDOSA ASSOCIATES	\$4,398.50
	Invoice		Date	Description		Amount
	58476		04/05/2011	Rispin Mansion Hazard Elim Proj-Structuraz		\$4,398.50
				Fund 1200, CIP		
66155	04/29/2011	Open			BOWMAN & WILLIAMS, INC.	\$1,260.00
	Invoice		Date	Description		Amount
	6523		04/08/2011	38th Avenue Road Reconstruction Project		\$1,260.00
				Fund 1200, CIP		
66156	04/29/2011	Open			BRESLIN-KESSLER, PAUL	\$1,132.50
	Invoice		Date	Description		Amount
	2011-00000680		04/26/2011	Private Tennis Lessons, Apr2011		\$1,132.50
66157	04/29/2011	Open			BUMGARNER, ERIC, D	\$108.00
	Invoice		Date	Description		Amount
	2011-00000671		04/22/2011	Sport League Officials April 7 to April 23 20		\$108.00
66158	04/29/2011	Open			CAPITOLA CITY TREASURER	\$3,141,070.00
	Invoice		Date	Description		Amount
	RDA Return		04/28/2011	Return Funds to RDA Acct		\$3,141,070.00
				Fund 1000, General Fund=\$872,800		
				Fund 1200, CIP=\$2,082,000		
				Fund 1313, General Plan=\$186,270		
66159	04/29/2011	Open			CARPENTER, GARY	\$260.00
	Invoice		Date	Description		Amount
	040511		04/05/2011	Art at the Beach Event Postcard		\$260.00



City of Capitola  
**City Checks Issued 4/29/11**

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
66160	04/29/2011	Open			CLEAN SOURCE	\$1,389.09
	Invoice		Date	Description		Amount
	1173549-01		04/08/2011	Doggie Bags		\$245.81
	1173549		04/05/2011	Cleaning Supplies		\$1,143.28
66161	04/29/2011	Open			CVS PHARMACY INC.	\$36.33
	Invoice		Date	Description		Amount
	6305		04/12/2011	Misc Supplies for PD Trailers		\$36.33
66162	04/29/2011	Open			ENDEMAN, LINCOLN, TUREK & HE/	\$34,488.85
	Invoice		Date	Description		Amount
	291666		03/31/2011	Feb2011 Legal Services, El Ganada		\$8,784.32
	291667		03/31/2011	Feb2011 Surf & Sand Legal Services		\$25,704.53
66163	04/29/2011	Open			EWING IRRIGATION	\$30.63
	Invoice		Date	Description		Amount
	3032450		04/05/2011	Drain pipe-flood repair		\$30.63
66164	04/29/2011	Open			GALLI UNIFORM COMPANY	\$120.12
	Invoice		Date	Description		Amount
	17403		04/05/2011	Boots, Gonzalez, replace flood loss		\$120.12
66165	04/29/2011	Open			GREENWASTE RECOVERY INC	\$19,379.10
	Invoice		Date	Description		Amount
	CapFlood		04/11/2011	Dumpsters for Flood Clean Up		\$19,379.10
66166	04/29/2011	Open			HARRIS & ASSOCIATES	\$560.00
	Invoice		Date	Description		Amount
	13226		04/06/2011	Clares/41st striping		\$560.00
66167	04/29/2011	Open			HERNANDEZ, TRACIE	\$217.14
	Invoice		Date	Description		Amount
	2011-04/17-21		04/25/2011	Records Supervisor School Exp		\$217.14
66168	04/29/2011	Open			INDUSTRIAL SAFETY SUPPLY	\$70.04
	Invoice		Date	Description		Amount
	462372-02		04/05/2011	Rain jacket		\$70.04
66169	04/29/2011	Open			KERKO, BRYAN, T.	\$6,392.50
	Invoice		Date	Description		Amount
	001		04/07/2011	Rispin Mansion Hazard Elimination Project		\$5,937.50
	001a		04/07/2011	SC Co. well permit fee		\$455.00
				Fund 1200, CIP		
66170	04/29/2011	Open			KING'S CLEANERS	\$655.00
	Invoice		Date	Description		Amount
	Feb 2011		03/14/2011	Uniform cleaning Feb 2011-PD		\$655.00
66171	04/29/2011	Open			LAMOREAUX/TRIAXIAL DATA SYST	\$4,440.00
	Invoice		Date	Description		Amount
	1112		04/18/2011	Permit tracking services 9/15/10-2/18/11		\$4,440.00

City of Capitola  
**City Checks Issued 4/29/11**

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
66172	04/29/2011	Open			LIFESPORT MEDICINE	\$203.00
	Invoice		Date	Description	Amount	
	EVAKR000		03/30/2011	Physical Exam, new hire, PD	\$203.00	
66173	04/29/2011	Open			LLOYD'S TIRE SERVICE INC.	\$50.00
	Invoice		Date	Description	Amount	
	206309		04/01/2011	PD tire repair	\$50.00	
66174	04/29/2011	Open			LOMAK PROPERTY GROUP, INC.	\$4,639.00
	Invoice		Date	Description	Amount	
	04-19-11		04/19/2011	Crossroads Summer Beach Shuttle Parkin	\$4,639.00	
66175	04/29/2011	Open			LUICH, JAY	\$88.00
	Invoice		Date	Description	Amount	
	2011-00000673		04/22/2011	Sport League Officials April 7 to April 23 21	\$88.00	
66176	04/29/2011	Open			MICROFLEX CORP #774353	\$379.56
	Invoice		Date	Description	Amount	
	IN1205519		04/04/2011	Latex gloves-PD	\$379.56	
66177	04/29/2011	Open			MID COUNTY POST	\$242.00
	Invoice		Date	Description	Amount	
	32478		03/31/2011	City-Wide Garage Sale Ad	\$242.00	
66178	04/29/2011	Open			MID-COUNTY AUTO SUPPLY	\$73.78
	Invoice		Date	Description	Amount	
	257619		04/06/2011	PD072	\$5.45	
	257746		04/07/2011	Community Center gen vehicle	\$49.44	
	257745		04/07/2011	PD F350	\$7.05	
	257811		04/07/2011	Sweeper parts, Fund 1310, Gas Tax	\$11.84	
66179	04/29/2011	Open			MONTEREY BAY SYSTEMS	\$371.95
	Invoice		Date	Description	Amount	
	101999		03/31/2011	Copy machine contract-Rec	\$276.31	
	102001		03/31/2011	CY2011 Q1 Copier Maint, City Hall	\$95.64	
66180	04/29/2011	Open			MONTEREY COUNTY HARLEY DAV	\$966.44
	Invoice		Date	Description	Amount	
	61005		04/07/2011	10K service, PD Harley	\$966.44	
66181	04/29/2011	Open			NELLA OIL COMPANY	\$8,935.56
	Invoice		Date	Description	Amount	
	11-593877A		04/08/2011	515 Gal Gas, 200 Gal Diesel	\$3,262.93	
	11-596960A		04/15/2011	520 Gal Gas, 115 Gal Diesel	\$2,680.03	
	11-593789A		04/01/2011	515 Gal Gas, 170 Gal Diesel	\$2,992.60	

# City Checks Issued 4/29/11

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
66182	04/29/2011	Open			ORCHARD SUPPLY HARDWARE	\$132.03
	Invoice		Date	Description		Amount
	6013-129619		04/06/2011	Cable ties to hang banners		\$19.63
	6009-3527451		04/07/2011	Cable ties		\$13.09
	6009-3527511		04/07/2011	Street sign supplies		\$28.90
	6520		04/12/2011	Wire, IT-Fund 2211, IT		\$7.20
	6007-2439537		04/15/2011	Plants		\$8.90
	6014-9285079		04/15/2011	Plumbing Supplies		\$24.85
	6005-103313		03/28/2011	Equipment for softball field prep.		\$29.46
66183	04/29/2011	Open			PACIFIC GAS & ELECTRIC	\$36,390.80
	Invoice		Date	Description		Amount
	2011-00000678		04/18/2011	Monthly Elec		\$36,390.80
				Fund 1000 Gen Fund=\$3,791.00		
				Fund 1300 SLESF=\$134.03		
				Fund 1310 Gas Tax=\$30,942.57		
				Fund 1311 Wharf=\$1,523.20		
66184	04/29/2011	Open			PACIFIC GAS & ELECTRIC	\$211.25
	Invoice		Date	Description		Amount
	2011-00000679		04/18/2011	Pac Cove MHP Elec and Gas		\$211.25
66185	04/29/2011	Open			PACIFIC VETERINARY SPECIALIST	\$574.51
	Invoice		Date	Description		Amount
	180944		12/24/2010	Animal Control Expense		\$229.51
	181121		12/27/2010	Animal Control Expense		\$110.50
	182686		01/23/2011	Animal Control Expense		\$134.50
	183116		01/30/2011	Animal Control Expense		\$100.00
66186	04/29/2011	Open			PALACE ART & OFFICE SUPPLIES	\$83.15
	Invoice		Date	Description		Amount
	900214		04/11/2011	Pushpins		\$1.29
	900088		04/08/2011	Paper		\$46.87
	898879-1		04/11/2011	Permenant markers-PD		\$6.94
	8612987		04/13/2011	Office Supplies, Rec		\$21.51
	901577		04/19/2011	Office supplies		\$6.54
66187	04/29/2011	Open			PITNEY BOWES INC.	\$612.12
	Invoice		Date	Description		Amount
	992524		04/03/2011	Meter Rental Charge, Q3 FY10/11		\$209.76
	347456		04/01/2011	6 mos maint contract, postage system		\$402.36
				Fund 2210 Stores		
66188	04/29/2011	Open			ProBUILD COMPANY LLC	\$148.18
	Invoice		Date	Description		Amount
	5506671		04/07/2011	Bolts-Wharf		\$116.59
	5507316		04/11/2011	Bolts-Wharf		\$23.96
	5507310		04/11/2011	Credit for Inv 5506671		(\$27.49)
	5512255		04/26/2011	Bolts		\$35.12
				Fund 1311 Wharf		
66189	04/29/2011	Open			QUARTARARO, ROD, V.	\$99.00
	Invoice		Date	Description		Amount
	2011-00000675		04/22/2011	Sport League Officials April 7 to April 23 21		\$99.00

City of Capitola  
**City Checks Issued 4/29/11**

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
66190	04/29/2011	Open			RAIN FOR RENT	\$78,505.15
	Invoice		Date	Description		Amount
	035009034		04/15/2011	Pump Rental 3/28-4/14/11, Flood Respons		\$65,273.62
	035009019		04/18/2011	Pump Rental 3/28-4/14/11Flood Response		\$12,486.93
	035009025		04/15/2011	Pump Fuel 3/28-4/14/11, Flood Response		\$248.85
	035009039		04/18/2011	Pump Fuel 3/28-4/14/11		\$247.58
	035009040		04/18/2011	Pump Fuel 3/28-4/14/11		\$248.17
66191	04/29/2011	Open			REED, DANIEL, H.	\$165.00
	Invoice		Date	Description		Amount
	2011-00000670		04/22/2011	Sport League Officials April 7 to April 23 21		\$165.00
66192	04/29/2011	Open			RODGERS, PETER, A	\$121.00
	Invoice		Date	Description		Amount
	2011-00000674		04/22/2011	Sport League Officials April 7 to April 23 21		\$121.00
66193	04/29/2011	Open			ROM, HILLEL	\$150.00
	Invoice		Date	Description		Amount
	2011-00000668		04/22/2011	Sport League Officials April 7 to April 23 21		\$150.00
66194	04/29/2011	Open			SANTA CRUZ COUNTY INFORMATI	\$502.78
	Invoice		Date	Description		Amount
	April 2011		04/04/2011	Open Query April 2011		\$502.78
66195	04/29/2011	Open			SANTA CRUZ COUNTY OFFICE OF	\$120.00
	Invoice		Date	Description		Amount
	11211		04/07/2011	Four Fingerprinting Appts		\$120.00
66196	04/29/2011	Open			SMITH, BRET	\$1,550.00
	Invoice		Date	Description		Amount
	4192011		04/19/2011	Door replacement, Cap Boat & Bait Fund 1311 Wharf		\$1,550.00
66197	04/29/2011	Open			SPRINT	\$2,611.76
	Invoice		Date	Description		Amount
	974855313-112		04/01/2011	City Cell Phones		\$2,611.76
66198	04/29/2011	Open			SWIFT, STEVE	\$481.61
	Invoice		Date	Description		Amount
	Museum-Apr11		04/22/2011	Reimb purchase of shelf for Museum		\$481.61
66199	04/29/2011	Open			The B-PAD Group, Inc.	\$360.00
	Invoice		Date	Description		Amount
	2465		04/05/2011	Employee Testing Materials, PD		\$360.00
66200	04/29/2011	Open			THE CLEANING MACHINE	\$4,620.00
	Invoice		Date	Description		Amount
	5044		04/01/2011	Sidewalk cleaning - flood		\$4,620.00
66201	04/29/2011	Open			UNION PACIFIC RAILROAD CO.	\$461.70
	Invoice		Date	Description		Amount
	248534166		04/15/2011	Union Pacific RR annual lease 5/1/11-4/30		\$461.70

# City Checks Issued 4/29/11

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount	
66202	04/29/2011	Open			US BANK	\$250.06	
	Invoice		Date	Description		Amount	
	174979724		04/07/2011	Copier Lease, PD		\$250.06	
66203	04/29/2011	Open			WALZ, CODY	\$66.00	
	Invoice		Date	Description		Amount	
	2011-00000669		04/22/2011	Sport League Officials April 7 to April 23 21		\$66.00	
66204	04/29/2011	Open			WATSONVILLE POLICE DEPT	\$100.00	
	Invoice		Date	Description		Amount	
	Sept 2010		04/19/2011	Sept 2010 pistol range use		\$100.00	
66205	04/29/2011	Open			WITMER-TYSON IMPORTS INC.	\$500.00	
	Invoice		Date	Description		Amount	
	T8541		04/01/2011	K-9 training March 2011		\$500.00	
66206	04/29/2011	Open			Cristando House, Inc.	\$3,935.00	
	Invoice		Date	Description		Amount	
	2011-00000677		04/10/2011	POST Team Building Workshop		\$3,935.00	
66207	04/29/2011	Open			King, Katherine	\$59.00	
	Invoice		Date	Description		Amount	
	2000833-002		04/25/2011	Refund, Canceled class		\$59.00	
66208	04/29/2011	Open			PHOENIX GROUP INFORMATION S	\$247.69	
	Invoice		Date	Description		Amount	
	32011907		04/19/2011	repair hand held ticketing equip		\$247.69	
Check Totals:				Count	60	Total	\$3,365,760.74



# CAPITOLA REDEVELOPMENT AGENCY AGENDA REPORT

## MEETING OF MAY 12, 2011

FROM: FINANCE DEPARTMENT  
DATE: May 4, 2011  
SUBJECT: APPROVAL OF RDA CHECK REGISTER REPORTS

**Recommended Action:** By motion and roll call vote, that the RDA Board approve the Check Register Reports dated April 22 and April 29, 2011 as submitted.

### DISCUSSION

The attached Check Registers for the referenced date:

Date	Starting Check #	Ending Check #	Total Checks	Amount
4/22/11	2932	2937	6	\$235,278.53
4/29/11	2938	2941	4	\$11,347.41

The prior RDA check register report of April 15, 2011 ended with check number 2931.

The following checks were issued for more than \$10,000.00:

Check	Issued to:	Dept.	Purpose	Amount
2932	Capitola City Treasurer	CM	City Co-Op Agreement, Apr11	\$98,966.29
2933	Capitola City Treasurer	CM	Prepaid Annual Int, FY10/11	\$47,895.00
2934	Capitola City Treasurer	CM	Rispin Prepaid Int, Q4 FY10/11	\$26,156.25
2936	Capitola City Treasurer	CM	Rispin Int, Q3 FY10/11	\$26,156.25
2937	Community Action Board	CDD	Rent Assist Program Jan-Mar11	\$35,520.00

As of 5/4/11 the unaudited cash balance in the RDA account is \$3,722,238.56 allocated as follows:

RDA Operating Fund	\$2,807,326.28
RDA Low/Mod Housing Fund	\$914,912.28

### ATTACHMENTS

Check Register Reports dated:  
April 22, and April 29, 2011

Report Prepared By: Linda Benko  
AP Clerk

Reviewed and Forwarded  
By Executive Director:

# RDA Checks Issued 4/22/11

From Payment Date: 4/22/2011 - To Payment Date: 4/22/2011

Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
2932	04/22/2011	Open			CAPITOLA CITY TREASURER	\$98,966.29
	Invoice		Date	Description		Amount
	Co-OpApr2011		04/21/2011	City Co-Op Agreement, Apr 2011		\$98,966.29
2933	04/22/2011	Open			CAPITOLA CITY TREASURER	\$47,895.00
	Invoice		Date	Description		Amount
	04-22-11		04/21/2011	Prepaid Annual Interest, 7/10 to 6/11		\$47,895.00
2934	04/22/2011	Open			CAPITOLA CITY TREASURER	\$26,156.25
	Invoice		Date	Description		Amount
	04-22-11a		04/21/2011	Q4 Rispin Prepaid Int, 4/11 to 6/11		\$26,156.25
2935	04/22/2011	Open			CAPITOLA CITY TREASURER	\$584.74
	Invoice		Date	Description		Amount
	Co-OpMar2011		04/21/2011	City Co-Op Agreement, March 2011		\$584.74
2936	04/22/2011	Open			CAPITOLA CITY TREASURER	\$26,156.25
	Invoice		Date	Description		Amount
	RispinQ3		03/03/2011	3rd Qtr Rispin Interest, Jan11-Mar11		\$26,156.25
2937	04/22/2011	Open			COMMUNITY ACTION BOARD OF SC C	\$35,520.00
	Invoice		Date	Description		Amount
	2-28-11		02/28/2011	FY10-11 Rental Assistance Program-Jan2		\$11,552.50
	3-11-11		03/11/2011	FY10-11 Rental Assistance Program, Feb;		\$14,896.25
	4-14-11		04/14/2011	FY10-11 Rental Assistance Program-Mar2		\$9,071.25

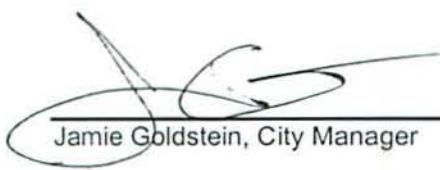

Type Check Totals: Count 6 Total \$235,278.53

The above listed checks have been printed and released under the RDA Executive Director's approval. Included are checks numbered 2932 through 2937 for \$235,278.53 dated 4/22/11.

These checks has been reviewed and authorized for distribution.

The unaudited cash balance in the RDA account as of 4/22/11 is \$588,922.63:

RDA Operating Fund	\$404,479.87
Low/Mod Housing Fund	\$184,442.76


4/22/11

4/22/11

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Jamie Goldstein, City Manager
Date
Debbie Johnson, Treasurer – RDA
Date

# RDA Checks Issued 4/29/11

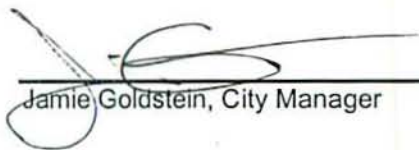
Check Number	Invoice Number	Status	Invoice Date	Description	Payee Name	Transaction Amount
2938	04/29/2011	Open			BEST BEST & KRIEGER LLP	\$425.88
	Invoice		Date	Description		Amount
	649778		04/06/2011	RDA/Rispin Legal Advice, March 2011		\$425.88
2939	04/29/2011	Open			CAPITOLA-SOQUEL CHAMBER OF CO	\$7,500.00
	Invoice		Date	Description		Amount
	108		04/28/2011	Q4 FY10/11 Visitor & Econ Dev Contract		\$7,500.00
2940	04/29/2011	Open			HARRIS & ASSOCIATES	\$3,410.00
	Invoice		Date	Description		Amount
	18342		04/11/2011	Clares Street Traffic Calming Project		\$3,410.00
2941	04/29/2011	Open			PACIFIC GAS & ELECTRIC	\$11.53
	Invoice		Date	Description		Amount
	6481-Mar-Apr11		04/14/2011	Electric, Rispin Mansion		\$11.53
Check Totals:					4	Total \$11,347.41

The above listed checks have been printed and released under the RDA Executive Director's approval. Included are checks numbered 2938 through 2941 for \$11,347.41 dated 4/29/11.

These checks has been reviewed and authorized for distribution.

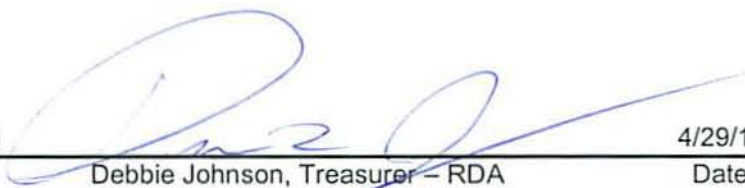
The unaudited cash balance in the RDA account as of 4/29/11 is \$3,722,238.56

RDA Operating Fund	\$2,807,326.28
Low/Mod Housing Fund	\$914,912.28

  
 Jamie Goldstein, City Manager

4/29/11

Date

  
 Debbie Johnson, Treasurer - RDA

4/29/11

Date





Item #: **3.B.**

# CITY COUNCIL/REDEVELOPMENT AGENCY AGENDA REPORT

## MEETING OF MAY 12, 2011

FROM: OFFICE OF THE CITY CLERK/REDEVELOPMENT AGENCY SECRETARY

DATE: MAY 5, 2011

SUBJECT: **CAPITOLA CITY COUNCIL/REDEVELOPMENT AGENCY MINUTE APPROVAL:**  
MINUTES OF THE REGULAR JOINT MEETING OF THE CITY COUNCIL/  
REDEVELOPMENT AGENCY OF APRIL 28, 2011

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**Recommended Action:** By motion, that the City Council/Redevelopment Agency Directors approve the subject minutes as submitted.

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### **DISCUSSION**

Attached for City Council/Redevelopment Agency review and approval are the subject minutes.

### **ATTACHMENTS**

Minutes of April 28, 2011

**Report Prepared By:** Pamela Greeninger, MMC  
City Clerk/RDA Secretary

**Reviewed and Forwarded by**  
**City Manager/Executive Director:** \_\_\_\_\_

**CITY OF CAPITOLA  
CITY COUNCIL/REDEVELOPMENT AGENCY**

April 28, 2011  
Capitola, California

**MINUTES OF A REGULAR JOINT MEETING**

**5:30 P.M - CLOSED SESSION - CITY MANAGER’S OFFICE**

At 5:30 p.m. in the City Hall Council Chambers, Mayor/Chairperson Norton noted that all Council Members/Redevelopment Agency Directors were present. He made an announcement regarding the items to be discussed in Closed Session, as follows:

**CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION** (Govt. Code §54956.9a)

- Surf and Sand, LLC vs. City of Capitola, et al. (Surf & Sand Mobile Home Park)  
[Superior Court of the State of California for County of Santa Cruz, Case #CV 167716]
- Surf and Sand, LLC vs. City of Capitola, et al. (Surf & Sand Mobile Home Park)  
[U.S. District Court N.D., Case No. C09-05542 RS (Judge Richard Seeborg)]
- Los Altos/El Granada Investors vs. City of Capitola, et al. (Castle Mobile Estates)  
[U.S. District Court N.D., Case No. CV 04-05138 JF (Judge Jeremy Fogel)]
- Vieira Enterprises, Inc., vs. City of Capitola (Cabrillo Mobile Estates)

**CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**

Significant exposure to litigation pursuant to subdivision (b) of Government Code §54956.9:  
 One Case: Vieira Enterprises, Inc. vs. City of Capitola (Cabrillo Mobile Estates)  
*The City is in receipt of a December 30, 2010, Fair Return rent increase application for Cabrillo Mobilehome Park, which claims that if it is not granted in its entirety, the City will be liable for the unconstitutional taking of Mr. Vieira’s property and further claims that the City’s past enforcement of its rent control ordinance has already functioned to effect such a taking.*

**CONFERENCE WITH LEGAL COUNSEL – INITIATION OF LITIGATION** (Govt. Code §54956.9(c))

One Case to be Discussed

**PUBLIC EMPLOYEE PERFORMANCE EVALUATION**

Titles: City Manager and City Attorney

**LIABILITY CLAIMS** (Govt. Code §54956.95)

- Claimant: David and Vanessa Drivon
- Claimant: David Moore, on behalf of Dorean Moore
- Claimant: Theresa Viola
- Claimant: Natthakan Inpong
- Claimant: Daniel M. Finkel
- Claimant: Edward A. Maghakian
- Claimant: Veronica Shepardson
- Agency claimed against: City of Capitola

Mayor/Chairperson Norton noted that there was no one in the audience; therefore, the City Council/Redevelopment Agency recessed at 5:32 p.m. to the Closed Session in the City Manager’s Office.

**REGULAR JOINT MEETING OF THE CAPITOLA CITY COUNCIL/REDEVELOPMENT AGENCY**

Mayor/Chairperson Norton called the Regular Joint Meeting of the Capitola City Council/Redevelopment Agency to order at 7:06 p.m. on Thursday, April 28, 2011, in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

**ROLL CALL AND PLEDGE OF ALLEGIANCE**

**PRESENT:** Council Members/Directors Stephanie Harlan, Michael Termini, Kirby Nicol, Sam Storey, and Mayor/Chairperson Dennis Norton

**ABSENT:** None

**OTHERS:** Redevelopment Agency Treasurer Debbie Johnson

**STAFF:** City Manager/Executive Director Jamie Goldstein, City Attorney/General Counsel John G. Barisone, Community Development Director/Deputy Executive Director Derek Johnson, Chief of Police Michael Card, Public Works Director Steve Jesberg, and City Clerk/Secretary Pamela Greeninger

**1. REPORT ON CLOSED SESSION [520-25]**

City Attorney Barisone reported on the items discussed in Closed Session which were listed on the posted agenda, as follows:

Surf & Sand Mobile LLC vs. City of Capitola, et al. (Surf & Sand Mobile Home Park) (2 cases): The Council received an update from City Manager Goldstein and City Attorney Barisone regarding ongoing implementation of the Settlement Agreement. No reportable action was taken.

Los Altos/El Granada Investors vs. City of Capitola, et al. (Castle Mobile Estates): The Council received an update from City Manager Goldstein and discussed this matter. No reportable action was taken.

Vieira Enterprises, Inc. vs. City of Capitola (Cabrillo Mobile Estates): City Attorney Barisone provided a status update on threatened litigation regarding their rent increase application. No reportable action was taken.

City Attorney Barisone said there was one item of potential litigation where the City Council needed to consider initiation of litigation. He provided a report to the council on that item, but no reportable action was taken in Closed Session.

The Council briefly discussed and considered the tort claims listed on the Closed Session agenda, including Drivon, Moore, Viola, Inpong, Finkel, Maghakian and Shepardson. City Attorney Barisone said most of the claims have arisen from the March 2011 flood, and no reportable action was taken in Closed Session. All of the claims are on the open session agenda for consideration.

**2. ORAL COMMUNICATIONS**

A. Additions and Deletions to Agenda – None

B. Public Comments

1) Ron Graves, the city's representative to the METRO Board, provided the Council with a brief update on the Board's discussions and public hearings regarding route reductions. It is anticipated routes will be reduced by 12%. He said no decisions have been made pertaining to routes that will be cut. There will be 13 public hearings to consider the route cuts; two meetings will be held at Shoreline Middle School. Dates will be on community TV. He reported that Supervisor John Leopold received a letter from Mayor Norton regarding Route 69, and they are looking to make sure that route is not eliminated.

## 2. B. 1) ORAL COMMUNICATIONS (Continued)

Mr. Graves also commented on his appointment to the METRO Advisory Committee (MAC) and said he would like to ask Craig Agler to continue to serve. The person serving should be transit-dependent, if possible. Mayor Norton suggested that staff send a letter to Craig Agler.

Mayor Norton also asked if the METRO staff could come to a regular meeting of our City Council. Mr. Graves said METRO staff would be available to attend a Council meeting, and Mayor Norton asked staff to request a presentation by METRO staff at a future meeting.

2) Leonard Tyson, resident of 1500 Wharf Road (Capitola Venetian), submitted photographs and reduced copies of plans showing parking at 4970 Cliff Avenue. He discussed his concerns about the placement of bumpers and the elimination of a public parking space at that location. Mayor Norton thanked him for bringing this to their attention and suggested he meet with the public works director.

3) Kevin Wynne, Public Information Officer for the U.S. Small Business Administration (SBA) announced that an SBA Office is open in the Capitola City Hall Community Room from 9 am to 5:30 p.m. Monday through Friday through Thursday, May 12, 2011. He said that they offer loans to victims of the flood, including home disaster loans, business physical disaster loans and economic injury disaster loans. Mr. Wynne also pointed out the SBA offers relocation loans if there is an involuntary or mandatory relocation. He urged mobile home owners to submit an application within the 60 days, which runs through June 27, for funds in the event relocation is necessary. Mr. Wynne advised that applicants are under no obligation to accept the loan, but it is important to submit an application. He said flyers and his business cards are available in the back of the room and City Hall.

Mayor Norton asked if this information is on the scroll. City Clerk Greeninger said a News Release was recently issued regarding this; however, she was not sure if the information is included on the scroll. She will make sure the information is added.

C. Staff Comments

1) City Manager Goldstein provided brief updates regarding the Rispin property, repairs to the Police Department, and Redevelopment Agency ERAF payments.

2) Community Development Director Johnson announced the public workshop, "Help Plan Rispin Park," that will be held on Wednesday, May 4, 2011, at 6 p.m. at the Community Center at 4400 Jade Street. In addition to the evening workshop, staff will be conducting stakeholders' interviews regarding the Rispin property that afternoon.

Community Development Director Johnson reported on the second meeting of the General Plan Advisory Committee held last night. The next meeting will be on Wednesday, May 18.

D. City Council/RDA Director/Treasurer Comments/Committee Reports

Council Member Harlan asked that an item be placed on the next agenda under Committee Appointments as she may have a new appointment for the West Capitola representative on the General Plan Advisory Committee. She would also like the Council to consider appointing alternates on the committee in the event a committee member would need to step down before the committee's work is done. Council Member Termini agreed that he would feel more comfortable having an alternate as well.

E. Committee Appointments – None

**F. Approval of Check Register Reports****1) City: Approval of City Check Register Reports dated April 8 and April 15, 2011. [300-10]**

**ACTION:** Council Member Nicol moved, seconded by Council Member Storey, to approve the Check Register Reports dated April 8, and April 15, 2011, including checks numbered 65927 through 66011 in the amount of \$88,569.36, and checks numbered 66012 through 66077 in the amount of \$116,876.27, respectively; and payroll disbursements for the April 8, 2011, payroll in the amount of \$190,532.02, for a Grand Total of \$395,977.65, as submitted. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None. *[Note: Mayor Norton abstained from voting on Check #66067 to SC Regional 911 for \$25,713.50.]*

**2) RDA: Approval of Redevelopment Agency Check Register Report dated April 15, 2011. [760-25]**

**ACTION:** Director Storey moved, seconded by Director Harlan, to approve the Check Register Report dated April 15, 2011, including checks numbered 2928 and 2931 in the amount of \$13,888.17, as submitted. The motion carried on the following vote: AYES: Directors Harlan, Termini, Nicol, Storey, and Chairperson Norton. NOES: None. ABSENT: None. ABSTAIN: None.

**3. CONSENT CALENDAR**

Mayor/Chairperson Norton asked if there were any items on the Consent Calendar that members of the public or the City Council/Redevelopment Agency Directors wished to pull for separate discussion. No items were pulled for discussion. Mayor/Chairperson Norton noted that Items 3.K. and 3.M. require a 4/5 vote of approval.

**CONSENT CALENDAR ACTION:** Council Member/Director Termini moved, seconded by Council Member/Director Harlan, to approve the Consent Calendar as recommended. The motion carried on the following vote: AYES: Council Members/Directors Harlan, Termini, Nicol, Storey, and Mayor/Chairperson Norton. NOES: None. ABSENT: None. ABSTAIN: None.

**A. Approve Reading by Title of all Ordinances and Resolutions and declare that said Titles which appear on the Public Agenda shall be determined to have been read by Title and Further Reading Waived.**

**ACTION:** The City Council unanimously approved the reading by title of all Ordinances and Resolutions and declared that said titles which appear on the public agenda shall be determined to have been read by title and further reading waived.

**B. City/RDA: Approve Minutes of the Emergency Meeting of the City Council of March 27, 2011, the Special Meeting of the City Council of March 30, 2011, the Joint Special Meeting of the City Council/ Redevelopment Agency of April 1, 2011, and the Regular Joint Meeting of the City Council/Redevelopment Agency of April 14, 2011.**

**ACTION:** Council Member/Director Termini moved, seconded by Council Member/Director Harlan, to approve the Minutes of the Emergency Meeting of the City Council of March 27, 2011, the Special Meeting of the City Council of March 30, 2011, the Joint Special Meeting of the City Council/Redevelopment Agency of April 1, 2011, and the Regular Joint Meeting of the City Council/ Redevelopment Agency of April 14, 2011, as submitted. The motion carried on the following vote: AYES: Council Members/Directors Harlan, Termini, Nicol, Storey, and Mayor/Chairperson Norton. NOES: None. ABSENT: None. ABSTAIN: None.

## 3. CONSENT CALENDAR (Continued)

**C. Approve hiring one Records Clerk position in the Police Department and authorize the City Manager to proceed with recruitment. [600-10]**

**ACTION:** Council Member Termini moved, seconded by Council Member Harlan, to approve hiring one Records Clerk position in the Police Department and authorize the City manager to proceed with recruitment, as submitted. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

**D. Deny claim of David & Vanessa Drivon in the amount of \$125,000 and forward to the City's liability insurance carrier. [Claims Binder]**

**ACTION:** Council Member Termini moved, seconded by Council Member Harlan, to deny the claim of David and Vanessa Drivon in the amount of \$125,000 and forward it to the City's liability insurance carrier. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

**E. Deny claim of David Moore, on behalf of Dorean Moore, in the amount of \$2,950 and forward to the City's liability insurance carrier. [Claims Binder]**

**ACTION:** Council Member Termini moved, seconded by Council Member Harlan, to deny the claim of David Moore, on behalf of Dorean Moore, in the amount of \$2,950 and forward it to the City's liability insurance carrier. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

**F. Deny claim of Theresa Viola in the amount of \$921.07 and forward to the City's liability insurance carrier. [Claims Binder]**

**ACTION:** Council Member Termini moved, seconded by Council Member Harlan, to deny the claim of Theresa Viola in the amount of \$921.07 and forward it to the City's liability insurance carrier. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

**G. Deny claim of Natthakan Inpong in the amount of \$8,500 and forward to the City's liability insurance carrier. [Claims Binder]**

**ACTION:** Council Member Termini moved, seconded by Council Member Harlan, to deny the claim of Natthakan Inpong in the amount of \$8,500 and forward it to the City's liability insurance carrier. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

**H. Deny claim of Daniel M. Finkel for an undetermined amount and forward to the City's liability insurance carrier. [Claims Binder]**

**ACTION:** Council Member Termini moved, seconded by Council Member Harlan, to deny the claim of Daniel M. Finkel for an undetermined amount and forward it to the City's liability insurance carrier. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

**I. Deny claim of Edward A. Maghakian for an undetermined amount and forward to the City's liability insurance carrier. [Claims Binder]**

**ACTION:** Council Member Termini moved, seconded by Council Member Harlan, to deny the claim of Edward A. Maghakian for an undetermined amount and forward it to the City's liability insurance carrier. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

## 3. CONSENT CALENDAR (Continued)

**J. Receive City Treasurer's Report for the month ended March 31, 2011 (Unaudited). [380-10]**

**ACTION:** Council Member Termini moved, seconded by Council Member Harlan, to accept the City Treasurer's Report for the month ended March 31, 2011 (Unaudited), as submitted. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

**K. Accept update report on the Rispin Property Hazard Abatement Project and, by 4/5 vote approval, make the determination that all hazards at the Rispin Property have not been eliminated and there is need to continue action. [275-60]**

**ACTION:** Council Member Termini moved, seconded by Council Member Harlan, to accept the update report on the Rispin Property Hazard Abatement Project and made the determination that all hazards at the Rispin Property, as detailed in the March 1, 2011, Notice of Summary Abatement Order to Abate Dangerous Buildings and Grounds, have not been eliminated and that there is a need to continue action. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

**L. Accept Quarterly Sales Tax and Transient Occupancy Tax Report for the Second Quarter of FY 2010-2011. [390-70]**

**ACTION:** Council Member Termini moved, seconded by Council Member Harlan, to accept the Quarterly Sales Tax and Transient Occupancy Tax Report for the Second Quarter of FY 2010-2011, as submitted. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

**M. Accept update report on Storm Drain Repair Project and, by 4/5 vote approval, make the determination that an Emergency Condition remains as detailed in Resolution No. 3863 adopted on March 27, 2011, and there is need to continue action. [260-50/420-50]**

**ACTION:** Council Member Termini moved, seconded by Council Member Harlan, to accept the update report on the Pacific Cove Storm Drain Repair Project and made the determination that an emergency condition remains as detailed in Resolution No. 3863 adopted on March 27, 2011, and that there is a need to continue action. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

**N. Set Public Hearing for May 12, 2011, to consider appeal of Planning Commission denial of Project Application #11-024, for a Conditional Use Permit for a Medical Office Use (Dialysis Clinic) at 3801 Clares Street in the CC (Community Commercial) Zoning District [APN 034-261-47]. [730-10]**

**ACTION:** Council Member Termini moved, seconded by Council Member Harlan, to set a Public Hearing for the City Council meeting on May 12, 2011, to consider an appeal of a Planning Commission denial of Project Application #11-024, for a Conditional Use Permit for a Medical Office Use (Dialysis Clinic) at 3801 Clares Street in the CC (Community Commercial) Zoning District [APN 034-261-47], as submitted. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

#### 4. PUBLIC HEARINGS

##### A. Public Hearing to consider Pacific Cove Mobile Home Park options to respond to flood damage. Presentation: City Manager's Department. [260-10/420-50]

City Manager Goldstein summarized the written agenda report utilizing a PowerPoint Presentation. He explained there are two basic options: 1) park repair (update infrastructure to meet current code requirements), or 2) park closure. He reviewed the costs involved in bringing the mobile home park up to code, which does not include additional repair to the pipe beneath the park. After his report, City Manager Goldstein responded to questions of council members.

Mayor Norton opened the public hearing at 7:40 p.m.

The following people spoke in support of retaining the mobile home park. Residents of Pacific Cove Mobile Home Park thanked the city for its assistance after the flood.

Carol Lerno Machado, Pacific Cove Mobile Home Park resident, Space 56  
 Greg Tedesco, Magellan Street resident  
 Kathy Kelly, Pacific Cove Mobile Home Park resident, Space 60  
 Anne Sullivan, part-time resident, Space 74 Pacific Cove Mobile Home Park  
 Jeanne and Peter Roddy, Pacific Cove Mobile Home Park residents, Space 71  
 Sean Miller, Pacific Cove Mobile Home Park resident, Space 66  
 Sidney Jackson, Pacific Cove Mobile Home Park resident, Space 83  
 Don Penner, Pacific Cove Mobile Home Park resident, Space 80

The following people spoke in support of closing Pacific Cove Mobile Home Park:

Chuck Huddleston, Soquel resident  
 Carin Hanna, Capitola Village business owner  
 James Wallace, Gilroy Drive resident  
 Glenn Hanna, former City Treasurer  
 Nels Westman, Capitola resident  
 Margaret Kinstler, Riverview Avenue resident  
 Gary Wetsel, Capitola resident and Village business owner  
 Bob Begun, former council member and Chair of the Finance Advisory Committee

Mayor Norton closed the hearing at 8:23 p.m.

Considerable Council discussion was followed by this action:

**ACTION:** Council Member Nicol moved, seconded by Mayor Norton, to approve the Park Closure option outlined on page 2 of the Agenda Report, including direction to staff as follows:

1. Proceed with short-term repairs,
2. *(It was noted that this item was deleted pursuant to City Manager Goldstein's verbal presentation that a 12-month notice of Park closure is not necessary),*
3. Prepare the documentation necessary to consider Park closure or cessation of use,
4. Prepare a CDBG grant application to consider future uses,
5. Develop a draft financing plan to fund relocation and site improvement costs, and
6. Seek grant funding to offset repairs to pipe and relocation costs.

After further Council discussion, the motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.



## 4. PUBLIC HEARINGS (Continued)

**B. Public Hearing to consider Amendments to Sections 12.12.040, 12.12.110, 12.12.190, and 12.12.270 of the Capitola Municipal Code pertaining to Community Tree and Forest Management. [Ordinance 1<sup>st</sup> Reading] Presentation: Community Development Department. [1030-60]**

Community Development Director Johnson summarized the written agenda report utilizing a PowerPoint Presentation. He reviewed the proposed ordinance amendments and responded to questions of council members.

Mayor Norton opened the hearing 9:40 p.m.

Molly Ording, 218 Monterey Avenue, commented on the illegal tree removal adjacent to the Porter Path on Depot Hill last year and expressed the need for the city to fiercely protect trees in the community. She supports the proposed ordinance amendment.

An identified man commented on his understanding of the Council's discussion pertaining to the city's requirement to obtain a permit to remove a tree. The Council clarified that a permit is required to trim or remove trees over 6 inches in diameter.

Mayor Norton closed the hearing at 9:46 p.m.

Limited Council discussion was followed by this action:

**ACTION:** Council Member Termini moved, seconded by Council Member Harlan, to pass the proposed Ordinance Amending Sections 12.12.040, 12.12.110, 12.12.190, and 12.12.270 of the Municipal Code Pertaining to Community Tree and Forest Management, to a second reading, as submitted.

Following considerable council discussion, Mayor Norton called for a vote on the motion. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Storey, and Mayor Norton. NOES: Council Member Nicol. ABSENT: None. ABSTAIN: None.

Council Member Termini suggested, and the Council agreed, that staff be directed to report back to the Council on this in a year.

## 5. OTHER BUSINESS

**A. Finance Advisory Committee Charter. Staff recommendation: accept the Finance Advisory Committee Charter as submitted. [330-40]**

City Manager Goldstein provided a brief staff report.

Gary Wetsel, member of the Finance Advisory Committee, discussed the committee's interest in determining the charge of the committee and defining their role by establishing working principles to guide interactions between the committee and the City. The committee reviewed the Charter and recommends that the Council accept it.

Bob Begun, Chair of the Finance Advisory Committee, said Mr. Wetsel has done a great job preparing the Charter for the Finance Advisory Committee and encouraged the Council to accept it as proposed.

**ACTION:** Council Member Termini moved, seconded by Council Member Nicol, to accept the Finance Advisory Committee Charter, as submitted. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Nicol, Storey, and Mayor Norton. NOES: None. ABSENT: None. ABSTAIN: None.

**6. COUNCIL/RDA DIRECTORS/STAFF COMMUNICATIONS**

A) Council Member Storey said someone from the Village spoke to him about extending the Village parking permits to complete repairs issued as a result of the flood.

Chief of Police Card commented that some people have taken advantage of the permits when they do not really need them. If someone is working on their project and have a continued need for a special parking permit, the property owner/contractor should contact the police department.

Gary Wetsel commented on the special Village parking permits and encouraged the city to make sure only those who are working on construction repairs get a permit. **[420-50]**

B) Chief of Police Card announced there would be a swearing in ceremony at 9:00 a.m. tomorrow morning, April 29, in the Council Chambers for the city’s new Police Officer, Kraig Evens.

**7. ADJOURNMENT**

The City Council/Redevelopment Agency adjourned at 10:13 p.m. to its next Regular Joint Meeting to be held on Thursday, May 12, 2011, at 7:00 p.m., in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

\_\_\_\_\_  
Dennis R. Norton, Mayor  
Redevelopment Agency Chairperson

ATTEST:

\_\_\_\_\_, MMC  
Pamela Greeninger, City Clerk  
Redevelopment Agency Secretary



## CITY COUNCIL AGENDA REPORT

MEETING OF MAY 12, 2011

FROM: COMMUNITY DEVELOPMENT DIRECTOR  
DATE: MAY 6, 2011  
SUBJECT: PLANNING COMMISSION ACTION MINUTES OF MAY 5, 2011

---

1. **ROLL CALL AND PLEDGE OF ALLEGIANCE**  
Commissioners Graves, Newman, Routh, Smith and Chairperson Ortiz  
Staff: Community Development Director Johnson  
Senior Planner Bane  
Minute Clerk Uharriet
2. **ORAL COMMUNICATIONS**
  - A. Additions and Deletions to Agenda - NONE
  - B. Public Comments - NONE
  - C. Commission Comments - NONE
  - D. Staff Comments - NONE
3. **APPROVAL OF MINUTES**
  - A. April 7, 2011 Regular Planning Commission Meeting

### **APPROVED WITH CHANGES 4-0, COMMISSIONER ROUTH ABSTAINED.**

Commissioner Graves: Page 12, paragraph 6: "...He suggested an additional condition to maintain or replace the landscaping when it fails or begins to show significant signs of wear and tear." Page 15, paragraph 5: "Jill ~~Edly~~ Ealy, representative from an adjacent business, stated her concerns about the potential of a line of customers interfering with Zelda's deck entrance. Ms. ~~Edly~~ Ealy was interested in seeking City approval for a take-out window at Zelda's."

Chairperson Ortiz: Page 14, paragraph 10: "Chairperson Ortiz stated that although ~~the proposed use will be supporting the surrounding commercial businesses, she was not supportive of a non-retail business in the commercial district. The commercial district should be planned for the long term.~~ she agreed that this type of use would bring in additional business to surrounding stores and restaurants, she felt strongly about Capitola's commercial area. Capitola is a small community with its' own police department, planning department, city

hall and recreation department. It takes a lot of money to run the city and the only reason we still have these services in Capitola is because of 41<sup>st</sup> Avenue.

Clares Street was developed to expand Capitola's retail base. We don't receive a lot of property taxes and sales tax makes up a majority of our revenue. She was not in favor of putting a medical use in a prime retail space.

Although there are other uses on 41<sup>st</sup> Avenue and Clares Street, this particular site was built for retail and changing the use to a medical facility would have a direct impact on Pier 1 and the other businesses in the area. There have been studies done proving that when retail begins to change it may be a slow process, but it will eventually impact a much larger area.

So, although she is sympathetic to the applicant's services and the need for them she doesn't want us to take it for granted that we have our own police department and other services. We don't have to rely on the county when we want to build our homes or remodel our homes. We can come right down here and deal with people who are in our own community. This is a very expensive community to run."

#### **4. CONSENT CALENDAR**

**A. 105 FANMAR WAY #11-023 APN: 035-163-38**

Design Permit to demolish a residential duplex and construct a new two-story single-family residence in the RM-LM (Multiple-Family Residence Low Medium Density) Zoning District.

Environmental Determination: Categorical Exemption

Property Owner: Steve and Lori Johnson, filed 3/2/11

Representative: Cove Britton, Matson Britton Architects

#### **APPROVED WITH ADDITIONAL CONDITIONS 5-0**

Condition 13. The applicant shall not disconnect or block any active sanity sewer line found during construction, and shall immediately report such discovery to the Santa Cruz County Sanitation District.

Draft Condition 14. All existing trees shall be protected during construction and shall be preserved post construction. If, at a later time, the property owner wishes to remove the trees, then he shall apply for a tree permit from the Community Development Department. If the tree permit is granted, then the replacement trees shall be of a similar size as the trees proposed for removal.

**B. 101 GRAND AVENUE #11-035 APN: 036-114-12**

Coastal Permit to replace a portion of the existing foundation system for the Crest Apartment building in the AR/R-1 (Automatic Review/Single-Family Residence) Zoning District.

This project requires a Coastal Permit which is appealable to the California Coastal Commission after all possible appeals are exhausted through the City.

Environmental Determination: Categorical Exemption

Property Owner: Papken DerTorrosian, filed 4/6/11

Representative: Dennis Norton

#### **APPROVED 5-0**

**5. PUBLIC HEARINGS**

**A. 1955 41<sup>st</sup> AVENUE, SUITE A-4 #11-037 APN: 034-261-15, -53**  
Conditional Use Permit for a restaurant use (Yogurtland) with outdoor seating in the CC (Community Commercial) Zoning District.  
Environmental Determination: Categorical Exemption  
Property Owner: JFG Capitola Winfield Partners, filed 4/13/11  
Representative: N2YL, dba Yogurtland

**APPROVED WITH AN ADDITIONAL CONDITION 5-0**

8. The trash shall be contained within the designated dumpster area

**6. DIRECTOR'S REPORT**

**7. COMMISSION COMMUNICATIONS**

**8. ADJOURNMENT**

Adjourn to a Regular Meeting of the Planning Commission to be held on Thursday, June 2, 2011 at 7:00 p.m., in the City Hall Community Room, 420 Capitola Avenue, Capitola, California.



Item #: 3.D.

## CITY COUNCIL AGENDA REPORT

MEETING OF MAY 12, 2011

FROM: CITY MANAGER'S DEPARTMENT

DATE: MAY 4, 2011

SUBJECT: CLAIM OF MARILYN BIERACH

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**RECOMMENDED ACTION:**

Deny claim and forward to the City's liability insurance carrier.

**DISCUSSION**

Marilyn Bierach has filed a liability claim against the City of Capitola. The claim is in the amount of \$2,775.

**Report Prepared By:** Liz Nichols  
Executive Assistant to the City Manager

**Reviewed and Forwarded  
By City Manager:** \_\_\_\_\_



Item #: 3.E.

## CITY COUNCIL AGENDA REPORT

MEETING OF MAY 12, 2011

FROM: CITY MANAGER'S DEPARTMENT  
DATE: MAY 4, 2011  
SUBJECT: CLAIM OF ROBERT & GAY ALLEN

---

### **RECOMMENDED ACTION:**

Deny claim and forward to the City's liability insurance carrier.

### **DISCUSSION**

Robert & Gay Allen have filed a liability claim against the City of Capitola. The claim is in the amount of \$13,161.

**Report Prepared By:** Liz Nichols  
Executive Assistant to the City Manager

**Reviewed and Forwarded  
By City Manager:** \_\_\_\_\_



Item #: 3.F.

## CITY COUNCIL AGENDA REPORT

MEETING OF MAY 12, 2011

FROM: CITY MANAGER'S DEPARTMENT

DATE: MAY 4, 2011

SUBJECT: CLAIM OF CATHY SUTTON

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### **RECOMMENDED ACTION:**

Deny claim and forward to the City's liability insurance carrier.

### **DISCUSSION**

Cathy Sutton has filed a liability claim against the City of Capitola. The claim is in the amount of \$10,000.

**Report Prepared By:** Liz Nichols  
Executive Assistant to the City Manager

**Reviewed and Forwarded  
By City Manager:** \_\_\_\_\_





Item #: **3.G.**

## CITY COUNCIL AGENDA REPORT

MEETING OF MAY 12, 2011

FROM: CITY MANAGER'S DEPARTMENT

DATE: MAY 4, 2011

SUBJECT: CLAIM OF PATRICIA COX

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### **RECOMMENDED ACTION:**

Deny claim and forward to the City's liability insurance carrier.

### **DISCUSSION**

Patricia Cox has filed a liability claim against the City of Capitola. The claim is in the amount of \$2,362.50.

**Report Prepared By:** Liz Nichols  
Executive Assistant to the City Manager

**Reviewed and Forwarded  
By City Manager:** \_\_\_\_\_



Item #: **3.H.**

## **CITY COUNCIL AGENDA REPORT**

**MEETING OF MAY 12, 2011**

FROM: CITY MANAGER'S DEPARTMENT

DATE: MAY 4, 2011

SUBJECT: CLAIM OF DOUGLAS RENNELS

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### **RECOMMENDED ACTION:**

Deny claim and forward to the City's liability insurance carrier.

### **DISCUSSION**

Douglas Rennels has filed a liability claim against the City of Capitola. The claim is in the amount of \$8,500.

**Report Prepared By:** Liz Nichols  
Executive Assistant to the City Manager

**Reviewed and Forwarded  
By City Manager: \_\_\_\_\_**



Item #: 3.I.

## CITY COUNCIL AGENDA REPORT

MEETING OF MAY 12, 2011

FROM: CITY MANAGER'S DEPARTMENT

DATE: MAY 4, 2011

SUBJECT: CLAIM OF ANN SCHROEDEL

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### **RECOMMENDED ACTION:**

Deny claim and forward to the City's liability insurance carrier.

### **DISCUSSION**

Ann Schroedel has filed a liability claim against the City of Capitola. The claim is in the amount of \$11,283.

**Report Prepared By:** Liz Nichols  
Executive Assistant to the City Manager

**Reviewed and Forwarded  
By City Manager:** \_\_\_\_\_



Item #: **3.J.**

## CITY COUNCIL AGENDA REPORT

MEETING OF MAY 12, 2011

FROM: CITY MANAGER'S DEPARTMENT  
DATE: MAY 4, 2011  
SUBJECT: CLAIM OF STUART HACKER & PAMELA BONE-HACKER

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### **RECOMMENDED ACTION:**

Deny claim and forward to the City's liability insurance carrier.

### **DISCUSSION**

Stuart Hacker & Pamela Bone-Hacker have filed a liability claim against the City of Capitola. The claim is in the amount of \$12,400.

**Report Prepared By:** Liz Nichols  
Executive Assistant to the City Manager

**Reviewed and Forwarded  
By City Manager:** \_\_\_\_\_



Item #: 3.K.

## CITY COUNCIL AGENDA REPORT

MEETING OF MAY 12, 2011

FROM: CITY MANAGER'S DEPARTMENT  
DATE: MAY 4, 2011  
SUBJECT: CLAIM OF VIVIAN E. BLOMENKAMP

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### **RECOMMENDED ACTION:**

Deny claim and forward to the City's liability insurance carrier.

### **DISCUSSION**

Vivian E. Blomenkamp has filed a liability claim against the City of Capitola. The claim is in the amount of \$6,228.34.

**Report Prepared By:** Liz Nichols  
Executive Assistant to the City Manager

**Reviewed and Forwarded  
By City Manager:** \_\_\_\_\_



Item #: 3.L.

## CITY COUNCIL AGENDA REPORT

MEETING OF MAY 12, 2011

FROM: CITY MANAGER'S DEPARTMENT  
DATE: MAY 4, 2011  
SUBJECT: CLAIM OF KATIE SALDANA & CHARLES KJAR

---

### **RECOMMENDED ACTION:**

Deny claim and forward to the City's liability insurance carrier.

### **DISCUSSION**

Katie Saldana & Charles Kjar have filed a liability claim against the City of Capitola. The claim is in the amount of \$10,000.

**Report Prepared By:** Liz Nichols  
Executive Assistant to the City Manager

**Reviewed and Forwarded  
By City Manager:** \_\_\_\_\_



Item #: **3.M.**

## CITY COUNCIL AGENDA REPORT

MEETING OF MAY 12, 2011

FROM: CITY MANAGER'S DEPARTMENT

DATE: MAY 4, 2011

SUBJECT: CLAIM OF DOROTHY HOUSTON

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### **RECOMMENDED ACTION:**

Deny claim and forward to the City's liability insurance carrier.

### **DISCUSSION**

Dorothy Houston has filed a liability claim against the City of Capitola. The claim is in the amount of \$4,619.89.

**Report Prepared By:** Liz Nichols  
Executive Assistant to the City Manager

**Reviewed and Forwarded  
By City Manager:** \_\_\_\_\_



Item #: **3.N.**

## CITY COUNCIL AGENDA REPORT

MEETING OF MAY 12, 2011

FROM: CITY MANAGER'S DEPARTMENT

DATE: MAY 4, 2011

SUBJECT: CLAIM OF TERESA CARLISLE

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### **RECOMMENDED ACTION:**

Deny claim and forward to the City's liability insurance carrier.

### **DISCUSSION**

Teresa Carlisle has filed a liability claim against the City of Capitola. The claim is in the amount of \$2,074.82.

**Report Prepared By:** Liz Nichols  
Executive Assistant to the City Manager

**Reviewed and Forwarded  
By City Manager:** \_\_\_\_\_





## CITY COUNCIL AGENDA REPORT

MEETING OF MAY 12, 2011

FROM: DEPARTMENT OF PUBLIC WORKS

DATE: MAY 6, 2011

SUBJECT: AWARD CONTRACT TO GEO. H. WILSON, INC., FOR INSTALLATION OF A NEW HEATING, VENTILATION AND AIR CONDITIONING (HVAC) SYSTEM IN THE POLICE DEPARTMENT BUILDING

---

**Recommended Action:** By motion and roll call vote take the following actions:

1. Authorize funding for a Capital Improvement Project for the Police Department HVAC System and transferring \$56,000 from the Esplanade Retaining Wall Project to this project and authorizing expenditures; and
  2. Award a contract in the amount not to exceed \$55,715 to Geo. H. Wilson, Inc., of Santa Cruz for the installation of a new HVAC system in the Police Department Building.
- 

### **BACKGROUND**

On January 27, 2011 the City received a Citation and Notification of Penalty from California Division of Occupational Safety and Health (CalOSHA) citing problems with the existing Heating, Ventilation and Air Conditioning (HVAC) system in the Police Department. Although the City has done annual maintenance on the heating units on the roof, recent inspections have determined that much of the ducting in the crawls space has failed and that the existing roof unit is too small to service the area intended. Originally there were two HVAC units servicing the PD, but at some time in the past one of the unit was eliminated. Two units are included in the proposed work.

### **DISCUSSION**

The City has complied with the requirements of the OSHA notice of violation and has further notified the compliance officer that the work has been delayed due to the flooding of the building. Public Works staff has received three bids for the required work; the summary of the bids is as follows:

Geo. H. Wilson	\$49,080
Airtec	\$49,527
Western Allied	\$50,436

Based on these proposals, staff has selected Geo. H. Wilson for this work. At the request of staff, Wilson has amended their proposal to account for the remodeling of the PD building and to include new ventilation fans in the locker rooms that were not included in the original proposal. The amended proposal has a reduced price of \$45,100 for the HVAC system and added an additional \$10,615 for the ventilation fans for a total revised price of \$55,715.

Staff has authorized Wilson to proceed with the design phase of their contract so that this work can be coordinated with the remediation and remodeling work currently under way in the Police Department. Currently, Geo. Wilson will complete the design so that abatement contractor can remove and dispose of the ceiling sheetrock that needs to be cut for the HVAC installation. Upon approval of this contract, Geo. Wilson will order the new HVAC units and continue working with the remodel contractor to install them in a timely manner. Based on preliminary schedules, it is likely that Police staff will be moved back into their offices prior to the HVAC system being completed, but all efforts will be made to minimize impacts on their transition.

### **FISCAL IMPACT**

Geo. H. Wilson has provided the proposal shown in Attachment 1 that has a not to exceed cost of \$55,715. The work will be done on a time and materials basis and any savings will be realized by the City. Staff is recommending that the funding for this work come from the funding originally budgeted for the Esplanade Retaining Wall project. The retaining wall project has been deferred to a future year and portions of the funding have already been transferred to pay for other minor projects in the city.

### **ATTACHMENTS**

1. Citation and Notice of Penalty from CalOSHA dated January 27, 2011
2. Proposal from Geo. H. Wilson, Inc., dated April 29, 2011

**Report Prepared By:** Steven Jesberg  
Public Works Director

**Reviewed and Forwarded  
By City Manager:**

\_\_\_\_\_

State of California  
 Division of Occupational Safety and Health  
 39141 Civic Center Drive, Suite 310  
 Index-4012  
 Fremont, CA 94538  
 Phone: (510) 794-2521 Fax: (510) 794-3889



## Citation and Notification of Penalty

**To:**  
**City of Capitola Police Department**  
 and its successors  
 422 Capitola Ave.  
 Capitola, CA 95010

**Inspection Number:** 314792680  
**Inspection Date(s):** 10/13/2010 01/01/2011  
**Issuance Date:** 01/27/2011  
**CSHO ID:** G1919  
**Optional Report #:** 015-11  
**Reporting ID:** 0950612

**Inspection Site:**  
 422 Capitola Ave.  
 Capitola, CA 95010

*The violation(s) described in this Citation and Notification of Penalty is (are) alleged to have occurred on or about the day(s) the inspection was made unless otherwise indicated within the description given below.*

**This Citation and Notification of Penalty** (hereinafter Citation) is being issued in accordance with California Labor Code Section 6317 for violations that were found during the inspection/investigation. **This Citation or a copy must be prominently posted upon receipt by the employer at or near the location of each violation until the violative condition is corrected or for three working days, whichever is longer.** Violations of Title 8 of the California Code of Regulations or of the California Labor Code may result in some instances in prosecution for a misdemeanor.

**YOU HAVE A RIGHT** to contest this Citation and Notification of Penalty by filing an appeal with the Occupational Safety and Health Appeals Board. To initiate your appeal, you **must** contact the Appeals Board, in writing or by telephone, within 15 working days from the date of receipt of this Citation. If you miss the 15 working day deadline to appeal, the Citation and Notification of Penalty becomes a final order of the Appeals Board, not subject to review by any court or agency.

**Informal Conference** - You may request an informal conference with the Manager of the District Office which issued the Citation within 10 working days after receipt of the Citation. However, if the citation is appealed, you may request an informal conference at any time prior to the day of the hearing. Employers are encouraged to schedule a conference at the earliest possible time to assure an expeditious resolution of any issues. At the informal conference, you may discuss the existence of the alleged violation, classification of the violation, abatement date or proposed penalty.

Be sure to bring to the conference any and all supporting documentation of existing conditions as well as any abatement steps taken thus far. If conditions warrant, we can enter into an agreement which resolves this matter without litigation or contest.

## APPEAL RIGHTS

The Occupational Safety and Health Appeals Board (Appeals Board) consists of three members appointed by the Governor. The Appeals Board is a separate entity from the Division of Occupational Safety and Health (Division) and employs experienced attorneys as administrative law judges to hear appeals fairly and impartially. To initiate an appeal from a Citation and Notification of Penalty, you must contact the Appeals Board, in writing or by telephone, within 15 working days from the date of receipt of a Citation. After you have initiated your appeal, you must then file a completed appeal form with the Appeals Board, at the address listed below, for each contested citation. Failure to file a completed appeal form with the Appeals Board may result in dismissal of the appeal. Appeal forms are available from district offices of the Division, or from the Appeals Board:

Occupational Safety and Health Appeals Board  
2520 Venture Oaks Way, Suite 300  
Sacramento, CA 95833  
Telephone: (916) 274-5751  
Fax: (916) 274-5785

If the Citation you are appealing alleges more than one item, you must specify on the appeal form which items you are appealing. You must also attach to the appeal form a legible copy of the Citation you are appealing.

Among the specific grounds for an appeal are the following: the safety order was not violated, the classification of the alleged violation (e.g., serious, repeat, willful) is incorrect, the abatement requirements are unreasonable or the proposed penalty is unreasonable.

**Important:** You must notify the Appeals Board, not the Division, of your intent to appeal within 15 working days from the date of receipt of the Citation. Otherwise, the Citation and Notification of Penalty becomes a final order of the Appeals Board not subject to review by any court or agency. An informal conference with the Division does not constitute an appeal and does not stay the 15 working day appeal period. If you have any questions concerning your appeal rights, call the Appeals Board, (916) 274-5751.

## PENALTY PAYMENT OPTIONS

Penalties are due within 15 working days of receipt of this Citation and Notification of Penalty unless contested. If you are appealing any item of the citation, remittance is still due on all items that are not appealed. Enclosed for your use is a Penalty Remittance Form for payment.

If you are paying electronically, please have the Penalty Remittance Form on-hand when you are ready to make your payment. The company name, index code, reporting ID, and Citation numbers(s) will be required in order to ensure that the payment is accurately posted to your account. Please go to [www.dir.ca.gov/dosh](http://www.dir.ca.gov/dosh) to access the secure payment processing site.

If you are paying by check, return one copy of the Citation, along with the Notice of Proposed Penalties Sheet and the Penalty Remittance Form and mail to:

Department of Industrial Relations  
Cashier, Accounting Office  
P. O. Box 420603  
San Francisco, CA 94142-0603

CAL/OSHA does not agree to any restrictions, conditions or endorsements put on any check or money order for less than the full amount due, and will cash the check or money order as if these restrictions, conditions, or endorsements do not exist.

## NOTIFICATION OF CORRECTIVE ACTION

For violations which you do not contest, you should notify the Division of Occupational Safety and Health promptly by letter that you have taken appropriate corrective action within the time frame set forth on this Citation and Notification of Penalty. Please inform the District Office listed on the Citation by submitting the CAL/OSHA Form 160 and/or 161 with the abatement steps you have taken and the date the violation was abated, together with adequate supporting documentation, e.g., drawings or photographs of corrected conditions, purchase/work orders related to abatement actions, air sampling results, etc. The adjusted penalty for serious and general violations **has already been** reduced by 50% on the presumption that the employer will correct the violations by the abatement date." **If the CAL/OSHA Form 161 is not received in the District Office within 10 days following the abatement date, the abatement credit is revoked, causing the penalty to double.**

**Note:** Return the CAL/OSHA Form 160/161 to the District Office listed on the Citation and as shown below:

Division of Occupational Safety and Health  
39141 Civic Center Drive, Suite 310  
Fremont, CA 94538  
Telephone: (510) 794-2521

## EMPLOYEE RIGHTS

**Employer Discrimination Unlawful** - The law prohibits discrimination by an employer against an employee for filing a complaint or for exercising any rights under Labor Code Section 6310 or 6311. An employee who believes that he/she has been discriminated against may file a complaint no later than six (6) months after the discrimination occurred with the Division of Labor Standards Enforcement.

**Employee Appeals** - An employee or authorized employee's representative may, within 15 working days of the issuance of a citation, special order, or order to take special action, appeal to the Occupational Safety and Health Appeals Board the reasonableness of the period of time fixed by the Division of Occupational Safety and Health (Division) for abatement. An employee appeal may be filed with the Appeals Board or with the Division. No particular format is necessary to initiate the appeal, but the notice of appeal must be in writing.

If an Employee Appeal is filed with the Division, the Division shall note on the face of the document the date of receipt, include any envelope or other proof of the date of mailing, and promptly transmit the document to the Appeals Board. The Division shall, no later than 10 working days from receipt of the Employee Appeal, file with the Appeals Board and serve on each party a clear and concise statement of the reasons why the abatement period prescribed by it is reasonable.

Employee Appeal Forms are available from the Appeals Board, or from a District Office of the Division.

**Employees Participation in Informal Conference.** Affected employees or their representatives may notify the District Manager that they wish to attend the informal conference. If the employer objects, a separate informal conference will be held.

## DISABILITY ACCOMMODATION

Disability accommodation is available upon request. Any person with a disability requiring an accommodation, auxiliary aid or service, or a modification of policies or procedures to ensure effective communication and access to the programs of the Division of Occupational Safety and Health, should contact the Disability Accommodation Coordinator at the local district office or the Statewide Disability Accommodation Coordinator at 1-866-326-1616 (toll free). The Statewide Coordinator can also be reached through the California Relay Service, by dialing 711 or 1-800-735-2929 (TTY) or 1-800-855-3000 (TTY-Spanish).

Accommodations can include modifications of policies or procedures or provision of auxiliary aids or services. Accommodations include, but are not limited to, an Assistive Listening System (ALS), a Computer-Aided Transcription System or Communication Access Realtime Translation (CART), a sign-language interpreter, documents in Braille, large print or on computer disk, and audio cassette recording. Accommodation requests should be made as soon as possible. Requests for an ALS or CART should be made no later than five (5) days before the hearing or conference.

**State of California**

Division of Occupational Safety and Health  
Cal/OSHA District Office (0950612; 4012)  
39141 Civic Center Drive, Suite 310  
Fremont, CA 94538

**Inspection Number:** 314792680  
**Inspection Dates:** 10/13/2010-01/01/2011  
**Issuance Date:** 01/27/2011  
**CSHO ID:** G1919  
**Optional Inspection Nbr:** 015-11



Phone: (510) 794-2521 Fax: (510) 794-3889

**Citation and Notification of Penalty**

**Company Name:** City of Capitola Police Department  
**Inspection Site:** 422 Capitola Ave., Capitola, CA 95010

**Citation 1 Item 1** Type of Violation: **General**

T8CCR: 5142(b). Inspection and Maintenance:

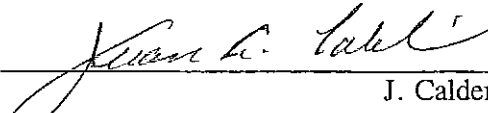
(1) The HVAC system shall be inspected at least annually, and problems found during these inspections shall be corrected within a reasonable time.

(2) Inspections and maintenance of the HVAC system shall be documented in writing. The employer shall record the name of the individual(s) inspecting and/or maintaining the system, the date of the inspection and/or maintenance, and the specific findings and actions taken. The employer shall ensure that such records are retained for at least five years.

REF:T8CCR:5142(a)

The Employer is not maintaining the Heating, Ventilation and Air Conditioning(HVAC) in the Police Department. Several area have no air flow. There are no records of maintenance and repair as required in this section.

Date By Which Violation Must be Abated: 03/15/2011  
Proposed Penalty: \$ 100.00

  
\_\_\_\_\_  
J. Calderon  
Compliance Officer/District Manager

See pages 1 through 4 of this Citation and Notification of Penalty for information on employer and employee rights and responsibilities.

State of California  
Division of Occupational Safety and Health  
Fremont District Office  
39141 Civic Center Drive, Suite 310  
Index-4012  
Fremont, CA 94538  
Phone: (510) 794-2521 Fax (510) 794-3889

## NOTICE OF PROPOSED PENALTIES

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**Company Name:** City of Capitola Police Department  
**Inspection Site:** 422 Capitola Ave., Capitola, CA 95010  
**Mailing Address:** 422 Capitola Ave., Capitola, CA 95010

**Issuance Date:** 01/27/2011

**Reporting ID:** 0950612  
**Index Code:** 4012

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### Summary of Penalties for Inspection Number 314792680

Citation 1, General	= \$	100.00
<b>TOTAL PROPOSED PENALTIES</b>	<b>= \$</b>	<b>100.00</b>

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Penalties are due within 15 working days of receipt of this notification unless contested. If you are appealing any item of this citation, remittance is still due on all items that are not appealed. Enclosed for your use is a Penalty Remittance Form.

If you are paying electronically: Please have this form on-hand when you are ready to make your payment. The company name, index code, reporting ID and Citation number(s) will be required to ensure that the payment is accurately posted to your account. Please go to [www.dir.ca.gov/dosh](http://www.dir.ca.gov/dosh) to access the secure payment processing site.

If you are paying by check: Mail this Notice of Proposed Penalties, the Penalty Remittance Form, along with a copy of the Citation and Notification of Penalty to:

**DEPARTMENT OF INDUSTRIAL RELATIONS  
CASHIER, ACCOUNTING OFFICE  
P. O. BOX 420603  
SAN FRANCISCO, CA 94142-0603**

CAL/OSHA does not agree to any restrictions, conditions or endorsements put on any check or money order for less than the full amount due, and will cash the check or money order as if these restrictions, conditions or endorsements do not exist.



DEPARTMENT OF INDUSTRIAL RELATIONS  
DIVISION OF OCCUPATIONAL SAFETY AND HEALTH - CAL/OSHA  
Cashier, Accounting Office  
P.O. Box 420603  
San Francisco, CA 94142-0603  
Phone (415) 703-4291 or (415) 703-4295 FAX (415) 703-3037

**PENALTY REMITTANCE FORM**

CIVIL PENALTY INFORMATION INSPECTION NUMBER 314792680 REPORTING ID 0950612 INDEX CODE 4012

ESTABLISHMENT NAME City of Capitola Police Department

CONTACT PERSON \_\_\_\_\_

PHONE NO. \_\_\_\_\_

FAX NO. \_\_\_\_\_

SITE ADDRESS 422 Capitola Ave., Capitola

MAILING ADDRESS 422 Capitola Ave., Capitola, CA, 95010

CITATION INFORMATION (Penalties are due within 15 working days of receipt of this notification unless contested. If you are appealing any item of this citation, remittance is still due on all items that are not appealed.)

Payment is for the following Citation Items: (e.g. Citation 1, Items 1-5; Citation 3)

**TYPE OF PAYMENT ENCLOSED**

**CHECK OR MONEY ORDER INFORMATION**

CHECK ENCLOSED IN THE AMOUNT OF \$ \_\_\_\_\_

MONEY ORDER ENCLOSED IN THE AMOUNT OF \$ \_\_\_\_\_

(Please make check or money order payable to CAL/OSHA and mail to the Cashier, Accounting Office, at the above address. Reference the Inspection Number on the "memo" portion of your check or money order.)

Go to [www.dir.ca.gov/dosh](http://www.dir.ca.gov/dosh) to access the on-line third party secure payment processing site  
OR Complete this section and fax to (415) 703-3037 **CREDIT CARD INFORMATION**

CREDIT CARD NO. \_\_\_\_\_ EXPIRATION DATE \_\_\_\_\_

CREDIT (Visa, MC, Amex, etc.) SECURITY CODE: (last 3 digits on back of card) \_\_\_\_\_ (4 digits on front of Amex card)

NAME OF CARDHOLDER \_\_\_\_\_ SIGNATURE \_\_\_\_\_

EMAIL ADDRESS \_\_\_\_\_

CARDHOLDER PHONE NO. \_\_\_\_\_ FAX NO. \_\_\_\_\_

AMOUNT OF PAYMENT \$ \_\_\_\_\_

FOR OFFICE USE ONLY -----

AUTHORIZATION NO. \_\_\_\_\_ DATE PROCESSED \_\_\_\_\_

PROCESSED BY \_\_\_\_\_

Please call (415) 703-4291 or (415) 703-4295 or complete the information above and fax to (415) 703-3037

Cal/OSHA-2 PRF REV 6/10

**EMPLOYER'S SIGNED STATEMENT OF ABATEMENT OF  
REGULATORY AND/OR GENERAL VIOLATIONS**

**EMPLOYER:** City of Capitola Police Department  
**ADDRESS:** 422 Capitola Ave.  
Capitola, CA 95010

The law requires that violations observed during the inspection/investigation completed on 01/01/2011 of the place of employment located at 422 Capitola Ave., Capitola, CA be corrected within the time limit specified. Please notify the Division as soon as these conditions have been corrected by returning this completed form. Your response by signing and mailing this form to the issuing office on or before the compliance date may avoid a follow-up inspection of your facilities.

PLEASE COMPLETE AND MAIL BY 03/15/2011

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**LIST THE SPECIFIC MEASURES TAKEN TO CORRECT EACH OF THE UNSAFE CONDITIONS**

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This certifies that all unsafe conditions listed in the Division's citation dated 01/27/2011 have now been corrected.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

**NOTE:** This form does not serve as a request for a time extension. If there are serious problems beyond your control that prevent meeting a specified abatement date, contact the Division early, well within the 15-day limit allowed for an appeal.

OFFICE USE ONLY	
Safety Engineer/Industrial Hygienist: _____	Date _____
District Manager: _____	Date _____
[ ] Close / Comments	
Region 1 District 2 Inspection No. 314792680 Identification No. G1919 Cal/OSHA Rpt. No. & Fiscal Year 015-11	

250 HARVEY WEST BLVD.  
SANTA CRUZ, CA 95060  
Phone (831) 423-9522  
FAX (831) 423-9903

**MECHANICAL**  
**Geo. H. Wilson, Inc.**  
**CONTRACTORS**  
ESTABLISHED 1921  
CONTRACTOR'S LICENSE NO. 128655

MAILING ADDRESS  
P.O. BOX 1140  
SANTA CRUZ, CA 95061-1140

April 29, 2011

City of Capitola  
422 Capitola Avenue  
Capitola, CA 95010

Attn.: Steve Jesberg

**RE: Capitola, City of (HVAC Modifications for Police Department)  
GHW Bid #11-117 (Revision 1)**

Dear Steve:

We are pleased to offer a revised proposal to replace the existing rooftop furnace and associated ductwork per our 04/28/11 meeting. We understand that you are completing this work to address inadequate air flow throughout the space.

We will complete Phase I (Pre-Construction Services) on a time and material basis per your Purchase Order #2011-00000125 (GHW Job #1683). Please consider the following Scope of Work, Schedule and Quotation for Phase II.

**Scope of Work:**

**A. Base Bid - Phase II (Construction):**

Note: The intent is to complete Phase II (Construction) under Building Permit #B-2011-105.

- 1. Disconnect, remove and recycle the existing furnace, rooftop duct, and flexible duct within the attic.

Note: the existing system does not provide cooling.

- 2. Provide and install pressure treated wood sleepers, with sheet metal caps, for two air conditioning units.

Note: Patching of the roof is excluded.

3. Provide and install rooftop supports for new duct between the units and the existing roof penetrations.

4. Fabricate and install new galvanized duct and roof caps at the existing penetrations.

Note: We recommend that the exposed galvanized duct be painted to extend it's longevity in your marine environment.

5. Provide and install two 4-ton packaged units (Trane, #YHC048 or equal), each featuring 15.0 SEER, R410A, horizontal supply and return, and an economizer.

6. Provide a crane, operator and rigging.

7. Provide and install new attic ductwork with insulated wye and elbow fittings.

Note: We have assumed that we can re-use the existing registers.

8. Provide and install gas piping from the existing roof penetrations to the new units.

9. Provide and install condensate piping to the closest roof drain.

10. Provide and install two new programmable thermostat and control wiring to the units.

11. Provide and install new electrical disconnects, and conduit and wiring from the existing circuit breakers.

Note: Available power is to be verified during Phase 1 of the project.

12. Provide start-up of the units and training.

13. Measure and document the air flow quantities.

14. Provide two complete sets of Record Drawings to the Building Department upon completion.

**B. Alternate Add - Exhaust Fans:**

1. Provide and install two restroom and two locker room exhaust fans. Each fan will be accessible from below the ceiling, ducted through the roof with backdraft dampers, and controlled by the occupancy light switches. We have also included provisions for adding 400 cfm to the make-up air exhausted by the fans.

**Schedule:**

Our pre-construction services started on 04/28/11 and will proceed during the abatement phase of the project in conjunction with Belfor Property Restoration.

Our goal is to commence the demolition of the existing ductwork and unit on 05/13/11. We will try to complete the work in the attic by 06/03/11 and will work towards completing the entire project by 07/01/11.

**Quotation:**

We propose to complete the work, as outlined above, for the following amounts:

- A. **Base Bid - Phase II Construction:**           \$45,100.00
- B. **Alternate Add - Exhaust Fans:**           \$10,615.00

We will maintain the spirit of the original proposal by completing the work on a "time and material" basis, "not to exceed" the totals submitted.

Upon conclusion of the project, our Service Department will prepare and submit a Service Maintenance Proposal to address the 01/27/11 citation issued by CAL/OSHA.

Thank you for giving us the opportunity to work with you on this project. Please contact me if you have any questions regarding this proposal.

Sincerely,



Thomas E. Wilson  
Vice President  
Geo. H. Wilson, Inc.

Enclosure: Conditions of Proposal

CC: Danielle Uharriet  
Ryan Bane  
Ed Morrison  
Matt Eller

TEW/sjc

**GEO. H. WILSON, INC.**  
**CONDITIONS OF PROPOSAL**

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**EXCLUSIONS:**

1. Formed and poured concrete.
2. Cutting, patching and painting.
3. Furnishing and/or installation of any fire rated enclosure for HVAC, ductwork or boiler flues.
4. Temporary water, sanitary or electrical services, or payments for use or maintenance of the same.
5. Water and gas meters.
6. Fees and permits.
7. Premium time.
8. Asbestos or hazardous materials removal.
9. Carpentry and/or framing.  
(Note: We envision that we will need seven new openings and three existing openings patched.)
10. Fire protection.
11. Roofing.

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**CLARIFICATIONS:**

1. Our Contractor's State License number is 128655 with the following classifications:
  - C-4 - Boiler, Hot Water Heating and Steam Fitting
  - C-16 - Fire Protection
  - C-20 - Warm Air Heating, Ventilation and Air Conditioning
  - C-34 - Pipelines
  - C-36 - Plumbing
  - C-42 - Sewers, Sewage Disposal, Drains, Cement Pipe
  - C-43 - Sheet Metal
  - C-60 - Welding
  - C-61 - SprinklersOur license expiration date is 03/31/13.  
The representations made herein are made under penalty of perjury.
2. Our company is union affiliated and is fully bondable.  
We are signatory to the following labor trades:
  - Plumbers                      Sheet Metal Workers
  - Pipe Fitters                  Laborers
3. Due to the shortages and escalating prices associated with the commodity metal markets, we can only honor our prices for 30 days.
4. We will provide General Liability Coverage Form CG 001 7 04 with a Zurich Additional Insured Endorsement Form U-GL-1175-A-CW at no additional cost. Any additional insurance forms and/or Waiver of Subrogation will be subject to our approval and additional costs.

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04/29/11 TEW/sjc



Item #: **3.P.**

## CITY COUNCIL AGENDA REPORT

MEETING OF MAY 12, 2011

FROM: DEPARTMENT OF PUBLIC WORKS  
DATE: MAY 6, 2011  
SUBJECT: RISPIN PROPERTY HAZARD ABATEMENT UPDATE NO. 4

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**Recommended Action:** By motion and roll call vote, take the following actions:

1. Accept this update report on the Rispin Property Hazard Abatement Project, and
  2. By 4/5 approval, make the determination that all hazards at the Rispin Property as detailed in the March 1, 2011, Notice of Summary Abatement Order to Abate Dangerous Buildings and Grounds have not been eliminated and that there is a need to continue action.
- 

### **BACKGROUND**

On March 10, 2011 the City Council adopted Resolution No. 3859 declaring that an emergency condition exists as a result of the receipt of an Order to Abate a Hazardous Condition at the Rispin Mansion Property. Pursuant to Public Contracting Code Section 22050 the City Council must review this action at each subsequent regularly scheduled meeting and by 4/5 vote authorize work to continue under the emergency declaration.

### **DISCUSSION**

Project status:

The infill of the doors and windows has been completed. The contractor and architect are finalizing selection of roof tiles. It is anticipated that the building permit for the roof structures and reroofing will be issued by the end of May.

### **FISCAL IMPACT**

Contracts in the amount of \$650,000 have been issued. As of May 6, 2011, there has been \$21,881.56 in invoices paid.

**ATTACHMENTS** - None

**Report Prepared By: Steven Jesberg  
Public Works Director**

**Reviewed and Forwarded  
By City Manager:**

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## CITY COUNCIL AGENDA REPORT

MEETING OF May 12, 2011

FROM: POLICE DEPARTMENT

DATE: MAY 2, 2011

SUBJECT: REQUEST BY WHARF TO WHARF RACE, INCORPORATED, FOR A SPECIAL EVENT PERMIT, ENTERTAINMENT PERMIT, ENCROACHMENT PERMIT, AND SIGN PERMIT FOR THE 39<sup>TH</sup> ANNUAL WHARF TO WHARF FOOT RACE THROUGH CAPITOLA TO END ON THE ESPLANADE ON SUNDAY, JULY 24, 2011, FROM 6:00 A.M. TO 12:00 P.M., AND REQUEST FOR A GRANT OF ALL PERMITS, POLICE AND PUBLIC WORKS FEES IN THE AMOUNT OF \$8,079

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**Recommended Action:** By motion and roll call vote, that the City Council:

1. Approve the Special Event Permit, including Entertainment, Sign and Encroachment Permits for the 39<sup>th</sup> Annual Wharf to Wharf Race to be held on Sunday, July 24, 2011, from 6 a.m. to 12 p.m. as submitted; and
2. Provide Wharf to Wharf, Incorporated, with a City grant of fees in the amount of \$8,079.

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### **BACKGROUND**

Wharf to Wharf Race, Inc., has run the Wharf to Wharf foot race from Santa Cruz Wharf to Capitola Wharf for the last thirty-eight years. The impact of this event on City services has remained consistent over the last several years. Few additional calls for service have been generated in past years ancillary to the race event. The race begins on Beach Street in Santa Cruz, enters Capitola on Cliff Drive near 47<sup>th</sup> Avenue and terminates in the Village. The Police Department and Public Works Department close the Village to traffic before the race. Race participants are immediately bussed out of the area after the race. The Village opens to traffic generally before noon.

### **DISCUSSION**

Wharf to Wharf, Inc., is a charitable organization that sponsors a six-mile foot race from the Wharf in Santa Cruz to the Capitola Wharf. The race is held annually on the fourth Sunday of July. The funds generated by the event are used to promote the health and fitness of youth in Santa Cruz County by donations to youth track and field programs. A list of some of the beneficiaries from the 2010 Wharf to Wharf Race is attached. Also provided is a brochure for this year's race.

The organization is efficiently run and professional in planning, organization, implementation, and after action details. There are an estimated 15,000 participants in this year's event. The numbers have not changed significantly over the last several years. An incremental increase in participants would not have a significant service impact on Capitola. In the past, there has been a steady flow of runners into the Village for over two and a half hours, with the last of the runners being bussed out of the area between 11:30 AM and 12 noon.



There will be music at both the Esplanade Bandstand and the Pacific Cove Parking Lot. The music will not play until after the race start time, thereby conforming to the Capitola Municipal Code.

Typically, this event involves a number of agencies, including but not limited to the City of Capitola, the City of Santa Cruz, the Central Fire Protection District, American Medical Response, and Santa Cruz County. The organizers have regular contingency planning meetings, modeled after the Incident Command System (ICS), with all of the related agencies throughout the year. The planning of the event is comprehensive in scope and professional in execution. The planning has evolved to incorporate concerns of government and the surrounding community. Although 15,000 runners visit the Village area for a short time during the race period, very few complaints are made to the Police Department. Your Chief of Police currently sits on the Wharf to Wharf Advisory Committee.

**FISCAL IMPACT**

The fiscal impact of this event to the City of Capitola generally involves Police Department and Public Works overtime staffing costs. It has been the past practice for the Police Department to include projected overtime costs into the Department’s yearly budget. City and Police Department support for this event has existed for many years and is currently incorporated into Departmental Order Number 2, which insures adequate staffing levels on the day of the Wharf to Wharf Race. All Police Department staff normally assigned to work on Sunday is committed to the event as needed. In addition to straight time staff, overtime staffing is provided as indicated in the following tables:

Number	Position	Hours	Rate	Total
5	Officers	6	\$115.00	\$3,450.00
2	Reserve	6	\$115.00	<u>\$1,380.00</u>
			Total P.D.	\$4,830.00

Number	Position	Hours	Rate	Total
6	Public Works	7	\$60.00	\$2,520.00
1	Supervisor	7	\$80.00	<u>\$560.00</u>
			Total P.W.	\$3,080.00

			Total Labor	\$7,910.00
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Permit Type	Cost
SEP	\$52.00
Entertainment	\$30.00
Sign	\$33.00
Encroachment	<u>\$54.00</u>
Total Permit Fees	\$169.00
Total Labor	<u>\$7,910.00</u>
<b>Total Costs</b>	<b>\$8,079.00</b>

There are approximately 19 assigned positions filled by the Police Department primarily for a period of 6 hours each. A number of these assignments this year will be filled by Reserve, Explorer, or Volunteer staff. This staffing adjustment has been made in light of the expansion of these programs.

Wharf to Wharf, Inc., asks that the City of Capitola provide them with a wavier of fees in the amount of \$8,079.00. All staffing costs are to be reconciled by EZ Labor Manager timecard verification for actual hours worked on the event and, if required, adjustments to be made.

### **ATTACHMENTS**

1. Special Event Permit Application
2. 2010 List of Beneficiaries

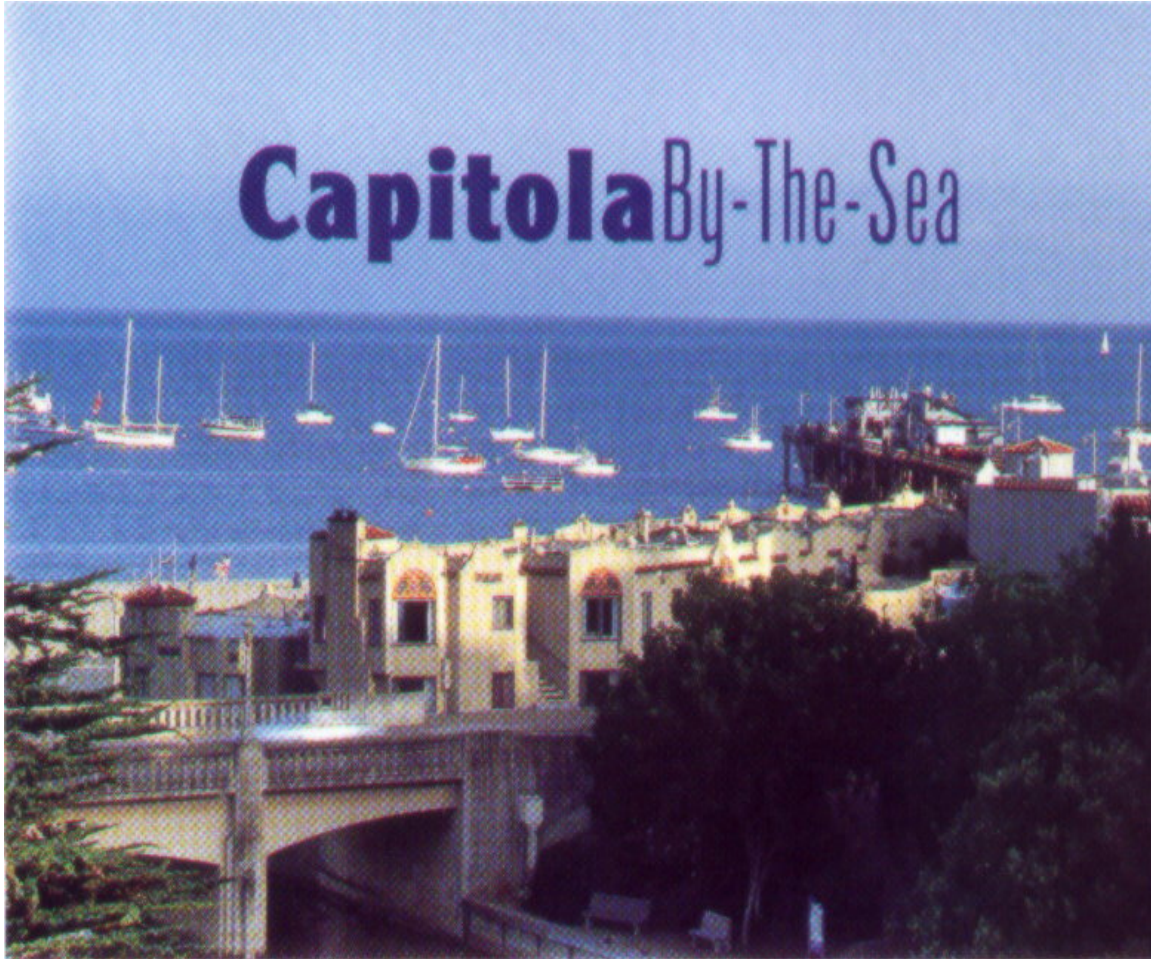
**Report Prepared By:** Tom Held, Captain of Police

**Approved by:** Mike Card, Chief of Police

**Reviewed and Forwarded  
By City Manager:**

\_\_\_\_\_

**SPECIAL EVENT PERMIT  
APPLICATION**



**CITY OF CAPITOLA**

39<sup>th</sup> ANNUAL  
WHARF TO WHARF  
2011

## SPONSORING ORGANIZATION AND APPLICANT INFORMATION

- Event Name WHARF TO WHARF RACE\_\_\_\_\_
- Event Description: 6 MILE RUN\_\_\_\_\_
- Event Purpose: FUND RAISER FOR YOUTH SPORTS\_\_\_\_\_
- Sponsor: WHARF TO WHARF RACE INC.\_\_\_\_\_
- Sponsor's Address: P. O BOX 307\_\_\_\_\_ street  
CAPITOLA CA 95010\_\_\_\_\_ city state zip code
- Sponsoring Organization's Phone: (831)\_475-2196\_\_\_\_\_
- FAX Number: (831)\_475-5567 Email Address: Kirby@wharftowharf.com
- Contact Person's Name: KIRBY NICOL\_\_\_\_\_
- Business Phone: (831)\_475-2196\_\_\_\_\_ Cellular Phone: (831)\_476-2100\_\_\_\_\_
- FAX Number: (\_\_\_\_) 475-5567\_\_\_\_\_

Will you be using a professional Special Event Organizer? If yes, please include all foregoing information about the organizer on a separate sheet of paper and attach to your application.

## EVENT INFORMATION

- Type of event: Run Festival Parade Sale Motion Picture Block Party
- Other (specify) \_\_\_\_\_
- Event Location: SANTA CRUZ - CAPITOLA\_\_\_\_\_
- Event Dates: 7/24/11\_\_\_\_\_ Anticipated Attendance: 15,000\_
- Web Site Information: WHARFTOWHARF.COM
- Will the public be invited? Yes No

Actual hours open to the public or "advertised" event hours:

- Date: 7/24/11 Time: 6:00\_\_\_\_\_ AM/PM to 12:00\_ AM/PM
- Date: \_\_\_\_\_ Time: \_\_\_\_\_ AM/PM to \_\_\_\_\_ AM/PM
- Date: \_\_\_\_\_ Time: \_\_\_\_\_ AM/PM to \_\_\_\_\_ AM/PM
- Has this event taken place before? Yes No Any changes to this event? Yes No
- If yes, what changes? \_\_\_\_\_
- If yes, please attach a copy of your last permit for this event, if available.

**PROMOTION – ADVERTISING – MARKETING - INTERNET**

- Will this event be promoted, advertised or marketed in any manner? Yes No
- Will there be live media coverage during your event? Yes No
- If yes, please explain: KSCO LIVE BROADCAST CHANNEL 1080 AM  
SPECIAL PRESENTATION 7/24/2011\_\_\_\_\_
- Are admission, entry or vendor participant fees required? Yes No
- If yes, explain: Public admission fees: \$ \_\_\_\_\_ per person  
Participant entry fees: \$ 35.00 per person  
Vendor fees: \$ \_\_\_\_\_ per booth  
Number of vendors: 2 \_\_\_\_\_  
How many vendors are for profit? NONE \_\_\_\_\_  
How many vendors are nonprofit? \_\_\_\_\_
- \$ 578,000 \_\_\_\_\_ Total estimated gross receipts, including tickets, product and sponsorship sales from this event. Explain how this amount was computed. Indicate amount per item.  
\$ \_\_\_\_\_ Admission fees  
\$ 8,000 \_\_\_\_\_ Product fees  
\$ 69,000 \_\_\_\_\_ Sponsorship  
\$ 493,000 \_\_\_\_\_ Participant entry fees  
\$ 8,000 \_\_\_\_\_ Other (Please specify): \_See Attachment\_
- \$ 356,000 \_\_\_\_\_ Total estimated expenses for this event.  
\$ 13,000 \_\_\_\_\_ Advertising  
\$ 0 \_\_\_\_\_ Wages, salaries  
\$ 18,000 \_\_\_\_\_ Agency services (police, fire, street closures)  
\$ 4,000 \_\_\_\_\_ Insurance  
\$ \_\_\_\_\_ Business license fee  
\$ 321,000 \_\_\_\_\_ Equipment/supplies/volunteers/services
- Is the organization a “tax exempt, nonprofit” organization?  Yes  No
- \$ 222,000 +/- \_\_\_\_\_ Projected amount of revenue the Sponsoring Organization(s) will receive as a result of this event.
- Specify the organization(s) to receive funding: SEE ATTACHMENT
- City sponsorship requested? Yes No If yes, please describe: \_\_\_\_\_  
\_\_\_\_\_ Standard Waiver of Permit Fees \_\_\_\_\_

**OVERALL EVENT DESCRIPTION**

- Will a staging/setup/assembly location be required? Yes No
- If yes, begin day/date: \_7-24-11\_\_\_\_\_ Start time: \_0500\_\_\_\_\_ AM/PM
- Location: \_\_\_\_\_
- Description of the scope of the setup/assembly work (Attach additional pages and drawings as needed): **SET UP OF BAND AT CAPITOLA BANDSTAND & BAND IN PACIFIC COVE PARKING LOT** \_\_\_\_\_

- If yes, dismantle day date: \_7-24-11\_\_\_\_\_ completion time: \_12 :00\_\_\_\_\_ AmPm
- List the street(s) requiring closure as a result of this event. Include street names, day, date and time of closing and the time of reopening: Close 0800 hrs, Open 1200 hrs  
ESPLANADE @ STOCKTON @ MONTEREY \_\_\_\_\_  
WHARF ROAD @ CLIFF, \_\_\_\_\_  
CAPITOLA RD @ 49<sup>TH</sup> AVE \_\_\_\_\_  
SAN JOSE @ CAPITOLA \_\_\_\_\_

City of Capitola to conduct street closures as needed (cost to be specified)

- List street(s) requiring the posting of “No Parking” signs. Indicate days, dates, and times needed and an explanation of necessity for “No Parking” zone: \_\_\_\_\_  
ESPLANADE – SUNDAY 7/24/11 5 AM – NOON \_\_\_\_\_  
Plastic signs on meters with wire ties. Two large plastic “NO PARKING” signs at the entrance to Esplanade from Stockton Ave posted late on Wednesday 7-20-2011 until the completion of the race. Vehicles will be towed per police rotation procedure with completed CHP 180 forms.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NOTE: “No Parking” signs will be posted **seventy two hours in advance** of required days, dates and time. Cost for the posting of “No Parking” signs will be specified upon review of the application by City staff.

**OVERALL EVENT DESCRIPTION (continued)**

- Attach a diagram (please try to make diagram reasonably to scale), showing the overall layout and setup locations. Using the letters below, indicate the site for these on your diagram.

- A Alcoholic and nonalcoholic concession
- B First-aid facilities
- C Tables and chairs
- D Fencing, barriers and/or barricades
- E Generator locations and/or sources of electricity
- F Canopies or tent locations
- G Booths, exhibits, displays or enclosures
- H Scaffolding, bleachers, platforms, stages, grandstands, related structures
- I Vehicles and/or trailers
- J Trash containers or dumpsters
- K Non-food vendor locations
- L Food concession and/or food preparation areas
- M Portable toilet locations
- N Other related event components not covered above (describe separately)

- Please describe how food will be served at the event: \_\_\_\_\_

NO FOOD SALES \_\_\_\_\_

- Will food be cooked in the event area?  Yes  No
- If yes, specify method: Gas Electric Charcoal Other (specify): \_\_\_\_\_
- Does the event involve the sale or use of alcoholic beverages?  Yes  No
- If yes, please describe: \_\_\_\_\_
- If alcohol is to be sold, how will the alcohol sales be regulated? \_\_\_\_\_

\_\_\_\_\_

Please attach a copy of your ABC license.

- Will there be items or services sold at the event?  Yes  No
- If yes, please describe: \_\_\_\_\_

RACE TEE SHIRTS & POSTERS \_\_\_\_\_

- Do the vendors have City of Capitola business licenses?  Yes  No
- VOLUNTEERS FROM ASSOCIATED BUSINESSES SELLING APPROVED MERCHANDISE.

**OVERALL EVENT DESCRIPTION (continued)**

- Portable and/or permanent toilet facilities: Amount of runners on Esplanade conforms to toilet formula
- Number of portable toilets: 25\_\_\_\_\_ (Recommended: 1 for every 250 people)
- Number of ADA-accessible toilets: City\_\_ (Recommended: 10% of total toilets)  
(NOTE: Unless the Applicant can substantiate the availability of both accessible and non-accessible toilet facilities in the immediate area of the site, the above is required. Portable toilet facilities must be in place 24 hours in advance, cleaned and sanitized daily during the event, and must be removed by 8:00 a.m. the next business day following the event. Location sites for portable toilets must be pre-approved prior to installation.)
- Number of trash receptacles: 150 + 3 Big Bins
- Number of dumpsters with lids: \_\_\_\_\_ (Recommended 1 per 400 people)
- Number of recycling containers: \_\_\_\_\_ (Voluntary)
- Describe the plan for cleanup and removal of waste and garbage during and after the event: RACE VOLUNTEER STAFF WILL HAVE VENUES CLEANED UP AND BE GONE BEFORE NOON RACEDAY AS PER USUAL \_\_\_\_\_

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(Note: It is the event organizer’s responsibility to dispose of waste and garbage daily throughout the term of the event, unless otherwise contracted with City staff, which will require a fee. Immediately upon conclusion of the event, the venue must be returned to a clean condition. Street sweeping can be arranged with City crews for an additional fee.)



**PARKING PLAN – SHUTTLE PLAN – MITIGATION OF IMPACT**

- Please provide a detailed description or diagram that indicates the proposed parking plan and/or shuttle plan for the event. Include a description of the parking plan/shuttle plan for the disabled.

**DIAGRAMS ATTACHED**

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- Describe plan to notify those residents, businesses, churches, etc. that will be impacted by this event.  
BANNER ON MONTEREY AVE 7/11 – 7/25/11(after Wednesday night twilight Concert)                      BIG\_ADS\_IN\_SENTINEL\_\_7/22 - 7/23/11

- Does this event involve a moving route of any kind along streets or sidewalks?

Yes     No

- If yes, highlight your proposed route on the enclosed map, indicating the directions of travel, and provide a written narrative to explain your route and its impact.

ATTACHMENT

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- Does this event involve a fixed venue site?     Yes     No

- If yes, highlight the site on the enclosed map, showing all the streets impacted by the event.

## SAFETY - SECURITY

- Is there a professional security organization to handle security arrangements for this event?  Yes  No
- If yes, please name security company: ALL LOCAL LAW ENFORCEMENT AGENCIES & SOME 1<sup>ST</sup> ALARM \_\_\_\_\_
- If no, do you wish to contract police services from the Capitola Police Dept.? Yes  
No (See fee schedule)
- Security company's address: \_\_\_\_\_  
Street

\_\_\_\_\_

City

state

zip code

- Security Director's name: GARY MCCONNELL
- Security Director's phone number: 662 1957 \_\_\_\_\_
- Security company's state license number: \_\_\_\_\_
- Security company's business license number: \_\_\_\_\_
- Security company's insurance carrier: \_\_\_\_\_ City or privately secured?
- On-site contact person (security supervisor): GARY MCCONNELL
- Any searches prior to entering?  Yes  No
- Bottle and can check?  Yes  No
- Metal detectors?  Yes  No
- How many security guards at each entrance? \_\_\_\_\_

### Parking Lot Patrol (Private Security):

- Security company: FIRST ALARM
- Contact person (security supervisor): \_\_\_\_\_
- Number of security guards patrolling the parking lot: 2-3

### Lighting:

- If this is an evening event, please state how the event and surrounding areas will be illuminated to ensure the safety of the participants and spectators.  
\_\_\_\_\_

### Medical:

- Indicate what arrangements have been made for providing first-aid staffing:  
DOMINICAN HOSPITAL & AMR



## INSURANCE REQUIREMENTS

### INSURANCE

Applicant must provide insurance at the following minimal limits: \$1,000,000 (one million) combined single limit. (Two million for the annual Art and Wine Festival). This Certificate of Insurance must name the City as an additional insured throughout the event duration, including setup and breakdown. The Certificate of Insurance, including limits of insurance, must be received by the Special Events Coordinator by \_\_\_\_ **ON FILE WITH CITY MANAGER** \_\_\_\_ to finalize this permit.

### HOLD HARMLESS

The Applicant will, at its sole expense, provide the City with evidence of insurance for general liability and Worker's Compensation benefits for accidents or injuries that occur or are sustained in connection with the special event which is the subject of this permit application and contract. The Applicant agrees on behalf of itself and on behalf of its agents and employees that the Applicant will not make a claim against, sue, attach the property of, or prosecute the City or any of the City's agencies, employees, contractors or agents for injury or damages resulting from negligence or other acts, however caused, which might be asserted against the City in connection with actions taken by the City or the City's employees or agents in connection with this Special Event Permit. In addition, Applicant, on behalf of itself and its agents and employees, as well as its successors and assigns, hereby releases, discharges and holds the City harmless from, and indemnifies the City against, all actions, claims or demands Applicant, or Applicant's employees, agents, successors or assigns, or any third person now has or may hereafter have for personal injury or property damage resulting from the actions of the Applicant, the Applicant's employees or agents, or any other person under the control of the Applicant, taken pursuant to this Special Event Permit whether said actions are characterized as negligent or intentional.

Applicant Signature: \_\_\_\_ **ORIGINAL ON FILE AT POLICE DEPARTMENT**

### ADVANCED CANCELLATION NOTICE REQUIRED

If this event is cancelled, notify the Special Events Coordinator at (831) 475-4242.

I certify that the information contained in the foregoing application is true and correct to the best of my knowledge and belief, that I have read, understand and agree to abide by the rules and regulations governing the special event under Capitola Municipal Code, and that I understand that this applications is made subject to the rules and regulations established by the City Council and/or the City Manager or the City Manager's designee. I agree to comply with all permit conditions and with all other requirements of the City, County, state and federal governments and any other applicable entity that may pertain to the use of the event premises and the conduct of the event. I agree to abide by these rules and further certify that I, on behalf of the organization, am also authorized to commit that organization and, therefore, agree to be financially responsible for any costs and fees that may be incurred by or on behalf of the event to the City of Capitola.

**Name of Applicant (print): Kirby Nicol**

**Title: Race Director**

**CITY OF CAPITOLA  
SPECIAL EVENTS CHECKLIST AND REVIEW**

**C = Completed      N/A = Not Applicable**

- Completed Application Package
- All Fees Paid     Waiver Requested     Minor Event 30 days     General Event 90 days
- Copies of IRS 501(c) Tax Exemption Letter
- Projected Event Gross Project Budget
- Detailed Plans with Times Lines
- Santa Cruz Health Services Agency Food Permit
- Dept. of Alcoholic Beverage Control Daily License
- Diagram of Event Layout and Set-Up Locations
- Notice of Mitigation Measures for Negative Consequences
- Event Traffic Advisory Signs
- Description of Proposed Parking and/or Shuttle Plan
- City Building Permit
- Encroachment Permit
- Public Address System Permit
- Sign Permit (Banner)
- Insurance Certificate

**NAME OF EVENT:**  
  
**39<sup>TH</sup> ANNUAL  
WHARF TO  
WHARF  
2011**

**DATE OF EVENT:**  
**JULY 24<sup>TH</sup>, 2011**

<u>Check if Required</u>	<u>REVIEW</u>	<u>Sign if Approved</u>
<input type="checkbox"/> Police Department _____	<input type="checkbox"/>	<input type="checkbox"/> Fire Department _____
<input type="checkbox"/> Public Works _____	<input type="checkbox"/>	<input type="checkbox"/> Finance _____
<input type="checkbox"/> Community Development _____	<input type="checkbox"/>	<input type="checkbox"/> City Manager _____

**POST REVIEW**

- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li><input type="checkbox"/> Print permit</li> <li><input type="checkbox"/> Post permit    <input type="checkbox"/> Sgts Office    <input type="checkbox"/> Squad Room</li> <li><input type="checkbox"/> Copy of SEP to City of Capitola Records</li> </ul> | <ul style="list-style-type: none"> <li><input type="checkbox"/> Permit copy to Applicant</li> <li><input type="checkbox"/> Notice of approval to outside departments</li> <li><input type="checkbox"/> SEP to SEP Binder</li> </ul> |
|--|---|

**Where the money goes.....**

**Wharf to Wharf Race Inc. is a nonprofit corporation chartered to promote the health and fitness of the youth of Santa Cruz. Here are some of this year's the beneficiaries:**

<b>Cabrillo College</b> water polo / football	500
<b>Aptos High School</b> track / football / cheer	17,700
<b>Harbor High School</b> track / volleyball / water polo	11,652
<b>Monte Vista Christian</b> track & field	7,000
<b>Pajaro Valley High School</b> track & field	7,000
<b>Santa Cruz High School</b> track & field / girls basketball	14,800
<b>Scotts Valley High School</b> track & field / girls basketball	8,800
<b>SLV High School</b> track / girl's softball / girls basketball	14,400
<b>Soquel High School</b> track /football/baseball/cheer/water polo	13,900
<b>Watsonville High School</b> track & field	9,250
<b>Saint Francis High School</b> track & field	7,000
<b>Santa Cruz Waldorf School</b>	1,000
<b>Twin Lakes Christian School</b>	1,800
<b>Pacific Collegiate School</b>	2,600
<b>Mountain Elementary School</b>	300
<b>Delaveaga Elementary School</b>	600
<b>Rio Del Mar Elementary School</b>	1,500
<b>Westlake Elementary School</b>	500
<b>Linscott Charter School</b>	1,500
<b>Boulder Creek Elementary School</b>	135
<b>SLV Middle School</b>	1,200
<b>Mission Hill Middle School</b>	6,065
<b>Aptos Junior High School</b>	755
<b>Soquel Elementary Schools</b>	4,000
<b>YES School</b>	800
<b>Scotts Valley Middle School</b>	6,800
<b>Lakeview Middle School</b>	3,000
<b>E.A. Hall Middle School</b>	8,340
<b>Coast County Athletic League</b>	1,300
<b>Delaveaga Running Club</b>	800
<b>Santa Cruz Track Club</b>	16,910
<b>Santa Cruz High School Stadium Project</b>	78,000
<b>Soquel Stadium Track Resurfacing Fund</b>	13,000
<b>Soquel Stadium Equipment Fund</b>	3,000
<b>Santa Cruz Coast Athletic League</b>	3,300
<b>Pajaro Valley Athletic League</b>	1,300
<b>International Games</b>	1,000
<b>Student/Athlete Scholarship Fund</b>	30,000
<b>Santa Cruz County Sheriff's Reserve</b>	3,150

**TOTAL 2010 DONATIONS: \$304,657**



Item #: **3.R.**

## CITY COUNCIL AGENDA REPORT

**MEETING OF MAY 12, 2011**

FROM: OFFICE OF THE CITY CLERK

DATE: MAY 2, 2011

SUBJECT: ORDINANCE AMENDING SECTIONS 12.12.040, 12.12.110, 12.12.190, AND 12.12.270 OF THE CAPITOLA MUNICIPAL CODE PERTAINING TO COMMUNITY TREE AND FOREST MANAGEMENT [2<sup>ND</sup> READING]

---

**Recommended Action:** By motion and roll call vote, adopt the proposed Ordinance Amending Sections 12.12.040, 12.12.110, 12.12.190, and 12.12.270 of the Capitola Municipal Code pertaining to Community Tree and Forest Management, as submitted. *[Note: Council Member Nicol voted NO on the first reading of this ordinance, and he would need to announce prior to action on the Consent Calendar a NO vote on this item.]*

---

### **BACKGROUND**

At its meeting of April 28, 2011, the City Council received information from Community Development Director Derek Johnson regarding recommended amendments to the Municipal Code pertaining to various sections of the City's Community Tree and Forest Management regulations. After Council discussion regarding the proposed ordinance, the following action was taken:

**ACTION:** Council Member Termini moved, seconded by Council Member Harlan, to pass the proposed Ordinance Amending Sections 12.12.040, 12.12.110, 12.12.190, and 12.12.270 of the Capitola Municipal Code pertaining to Community Tree and Forest Management to a second reading, as submitted. The motion carried on the following vote: AYES: Council Members Harlan, Termini, Storey, and Mayor Norton. NOES: Council Member Nicol. ABSENT: None. ABSTAIN: None.

Staff was also directed to report back to the Council in one year.

### **DISCUSSION**

The proposed ordinance is before the City Council for its second reading and final adoption. If adopted, this ordinance will take effect and be in full force thirty (30) days after its final adoption: June 11, 2011.

### **ATTACHMENTS**

Draft Ordinance

**Report Prepared By:** Pamela Greeninger, MMC  
City Clerk

**Reviewed and Forwarded**  
**By City Manager:** \_\_\_\_\_

# DRAFT

## ORDINANCE NO.

### AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAPITOLA AMENDING SECTIONS 12.12.040, 12.12.110, 12.12.190, AND 12.12.270 OF THE CAPITOLA MUNICIPAL CODE PERTAINING TO COMMUNITY TREE AND FOREST MANAGEMENT

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CAPITOLA AS FOLLOWS:

Section 1. Subsection A. of Section 12.12.040 of the Capitola Municipal Code is hereby amended to add paragraph 6. to read as follows:

“6. Require applicants to cover the costs to prepare an independent arborist report to support the findings under Section 12.12.110 D. or deny an application under this Section.”

Section 2. Subsection D. of Section 12.12.110 of the Capitola Municipal Code is amended to read as follows:

“D. Findings and Conditions.

1. The tree removal is in the public interest based on one of the following:

- a. Because of the health or condition of the tree, with respect to disease or infestation; or
- b. For safety considerations or danger of falling on persons or property; or
- c. In situations where a tree has caused, or has the potential to cause, unreasonable property damage.

2. Pruning, root removal, and all other feasible alternatives to removal have been applied and were not sufficient to resolve the problem.

3. Replacement trees and locations have been identified, and as a last resort in-lieu fees were paid as a condition of the permit in accordance with Section 12.12.190, especially subsections D and E of Section 12.12.190.

4. The removal of the tree would not be contrary to the purposes of this chapter or Chapter 17.95.

5. The approved pruning of heritage trees shall be conducted in the presence of a licensed certified arborist.”

Section 3. Subsection A. of Section 12.12.190 of the Capitola Municipal Code is amended to read as follows:

“A. Tree Replacement Ratio. An approval for tree removal under this chapter shall be conditioned upon the applicant planting, at some other location on the subject property, replacement trees to compensate for the removed tree(s) on a ratio of at least two trees or more for each one tree removed, as determined by the director. Replacement trees and/or in-lieu fees are not required if post-removal tree canopy coverage on the site or parcel will be thirty percent or more. Native trees grown from locally or regionally collected stock are preferred, in the case where a native tree is not appropriate as determined by the Community Development Director, a non-invasive exotic tree may be planted.”



Section 4. Paragraphs 1 and 2 of Subsection B. of Section 12.12.270 of the Capitola Municipal Code are hereby amended to read as follows:

“1. Non-heritage Tree Violations.

a. The violation of any provision contained in this chapter is declared to be unlawful and shall constitute a public nuisance, subject to the penalties as prescribed in this chapter. Such penalties may be assessed also against a certified arborist, property owner, or contractor who performed work in violation of this section. In addition thereto, any person unlawfully removing, destroying or damaging any protected tree shall be penalized as follows:

1) Replacing the unlawfully removed tree with one or more new trees which, in the opinion of the community development director or planning commission, will provide equivalent aesthetic quality in terms of size, height, location, appearance, age and other characteristics of the unlawfully removed tree. Such trees shall be located on site where the tree was removed.

2) Where similar replacement trees will not provide reasonably equivalent aesthetic quality because of the size, height, location, appearance, age and other characteristics of the unlawfully removed or damaged tree at the discretion of the Community Development Director or Planning Commission, the Community Development Director shall calculate the value of the removed tree in accordance with the latest edition of the Guide for Establishing Values of Trees and Other Plants, as prepared by the Council of Tree and Landscape Appraisers. Upon the determination of such value, the Community Development Director may require either a cash payment to the City, and/or the planting of replacement trees as designated by the Community Development Director, or any combination thereof, in accordance with the following:

a) Cash payment for any portion or all of the value of the removed tree in accordance with this section, and

b) The replacement of removed trees, the retail costs of such trees, as shown by documentary evidence satisfactory to the Community Development Director, shall be offset against the value of the removed or damaged tree, but no credit shall be given for transportation, installation, maintenance and other costs incidental to the planting and care of the replacement trees.

3) Where a violation(s) of this section has previously occurred with the same property owner, agent, certified arborist or contractor, or advance knowledge of the requirements of this section have been provided to the property owner, agent certified arborist or contractor, the Community Development Director or Planning Commission, at their discretion, shall require payment of a double penalty fee pursuant to Section 12.12.270 B.1.

4) All applications and permit fees paid to the city shall be forfeited.

b. In addition to the civil penalty herein above prescribed, the city shall also recover the cost of staff time, attorney fees and court proceedings incurred in connection with the violation.

2. For Heritage Trees. A penalty pursuant to Section 12.12.270 B.1. shall be charged. In addition to the penalty herein prescribed, the city shall also recover the cost of staff time, attorney fees and court proceedings incurred in connection with the violation.”

Section 5. This ordinance shall take effect and be in full force thirty (30) days after its final adoption.

This ordinance was introduced on the 28<sup>th</sup> day of April, 2011, and was passed and adopted by the City Council of the City of Capitola on the 12<sup>th</sup> day of May, 2011, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

DISQUALIFIED:

APPROVED:

\_\_\_\_\_  
Dennis R. Norton, Mayor

ATTEST:

\_\_\_\_\_, MMC  
Pamela Greeninger, City Clerk



Item #: **3.S.**

## CITY COUNCIL AGENDA REPORT

MEETING OF MAY 12, 2011

FROM: DEPARTMENT OF PUBLIC WORKS  
DATE: MAY 6, 2011  
SUBJECT: DESIGNATION OF CITY AGENTS FOR STATE AND FEDERAL DISASTER ASSISTANCE

---

**Recommended Action:** By motion and roll call vote adopt a resolution designating the City Manager, Finance Director, and Public Works Director as agents of the City of Capitola authorized to provide information and sign agreements with the California State Office of Emergency Services for all matters pertaining to current and future disasters.

---

### **BACKGROUND**

The tsunami that hit the west coast of California on March 11, 2011, has been declared a Federal Disaster and as such the City is eligible to receive reimbursement for costs associated with our response. The city incurred costs for personnel overtime and equipment cost that will be eligible for reimbursement. The total qualifying costs are approximately \$7,000. In order to file a claim with the State Office of Emergency Services, the city must adopt a resolution designating certain positions as having authority to act on the City's behalf.

### **DISCUSSION**

The designations are by title, not name, and will be good for future disaster declaration for the next five years. Staff recommends that the City Council appoint the City Manager, Finance Director, and Public Works Director as agents for the City. A resolution included as Attachment 1 has been drafted per language provided by the State, for the Council's consideration.

### **FISCAL IMPACT**

The Federal Government will reimburse 75% of eligible costs and the State will reimburse at a rate of 18.75%. If approved the city should receive 93.75% reimbursement of approximately \$7,000.

### **ATTACHMENTS**

Draft Resolution

**Report Prepared By:** Steven Jesberg  
Public Works Director

**Reviewed and Forwarded  
By City Manager:**

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# DRAFT

## RESOLUTION NO.

### RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA DESIGNATING AGENTS FOR DISASTER ASSISTANCE WITH THE STATE OFFICE OF EMERGENCY SERVICES

**WHEREAS**, the City of Capitola has incurred costs for disaster related responses and damage repair to city infrastructure and city owned property; and

**WHEREAS**, requirements of the California State Office of Emergency Services requires the City to appoint designated agents to represent the City.

**NOW, THEREFORE, BE IT HEREBY RESOLVED** by the City Council of the City of Capitola that the **City Manager, or Finance Director, or Public Works Director** are hereby authorized to execute for and on behalf of the City of Capitola, a public entity established under the laws of the State of California, this application and to file it in the Office of Emergency Services for the purpose of obtaining certain federal financial assistance under P.L. 93-288 as amended by the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1988, and/or state financial assistance under the California Disaster Assistance Act.

**BE IT FURTHER RESOLVED** that the City of Capitola, a public entity established under the laws of the State of California, hereby authorizes it agent(s) to provide to the State Office of Emergency Services for all matter pertaining to such state disaster assistance the assurances and agreement required.

**BE IT FURTHER RESOLVED** that this is universal resolution and is effective for all open and future disasters.

**I HEREBY CERTIFY** that the above and foregoing resolution was passed and adopted by the City Council of the City of Capitola at its regular meeting held on the 12<sup>th</sup> day of May, 2011, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

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Dennis R. Norton, Mayor

\_\_\_\_\_, MMC  
Pamela Greeninger, City Clerk



Item #: **3.T.**

## CITY COUNCIL AGENDA REPORT

MEETING OF MAY 12, 2011

FROM: DEPARTMENT OF PUBLIC WORKS

DATE: MAY 6, 2011

SUBJECT: APPROVAL OF A SOLE SOURCE CONTRACT WITH BOWMAN AND WILLIAMS ENGINEERS FOR THE INVESTIGATION AND DESIGN OF REPAIRS FOR SLOPE FAILURES IN THE PACIFIC COVE MOBILE HOME PARK AS A RESULT OF THE MARCH FLOODS

---

**Recommended Action:** By motion and roll call vote award a sole source contract with Bowman and Williams in the amount of \$32,840 for investigation and repair design work, including geotechnical professional services, for three slope failures along the northern bank of the Pacific Cove Mobile Home Park that occurred during the March 24<sup>th</sup> and March 26<sup>th</sup> floods.

---

### **BACKGROUND**

During damage assessment work following the March 2011 floods, one large and two small slope failures were discovered along the northern bank of the Pacific Cove Mobile Home Park. All three slides are either currently impacting or will likely impact private property along Pilgrim Drive.

### **DISCUSSION**

City staff has engaged Bowman & Williams Engineers to investigate and design repairs to mitigate damage to private property. Bowman and Williams was selected due to the fact that they have designed other retaining wall repairs throughout the park and have extensive survey and historical knowledge of the site. Staff is recommending that the City Council approve a sole source contract with Bowman and Williams in accordance with the City's purchasing policy.

Bowman and Williams' work includes hiring Haro, Kasunich, and Associates, Inc. to complete geotechnical evaluations and recommendations for this project. Once the design work is completed the project will be put out to bid per standard public contracting procedures. It is anticipated that the investigation and design work will take approximately eight weeks to complete and the work will be completed this summer.

### **FISCAL IMPACT**

The cost of this work, like all other flood damage work, will be paid from an account in the City Manager's Department. These costs, along with other flood response costs, will be eligible for partial reimbursement through CalEMA and FEMA.

### **ATTACHMENTS**

1. Proposal from Bowman and Williams Engineers dated May 2, 2011
2. Sole Source Purchases Determination

**Report Prepared By:** Steven Jesberg  
Public Works Director

**Reviewed and Forwarded  
By City Manager:**



## BOWMAN & WILLIAMS

CONSULTING CIVIL ENGINEERS  
ESTABLISHED IN 1908, A CALIFORNIA CORPORATION SINCE 1974

1011 CEDAR • PO BOX 1621 • SANTA CRUZ, CA 95061-1621  
PHONE (831) 426-3560 FAX (8321) 426-9182  
www.bowmanandwilliams.com

May 2, 2011

**Steve Jesberg, Public Works Director**  
City of Capitola Department of Public Works  
420 Capitola Avenue  
Capitola, CA 95010

Subject: **Proposal for Professional Engineering Services, Pacific Cove Mobile Home Park Slope Failure Mitigation Project, Our Project No. 24365-1**

Dear Steve,

We are pleased to have this opportunity to provide you with this Proposal for Professional Engineering Services related to the Pacific Cove Mobile Home Park Slope Failure Mitigation Project. The slope above spaces 71 and 72 has failed in a landslide and the wooden retaining wall adjacent to spaces 71 through 74 is failing. The rear yard of 420 Pilgrim, above the failed area, is showing signs of settlement of more than a foot, with cracks paralleling the top of slope on the inside of the fence.

You stated that the owner of 520 Pilgrim (five houses towards the east, and adjacent to the new wall constructed in 2007, behind space 62) notified you of some settlement in their rear yard also. There are some cracks along the top of slope similar to those at 420 Pilgrim, but not quite as severe. We shall include some evaluation of that area as well. This is adjacent to the retaining wall replacement project done in 2007, so we can compare the current condition of the rear of the 520 Pilgrim with that measured previously to determine the extent of the settlement. Also, behind spaces 80 and 81 the old wooden retaining wall has failed and needs replacement.

We understand that the City would like a proposal from Bowman & Williams to provide the necessary Engineering and Surveying Services to prepare plans for the remediation of the slope and retaining wall failures and to arrest the settlement at the top of the slope. This will involve boundary and topographic surveying, geotechnical engineering, grading and retaining wall design, storm water analysis and erosion control design, and preparation of the design development and construction documentation for the construction of the project. We are assuming that the City would be providing Project Construction Management.

We propose to following specific scope of services:

1. Preliminary Assessment. We propose to provide a preliminary assessment of the project requirements, scope, including field meetings at your direction. We estimate that our fee to provide the Preliminary Assessment to be about \$1,000.00.
2. Topographic and Boundary Survey. We propose to survey the project area and prepare a topographic map of the site for use in the project documents. The survey would be based on U.S.G.S. datum and coordinated with the survey work Bowman & Williams has done in the Village area in the past. We shall specifically locate the boundary line between the City owned and private properties to the north. The area to be surveyed shall be about 100 feet east to west, and about 60 feet north to south. Also we shall survey the area around the failed wall behind spaces 80 and 81 to determine the scope of the replacement wall. The survey shall include the terrain, structures, trees larger than 6" DBH, surface utilities, fences, decks, patios and mobile homes. We shall also re-survey the top of the slope behind 520 Pilgrim to assess any movement there since the 2007 survey. We estimate that our fee to provide the topographic and boundary survey to be about \$7,000.00.

2. Geotechnical Engineering. We propose to engage Haro-Kasunich Associates as a sub consultant to provide the Geotechnical Investigation Report describing recommendations for design of the grading and retaining walls. Their specific Scope of Services is attached. We estimate that our fee to provide the geotechnical engineering to be about \$13,340.00
3. Preliminary Slope Failure Mitigation Plan. Based on the Geotechnical Engineer's recommendations and current building standards we propose to prepare a Preliminary Slope Failure Mitigation Plan showing the extent of the work required sufficiently for review by the Geotechnical Engineer, City Staff, and other stakeholders. The Preliminary Plans shall show site demolition, site improvements, grading, drainage and retaining wall layout and profiles. We estimate that our fee to provide the Preliminary Slope Failure Mitigation Plan to be about \$4,500.00.
4. Final Slope Failure Mitigation Plans. Based on review of the preliminary plans, we propose to provide Final Slope Failure Mitigation Plans for the project. In addition to the information shown on the Preliminary plans, revised based on review comments, the final plans shall also show the necessary details, specifications and cost estimates to facilitate construction. We estimate that our fee to provide the Final Slope Failure Mitigation Plan to be about \$6,000.00. This estimate could be affected by the results of review of the preliminary plans. If we find that we are going to exceed this estimate we shall notify you prior to proceeding with Additional Services.
5. Construction Staking. Once the project is ready for construction we propose to provide construction staking. The construction staking we can estimate once the plans are complete and we see the extent of the project. The City could also choose to require that the Contractor include this in their bid.
6. Lot Corner Monumentation. Once the project is complete we propose to provide lot corner monumentation. The lot corner monumentation will be done to show the boundary between the private property and the City's. The State of California requires that a Corner Record be filed and recorded with the County. We propose to prepare and file a Corner Record for the lot adjacent to the project area and estimate the fee to be about \$1,000.00.
7. Additional Services. We initially budget a particular amount of Engineer and Staff time for each of the tasks outlined. Time for revision to the plans is anticipated, but is finite. Time for meetings and field visits are also included but are limited. Unforeseen tasks may arise during the work that may cause us to exceed those estimates. That budget will be reviewed for adequacy at each design phase, and the City will be kept apprised of the design budget status. Services not included in the above described scope of work are Additional Services.

We perform our services on a time basis. For your budgeting and comparison purposes we estimate that to provide the above described work our fee would be about \$32,840.00. We expect a first draft of the project plans to be complete within six weeks. This does not include Construction Staking. We trust that this satisfactorily reflects your desires as to the scope of the work. We thank you for this opportunity to participate with you in this project. Please give us a call if you have any questions or comments.

Very truly yours,  
Bowman & Williams



Joel F. Ricca, R.C.E. 53588  
Principal Engineer

P11-039  
7 April 2011

MR. JOEL RICCA, P.E.  
Bowman and Williams  
Civil Engineers, Inc.  
1011 Cedar Street  
Santa Cruz, California 95060

Subject: Proposal Agreement for Geotechnical Investigation

Reference: Landslide Evaluation and Proposed Retaining Wall  
Pacific Cove Mobile Home Park  
City of Capitola, California

Dear Mr. Ricca:

Haro, Kasunich and Associates is pleased to submit this proposal to perform a Geotechnical Investigation for the referenced project. On 5 April 2011, we met with you at the site to look at the failed retaining wall behind Units 70 to 73 which includes a landslide impacted failure zone, and to develop a scope of work and cost estimate for geotechnical services. The isolated landslide occurred on the west facing slope descending from the slope edge at the rear yard of 420 Pilgram Drive down to Unit No. 71. We understand the slope failed as a slump-type slide during the course of a heavy rainfall event. Slide material composed of soil and organic material has moved downslope several feet creating a 10 foot ( $\pm$ ) headscarp. The headscarp has encroached to within several feet of Unit No. 71.

The preliminary scope of the project we understand is to be construct a steel soldier pile retaining wall behind Units 70 to 73 as a replacement to the existing wall to stabilize the toe of the slope. The wall may have tieback anchors to reduce the depth of foundation embedment. Moreover, an evaluation of the hillside at 420 Pilgram Drive and 520 Pilgram Drive are to be part of the initial study.

We understand Bowman and Williams have been retained to design the wall and prepare plans for the project which is to include a topographic map of the project site areas in question. Haro, Kasunich and Associates would request that the topographic information include 420 and 520 Pilgram Drive property rear yards and hillside down to the trailer units.

#### **PURPOSE**

The purpose of our investigation will be to explore the surface and subsurface conditions at the toe of the slope behind Units 70 to 74, and 420 and 520 Pilgram Drive rear properties. To develop preliminary geotechnical criteria and recommendations for



Mr. Joel Ricca, P.E.  
P11-039  
Pacific Cove Mobile Home Park  
7 April 2011  
Page 2

design and construction of the lower retaining wall. At this time it is not certain what remediation measures, if any, will be taken behind 420 and 520 Pilgram Drive, thus additional geotechnical-related services conceivably will be required to address engineering issues should reinforcement of the hillside be undertaken by the City.

This proposal is specific to the location and scope of construction work discussed in our site meeting with Mr. Ricca. In the event the size of the project changes substantially, or if additional requirements regarding analysis of the site come about, we reserve the right to modify this proposal or to submit an additional proposal reflecting the new scope of work.

This proposal is for a geotechnical investigation only and does not include a geologic investigation.

#### **SCOPE OF WORK**

We propose the following scope of work:

- A. Site reconnaissance and review of available reports and maps in our files and provided by City of Capitola Public Works and Bowman and Williams regarding the site and region.
- B. The boring locations will be premarked and Underground Service Alert (USA) will be notified a minimum of 48 hours prior to the start of drilling operations. We request the City's Public Works Department locate private utility lines in the mobile home park project area. HKA can make the arrangements to have a Private Locator come out. These services by the Locator, we recommend be billed directly to you by the Private Locator.
- C. A field exploration program consisting of logging and interval sampling of soil encountered in a minimum of five (5) borings drilled 20 to 40 feet deep or auger refusal (50 blows/6 inches) whichever is the shallower, using track or truck drill equipment and limited access portable drill equipment. Due to difficult access conditions we estimate 1.25 days of drilling operations to complete the field exploration. We anticipate three (3) borings along the back side of Units 70 to 73 near the toe of slope and one (1) boring between Units 70 to at the rear yard of 420 Pilgram Drive and another at the rear yard of 520 Pilgram Drive. Modified California split-spoon and Standard Penetration Tests (SPT) will be performed during sampling at selected depths. The soil samples obtained will be sealed and returned to the laboratory for testing.

Mr. Joel Ricca, P.E.  
P11-039  
Pacific Cove Mobile Home Park  
7 April 2011  
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- D. Following the completion of drilling, the bore holes on the 420 and 520 Pilgram Drive properties will be grouted with two sack slurry to the surface.
- E. Laboratory testing and soil classification of select samples obtained. Moisture content and dry density tests of selected samples will be performed to evaluate the consistency of the in situ soils. Atterberg Limit tests will be performed to aid in soil classification. Direct Shear tests will be performed to evaluate soil shear strength. Direct Shear test samples will be saturated a minimum of 24 hours prior to testing. Samples will be purged from the laboratory after 60 days unless prior arrangements have been made.
- F. Perform slope stability analyses of the slope failure zone. The aims of the slope stability analyses are:
- To understand the development and form of the slope failure and the process that led to the existing condition.
  - To assess the relative stability of the impacted hillside.
  - To assess the global stability of the proposed retaining wall stabilization.
  - To analyze and understand the failure mechanism and the influence of environmental factors, i.e. site drainage, groundwater conditions and seismic loading on the slope.
- G. Review and engineering analysis of collected data and test results. Based on the findings, we will evaluate subsoil characteristics, perform engineering analysis; develop conclusions as to mode of failure; develop geotechnical design criteria and recommendations which will include:
- Development of a subsurface profile based on the exploratory borings and laboratory test results;
  - Criteria for retaining wall design, including geotechnical-related foundation design criteria (allowable bearing capacity for shallow and deep foundation systems); tieback anchors, and lateral earth pressures;
  - California Building Code (CBC) seismic design parameters for structural design of the proposed structure as appropriate;

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- Criteria for site grading including compaction requirements for engineered fill and offer cut slope and fill placement recommendations; and
- General recommendations for retaining wall backfill, backdrain material and surface drainage.

H. Preparation and submittal of a geotechnical investigation report presenting; 1) the results of our investigation; 2) the geotechnical design criteria for a soldier pile and lagging retaining wall; and 3) the recommendations for the project as specified above.

#### **ADDITIONAL SERVICES**

If requested, the following additional services could be provided:

- A. Labor and equipment to perform additional geotechnical study should the initially collected field data be insufficient to address specific site conditions and/or requirements set by your designers and/or by the preliminary findings of this study.
- B. Consultation with Engineers during wall design; geotechnical review of plans and calculations; and preparation and submittal of a plan review letter.
- C. Any other items of work not specifically mentioned under the Scope of Work.

#### **OWNER-FURNISHED SERVICES**

It is understood that the Owner would furnish the following:

- A. Right of entry and access.
- B. All available topographic data, maps, drawings, and reports pertinent to the referenced site.
- C. Location of all private underground utilities.

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### **EXTRA SERVICES**

#### **Construction Observation Services**

Construction observation services will be necessary during earthwork and during foundation construction and will be undertaken on an "as required" basis as authorized by the Client, and will be considered extra services.

Extra Services will be billed on a "time and material" basis in accordance with our current Fee Schedule (1 June 2008).

### **TERMS AND CONDITIONS**

It is understood that we would be granted free access to the site for all necessary equipment and personnel, and that the Client has notified any and all possessors of the project site, whether they be lawfully or unlawfully in possession.

Services performed by us under this Agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. The Client recognizes that subsurface conditions may vary from those encountered at the location where borings or tests are made by the Consultant; and that the data, interpretations, and recommendations of the Consultant are based solely on the information available to him.

### **THE AGREEMENT**

This **AGREEMENT** is made by and between **HARO, KASUNICH AND ASSOCIATES, INC.**, hereinafter referred to as **ENGINEER**, and **BOWMAN AND WILLIAMS CIVIL ENGINEERS, INC.**, hereinafter referred to as **CLIENT**.

The **AGREEMENT** between the parties consists of these **TERMS**, and any exhibits or attachments noted in this **PROPOSAL**. Together these elements will constitute the entire **AGREEMENT**, superseding any and all prior negotiations, correspondence, or agreements, either written or oral. Any changes to this **AGREEMENT** must be mutually agreed to in writing.

### **STANDARD OF CARE**

Services performed by the **ENGINEER** under this **AGREEMENT** are expected by the **CLIENT** to be conducted in a manner consistent with the level of care and skill ordinarily exercised by members of the geotechnical engineering profession providing similar services and practicing contemporaneously under similar conditions at the same time and in the same locality of the project.

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No other warranty beyond the Standard of Care, expressed or implied, is made or intended in connection with the work to be performed by us or by the proposal for consulting or other service, or by the furnishing of oral or written reports of findings made by us.

The **CLIENT** recognizes that subsurface conditions may vary from those observed at locations where borings, surveys, tests or explorations are made, and that site conditions may change with time. Data, interpretations, and recommendations by the **ENGINEER** will be based solely on information available to the **ENGINEER**. The **ENGINEER** is responsible for those data, interpretations, and recommendations, but will not be responsible for any other parties' interpretations or use of the information developed.

#### **SITE ACCESS, SIT CONDITIONS, AND SITE PLANS**

**CLIENT** will grant or obtain free access to the site for all equipment and personnel necessary for the **ENGINEER** to perform the work set forth in this **AGREEMENT**. The **CLIENT** will notify any and all possessors of the project site that **CLIENT** has granted the **ENGINEER** free access to the site. The **ENGINEER** will take reasonable precautions to minimize damage to the site, but it is understood by **CLIENT** that, in the normal course of work, some property damage may occur and that the **ENGINEER** is not responsible for repairing or compensating **CLIENT** for any such damages.

**CLIENT** is responsible for the accuracy of any surveys, survey stakes, maps and/or building plans provided by **CLIENT**. **CLIENT** shall accurately identify the location of all subterranean structures and utilities and shall advise **ENGINEER** of such structures and utilities.

**ENGINEER** will take reasonable precautions to avoid known subterranean structures, and the **CLIENT** waives any claim against **ENGINEER**, and agrees to defend, indemnify, and hold **ENGINEER** harmless from any claim or liability for injury or loss, including costs of defense, arising from damage done to subterranean structures and utilities not identified or accurately located. In addition, **CLIENT** agrees to compensate **ENGINEER** for any time spent or expenses incurred by **ENGINEER** in defense of any such claim with compensation to be based upon **ENGINEER's** prevailing fee schedule and expense reimbursement policy.

#### **OWNERSHIP OF INSTRUMENTS OF SERVICE**

All reports, logs of borings, field data, notes, laboratory test data, calculations, estimates and other documents prepared by our firm are instruments of service and will be

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retained for a period of 3 years following submission of the final report during which time they will be made available to you at all reasonable times for review.

#### **SAMPLE DISPOSAL**

**ENGINEER** will dispose of all remaining soil and rock samples thirty (30) days after submission of report covering those samples. Further storage or transfer of samples can be made at **CLIENT's** expense upon **CLIENT's** prior written request.

#### **CONSTRUCTION MONITORING**

If retained for construction monitoring, **ENGINEER's** monitoring duties are limited to reporting observations and providing professional opinions to the **CLIENT** only with respect to those matters specified in the **PROPOSAL**.

No action of the **ENGINEER** or the **ENGINEER's** site representative shall be construed as altering any **AGREEMENT** between the **CLIENT** and others.

**ENGINEER** has no right to reject or stop work of any agent of the **CLIENT**. Such rights are reserved solely to the **CLIENT**. Furthermore, the **ENGINEER's** presence on the site does not in any way guarantee the completion or quality of the performance of the work of any party retained by the **CLIENT** to provide construction-related services.

The **ENGINEER** will not be responsible for and will not have control of the specific means, methods, techniques, sequences, or procedures of construction selected by any agent or agreement of the **CLIENT**, or safety precautions and programs incident thereto.

In the event of termination, **ENGINEER** will be paid for services performed prior to the date of termination plus reasonable termination expenses including the cost of completing analysis, records and reports necessary to document job status at the time of termination.

#### **BILLING AND PAYMENT**

Because of the unknowns associated with this investigation the project will be billed on a time and material basis. **CLIENT** will pay **ENGINEER** on a time and materials basis in accordance with the schedule of fees and other equipment charges, as shown in this **PROPOSAL** and its attachments. Invoices will be submitted to **CLIENT** by **ENGINEER**, and will be due and payable upon presentation. If **CLIENT** objects to all or any portion of any invoice, **CLIENT** will so notify **ENGINEER** in writing within fourteen (14) calendar days of the invoice date, identify the cause of disagreement, and pay when due that portion of the invoice not in dispute. The parties will immediately make every effort to

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settle the disputed portion of the invoice. In the absence of written notification described above, the balance as stated on the invoice will be paid. Invoices are delinquent if payment has not been received within thirty (30) days from date of invoice. **CLIENT** will pay an additional charge of 1½ (1.5) percent per month (or the maximum percentage allowed by law, whichever is lower) on any delinquent amount, except any portion of the invoice amount in dispute and resolved in favor of **CLIENT**. Payment thereafter will first be applied to accrued interest and then to the principle unpaid amount. All time spent and expenses incurred (including any attorney's fees) in connection with collection of any delinquent amount will be paid by **CLIENT** to **ENGINEER** per **ENGINEER's** current fee schedules. In the event **CLIENT** fails to pay **ENGINEER** within sixty (60) days after invoices are rendered, **CLIENT** agrees that **ENGINEER** will have the right to consider the failure to pay the **ENGINEER's** invoice as a breach of this **AGREEMENT**.

#### **TERMINATION**

This **AGREEMENT** may be terminated by either party seven (7) business days after delivery of written notice by fax, e-mail or hand delivery in the event of any breach of any provision of this **AGREEMENT** or in the event of substantial failure of performance by the other party, or if the **CLIENT** suspends the work for more than three (3) months. This **AGREEMENT** may also be terminated if **CLIENT** suspends work for a period of less than three (3) months if the right to so terminate is specified in this **PROPOSAL**.

In the event of termination, **ENGINEER** will be paid for services performed prior to the date of termination plus reasonable termination expenses including the cost of completing analysis, records and reports necessary to document job status at the time of termination.

#### **RISK ALLOCATION**

There are a variety of risks which potentially affect the **ENGINEER** by virtue of entering into an **AGREEMENT** to perform professional engineering services on the **CLIENT's** behalf. One of these risks stems from the potential for human error. In order for the **CLIENT** to obtain the benefit of a fee which includes a lesser allowance for dealing with the **ENGINEER's** risks, the **CLIENT** agrees as follows:

- A. In no event shall **ENGINEER** be liable for consequential damages, including, without limitation, loss of use or loss of profits, incurred by **CLIENT** or **CLIENT'S** subsidiaries or successors, regardless of whether such claim is based upon alleged breach of contract, willful misconduct or negligent act or omission, whether professional or non-professional.

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- B. **ENGINEER** shall defend, indemnify, hold harmless and protect the **CLIENT**, their officers, employees, representatives, agents, and volunteers from and against any and all liability, loss, damage, expense, cost (including without limitation to costs and fees of litigation) of every nature, to the extent, arising out of or in connection with **ENGINEER'S** (any subcontractor, anyone directly or indirectly employed by anyone for whose acts any of them may be liable) performance of this work hereunder or failure to comply with any of its obligations contained in the Agreement, provided that any such losses, damages, or liabilities do not arise out of the willful or intentional acts, or omissions of **CLIENT**. If liability arises due to the concurrent negligence of **ENGINEER** and the **CLIENT**, each party shall contribute costs of any such suits, claims, actions, damages, causes of action, and liability in proportion to its fault as determined under the principles of comparative negligence.
- C. To the fullest extent permitted by law, **CLIENT** shall indemnify and hold harmless **ENGINEER**, **ENGINEER'S** officers, directors, partners, employees, subconsultants and subcontractors from and against any and all costs, losses and damages (including but not limited to all fees and charges of engineer's, architects, attorneys and other professionals and all court, arbitration or other dispute resolution costs) to the extent that such costs, losses and damages were caused by the negligent acts or omissions or other legal fault of **CLIENT** or their collective officers, directors, partners, employees, consultants and contractors with respect to this **AGREEMENT**.
- D. All legal actions by either party against the other for breach of this agreement, or for the failure to perform in accordance with the applicable standard of care, however denominated, that are essentially based upon such breach or failure shall be barred two (2) years from the time claimant knew or should have known of its claim, but, in any event, not later than four (4) years from the substantial completion of our services.
- E. For any damage caused by negligence, including professional errors or omissions, and including unintentional breach of contract by **ENGINEER**, **ENGINEER'S** employees, agents or subcontractors, **ENGINEER'S** liability, and that of **ENGINEER'S** employees, agents and subcontractors, in the aggregate under this agreement is limited to fair compensation according to our insurance or **ENGINEER'S** total compensation, whichever is greater.



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Limitations on liability and indemnities in this **AGREEMENT** are business understandings between the parties and shall apply to all legal and equitable theories of recovery, including breach of contract or warranty, tort including negligence, strict or statutory liability, or any other cause of action, except the sole willful misconduct or gross negligence of **ENGINEER**. "Parties" means the **CLIENT** and the **ENGINEER** and their officers, employees, agents, affiliates, and subcontractors.

Both **CLIENT** and **ENGINEER** agree that they will not be liable to each other, under any circumstances, for special, consequential, or punitive damages arising out of or related to this **AGREEMENT**.

#### **DISCOVERY OF UNANTICIPATED HAZARDOUS MATERIALS**

**CLIENT** warrants that a reasonable effort to inform **ENGINEER** of known or suspected hazardous materials on or near the project site has been made.

Hazardous materials may exist at a site where there is no reason to believe they could or should be present. **ENGINEER** and **CLIENT** agree that the discovery of unanticipated hazardous materials constitutes a changed condition mandating a renegotiation of the scope of work or termination of services. **ENGINEER** and **CLIENT** also agree that the discovery of unanticipated hazardous materials may make it necessary for **ENGINEER** to take immediate measures to protect health and safety. **CLIENT** agrees to compensate **ENGINEER** for any equipment decontamination or other costs incident to the discovery of unanticipated hazardous waste.

**ENGINEER** agrees to notify **CLIENT** when unanticipated hazardous materials or suspected hazardous materials are encountered. **CLIENT** agrees to make any disclosures required by law to the appropriate governing agencies. **CLIENT** also agrees to hold **ENGINEER** harmless for any and all consequences of disclosures made by **ENGINEER** which are required by governing law. In the event the project site is not owned by **CLIENT**, **CLIENT** recognizes that it is the **CLIENT's** responsibility to inform the property owner of the discovery of unanticipated hazardous materials or suspected hazardous materials.

Notwithstanding any other provision of the **AGREEMENT**, **CLIENT** waives any claim against **ENGINEER**, and to the maximum extent permitted by law, agrees to defend, indemnify, and save **ENGINEER** harmless from any claim, liability, and/or defense costs for injury or loss arising from **ENGINEER's** discovery of unanticipated hazardous materials or suspected hazardous materials including any costs created by delay of the project and any cost associated with possible reduction of the property's value.

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**CLIENT** will be responsible for ultimate disposal of any samples secured by the **ENGINEER** which are found to be contaminated.

#### **DISPUTE RESOLUTION**

All claims, disputes, and other matters in controversy between **ENGINEER** and **CLIENT** arising out of or in any way related to this **AGREEMENT** shall be submitted to binding arbitration.

The arbitration shall be conducted under the administration and rules of the American Arbitration Association, and the provisions of Sections 1282.6, 1283, and 1283.05 of the California Code of Civil Procedure, as amended, and/or as defined by California Civil Code sec. 1717 and case law.

If three arbitrators are used, a decision of any two of them shall be binding.

The costs of the arbitration, including any American Arbitration Association administration fee, the arbitrator's fee, and costs for the use of facilities during the hearings, shall be borne equally by the parties to the arbitration. Attorneys' fees may be awarded to the prevailing or most prevailing party based on a comparison of the extent to which party has succeeded or failed on its contentions.

Despite the above-mentioned arbitration agreement, if a dispute arises between the parties hereto related to the services provided under this **AGREEMENT** and if, for whatever reason, that dispute is litigated in any court, then:

- A. **CLIENT** and **ENGINEER** agree that said dispute shall only be litigated in Santa Cruz County, and **CLIENT** waives the right to litigate any cause of action between the parties in any county or judicial district except Santa Cruz County.
- B. The prevailing party or most prevailing shall be entitled to recover all reasonable costs incurred, including staff time, court costs, attorney's fees, and other dispute-related expenses.

#### **GOVERNING LAW AND SURVIVAL**

The law of the State of California will govern the validity of these **TERMS**, their interpretation, and performance.

If any of the provisions contained in this **AGREEMENT** are held illegal, invalid or unenforceable, the enforce ability of the remaining provisions will not be impaired.

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Limitations of Liability and indemnities will survive termination of this **AGREEMENT** for any cause.

**COMPENSATION FOR SERVICES**

Our services will be provided in accordance with the rates and terms shown on our attached Standard Fee Schedule (1 June 2008). We estimate the cost to perform the outlined Scope of Services will be \$10,900.00. Subject to variation among the respective tasks, the following is a break-down of the anticipated geotechnical engineering investigation costs:

• Preliminary, Site Reconnaissance and Project Administration	\$ 600.00
• Premark Test Borings for USA Underground	\$ 260.00
• Field Exploration and Drilling Operations	\$ 3,700.00
• Laboratory Testing Program	\$ 1,240.00
• Engineering Analysis, Develop Retaining Wall/ Foundation Recommendations, Preliminary Slope Stability Analysis	\$ 3,040.00
• Preparation of Final Geotechnical Report and Graphics	<u>\$ 2,060.00</u>
Total	\$10,900.00

Additional charges can be incurred should the scope of services be altered or unforeseen circumstances arise during the study. Should unforeseen circumstances arise, they will be brought to your attention for action. Should you have any question regarding the scope of services and/or require further comments, please call our office. If the above proposal meets with your approval, please sign and return both copies to our office. A fully executed copy will be returned to you by mail. Weather permitting, we are prepared to start work immediately upon your authorization.

Respectfully submitted,

**HARO, KASUNICH & ASSOCIATES, INC.**

  
Joseph A. Haro  
C.E. 28506

JAH/dk  
Enclosures  
Copies: 2 to Addressee

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**AUTHORIZATION TO PROCEED WITH GEOTECHNICAL ENGINEERING SERVICES  
LANDSLIDE AND PROPOSED RETAINING WALL  
PACIFIC GROVE MOBILE HOME PARK  
CAPITOLA, CALIFORNIA**

The Parties have read the foregoing, understand completely the terms, and willingly enter into this **AGREEMENT** which will become effective when signed by both parties below.

**BOWMAN AND WILLIAMS CIVIL ENGINEERS, INC.**  
**MR. JOEL RICCA, P.E.**  
**CLIENTS**

\_\_\_\_\_  
By

\_\_\_\_\_  
Position

\_\_\_\_\_  
Date

**HARO, KASUNICH AND ASSOCIATES, INC.**  
**ENGINEER**

\_\_\_\_\_  
By

\_\_\_\_\_  
Position

\_\_\_\_\_  
Date

**FEE SCHEDULE**  
**1 JUNE 2008**

The following schedule presents the rates for professional services and laboratory tests. If desired, services other than construction observation and testing can be contracted on a negotiated fixed fee basis. Hours for professional and technical services are charged portal-to-portal from our office. Services during construction such as testing and observation of grading require both professional and technical services. Depending on the scope and duration of the construction project, budgets can be estimated. Minimum fee for any project is \$740.00.

**PROFESSIONAL SERVICES**

Principal Consultant	\$200.00 per hour
Principal Engineer	\$190.00 per hour
Coastal Engineer	\$190.00 per hour
Coastal Engineering Geologist	\$185.00 per hour
Senior Engineer	\$165.00 per hour
Staff Engineer	\$130.00 per hour
CAD Technician/Designer	\$ 98.00 per hour
Computer Technician/Engineer Assistant	\$ 87.00 per hour

Expert Witness Fees including Preparation, Consultation, Arbitration, Deposition, Hearings and Court Appearance, including travel time to and from will be billed at one and half (1.5) times the hourly rates indicated above.

Consultation meetings and telephone consultation will be billed at the hourly rate indicated.

**PERSONNEL CHARGES**

Technical Assistant	\$60.00 per hour
Clerical Administration	\$40.00 per hour
Field Technician	\$85.00 per hour
Prevailing Wage Field Technician (PWT) (Subject to DIR)	\$85.00 per hour

**TECHNICIAN OVERTIME HOURLY WAGES**

Weekdays (in excess of 8 hours/day 1.5 times)	\$127.50 per hour
Saturdays (initial 8 hours - 1.5 times)	\$127.50 per hour
Saturdays (in excess of 8 hours - 2.0 times)	\$170.00 per hour
Sundays and Holidays (2.0 times)	\$170.00 per hour

- Field services are billed portal-to-portal in accordance with the following minimum charges:  
2 hours minimum charge for inspections, sampling, testing operations or show-up time;
- Per diem will be billed cost plus 20% but not less than \$100.00/day per person.

**MILEAGE AND INCIDENTAL EXPENSES**

Auto Mileage	\$ 0.505/mile
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Incidental expenses, such as consultant's fee, special services, equipment rental, aerial photographs, out-of-town travel, etc., are reimbursable at cost plus 15%.

## **DRILLING AND SAMPLING**

Drilling rig truck mounted with crew and engineer supervision:	
Mobilization	\$335.00 per hour
Straight Time	\$335.00 per hour
Overtime	\$400.00 per hour
Double Time (Holidays and Sundays)	On Request Cost Plus 15%
Prevailing Wage Drilling	\$380.00 per hour
Overtime	\$480.00 per hour

For crawler-mounted or rotary-wash type drilling rigs, and support equipment the rate is cost plus 15%. Drilling is charged at 5 hours minimum. Time is charged portal-to-portal from yard of engaged Drilling Contractor. Casing, Shelby Tubes and any special sampling or subcontract equipment and related support services will be charged at cost plus 15%.

## **FIELD TESTS**

Plate bearing load, pile load and vane shear tests; piezometer and slope indicator installations; and other special tests will be charged at standard engineering and personnel rates plus cost of and including 15% surcharge for special equipment/personnel.

## **LABORATORY TESTS**

Sample Preparation, per hour	\$ 65.00
Sieve Analysis, pit run with 200 wash, ASTM D-422, per test	\$ 70.00
Percent Passing #200 Sieve (wash)	\$ 60.00
Short Hydrometer Analysis (without Sp. Gr.) ASTM D-422	\$130.00
Specific Gravity (Sand and Gravel) ASTM D-854	\$ 70.00
Moisture Determination and/or Unit Weight, ASTM D-2216	\$ 15.00
Sand Equivalent	\$ 85.00
Atterberg Limits:	
a. Plasticity Index, ASTM D-4318	\$125.00
b. Shrinkage Limit, ASTM D-427	\$155.00
Unconfined Compression, ASTM D-2166	\$ 55.00
Swell Test Shrink-Swell & Expansion Pressure	\$180.00
Direct Shear (quick), per point	\$ 60.00
Consolidation full curve	\$340.00
R-Value	\$185.00
R-Value, Cement, Lime or other additives	\$205.00
Compaction Curve	
a. Modified, 4" mold, ASTM D-1557	\$160.00
b. Modified, 6" mold, ASTM D-1557	\$185.00
c. Impact, California State Highway	\$200.00
d. 1 Point Verification	\$ 60.00
Soil Corrosivity Tests (PH, Resistivity, Soluble Chloride & Sulfate)	\$215.00

Triaxial, permeability and other special tests at hourly rates or as quoted.

Notes: Consultation meetings will be billed at the hourly rates indicated. Field services are billed portal-to-portal with a 2-hour minimum charge. Hourly rates shown are for ordinary engineering services and include all payroll, office overhead, taxes, supplies and insurance. Higher rates are applicable for extra services such as special certifications and projects which require professional liability insurance, etc. Invoices will be prepared at the completion of work or at monthly intervals and are payable upon presentation. Invoices 30 days past due will be assessed a service charge of 1.5% per month.

Note: In the event consultant's fee schedule changes due to any increase of costs such as the granting of wage increases and/or other employee benefits to office employees due to the terms of any labor agreement, or rise in the cost of living, during the lifetime of the agreement, a percentage increase shall be applied to all remaining compensation.

## **CHANGES**

This Fee Schedule is subject to change without notification.



**BOWMAN & WILLIAMS**  
**CONSULTING CIVIL ENGINEERS**  
ESTABLISHED IN 1908, A CALIFORNIA CORPORATION SINCE 1974

1011 CEDAR • PO BOX 1621 • SANTA CRUZ, CA 95061-1621  
 PHONE (831) 426-3560 • FAX (831) 426-9182  
 www.bowmanandwilliams.com

**EXHIBIT C**  
**HOURLY CHARGE RATES**  
 Effective July 26, 2010 – July 25, 2011

OFFICE AND PROFESSIONAL

Court Appearance and Preparation	\$325.00
Principal Engineer (licensed)	\$180.00
Associate Engineer (licensed)	\$165.00
Assistant Engineer	\$150.00
Engineering Assistant	\$120.00
Licensed Surveyor	\$180.00
Surveyor LSIT	\$145.00
Survey Coordinator LSIT 2	\$155.00
Pavement Management Technician	\$125.00
Technical Drafter	\$105.00
Drafter	\$88.00
Administrative Assistant	\$85.00

FIELD SURVEY CREW: \_\_\_\_\_ Construction Surveys, (4) hour minimum

(One Man) Robotic Instrument and Operator	\$240.00
(One Man) GPS and Operator	\$240.00
Survey Crew (Prevailing wage rates)	\$240.00
Three-Man Survey Crew	\$285.00

25% Surcharge is Applied to Hourly Rates for Overtime to Meet Clients Schedule or for Saturday Work.  
 33% Surcharge is applied to Hourly Rates for Sunday and Holiday Work.  
 Field Inspections of Jobs Sites Required Retainer Fee \$500.00 for non established Clients.

EXPENSES

Sub-Consultant Charges X 1.15  
 Fees Advanced on Behalf of Client Actual Fee X 1.25  
 Survey Equipment, Vehicle, Stakes and Mileage (within 50 miles) are included in Hourly Rate  
 Mileage and Transportation over 50 Miles at \$0.50 per mile

COUNTER CHARGE

Record Maps and Deed Research	\$5.00 each doc.
Research Assessors Parcel Number	\$5.00 each
Assessor's Map Pages	\$2.00 each

MISCELLANEOUS

Vellum or Bond CADD Plot	\$5.00 /plot
Mylar CADD Plot	\$12.00/ plot
Color Photo Plot	\$50.00/plot
File Conversion to ACAD 2000 DXF	\$100.00/plot
E-Mail CADD File	\$50.00/plot
Research Archive Files	\$50.00 Each + Plot Cost
Blueprints	\$5.00 per sheet minimum or \$0.20 /SF
Errors and Omission Insurance Coverage in Excess of \$25,000	5% Surcharge on Amount Billed \$500.00 Minimum Charge

\* After July 25, 2010 rates shown will increase by consumer price index for the prior 12 months unless adjusted otherwise.

**ATTACHMENT # 2**  
**Sole Source Purchases Determination**  
**Bowman & Williams, \$31,760, May 12, 2011**

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**BACKGROUND:** The City of Capitola Purchasing and Procurement policy (Administrative Policy III-4), Section II B and C requires telephone quotes for purchases between \$2,000 - \$10,000, and requires a formal RFP bid procedure for purchases over \$10,000. The policy conditions for Sole Source (Section II B1 and B2), which are purchases exempt from the competitive process.

**DISCUSSION:** The contract with **Bowman & Williams Engineers**, in the amount of **\$31,769**, dated **May 12, 2011** is a qualified sole source purchase within the City Administrative Policy III-4 Section B2 **(b)**

**Policy Section B1: Materials, Supplies & Equipment:**

\_\_\_\_\_ (a) Definition. Sole source purchases are used where no secondary source is reasonably available precluding the use of a competitive process.

**Policy Section B2: Consultant or General Services:**

\_\_\_\_\_ (a.) In the case where a consulting firm has satisfactorily performed the previous stage of a project (e.g. a pre-design), or has acquired extensive background and working knowledge, the firm may be selected for follow- up work without solicitations from other firm upon written justification and recommendation of the department head and approval by the City Manager or designee.

  X   (b.) If a firm is a highly recognized authority in a field or specialty, or has unique specific knowledge regarding the project, then the firm may be selected without other solicitations for contracts and upon written justification and recommendation of the department head and approval by the City Manager or designee.

\_\_\_\_\_ (c.) Upon those infrequent occasions when confidence in the consultant and quality of service are important.

**Bowman & Williams has performed a significant amount of survey work within and around the work site and has prepared no less than three retaining wall repair plans for this site in the past. They have knowledge of the park and its properties that will allow them to complete this work in a timely and economic manner.**

---

Dept Head

Date

City Manager

Date





# CAPITOLA REDEVELOPMENT AGENCY AGENDA REPORT

**MEETING OF MAY 12, 2011**

FROM: FINANCE DEPARTMENT

DATE: APRIL 29, 2011

SUBJECT: RDA TREASURER'S REPORT FOR THE QUARTER ENDED MARCH 31, 2011  
(UNAUDITED)

**Recommended Action:** Accept quarterly report.

**BACKGROUND**

The Capitola RDA Treasurer's report is presented quarterly to the RDA Board of Directors.

**DISCUSSION**

RDA cash balance at quarter end was:

Total RDA Cash, 03/31/11			
	RDA Operating	Low/Moderate Income Housing	Total RDA Cash
Bank of America	\$ 92,700	\$ 6,600	\$ 99,300
Local Agency Investment Fund (LAIF)	\$ 3,100	\$ 500	\$ 3,600
Total RDA Cash	\$ 95,800	\$ 7,100	\$ 102,900

Activity and resulting fund balances for RDA Operating and Low/Moderate Income Housing Funds is as follows:

	Beginning Fund Balance - 7/1/2010	Net Prior Qtrs. Activity	Q3, 2010-11		Ending Fund Balance - 3/31/2011
			Revenue	Expenditures	
RDA Operating	\$ 3,067,100	\$ 357,500	\$ 19,600	\$ 3,568,200	\$ (124,000)
Low/Mod Housing	\$ 808,100	\$ 168,100	\$ 7,200	\$ 973,900	\$ 9,500
Total	\$ 3,875,200	\$ 525,600	\$ 26,800	\$ 4,542,100	\$ (114,500)

Significant activity for third quarter 2010-11, ended March 31, 2011, includes:

**Revenue**

\$23,200 net tax increment

\$3,600 LAIF interest

Expenditures:

- \$3,759,070 interfund transfers associated with potential RDA elimination by State of CA
- \$299,250 pass throughs associated with tax increment
- \$ 200,000 City staff time reimbursement
- \$175,330 Library Trust Fund payment (\$162,900) and site preparation study (\$12,430)
- \$49,905 loan interest
- \$38,800 contracted housing subsidies
- \$14,290 other expenditures
- \$5,460 Santa Cruz County Conference and Visitors Center

Following are the four balance sheets that compose the Redevelopment Agency:

	5500	5550	5900	5910	
	Low / Moderate				
	RDA Operating	Income Housing	RDA Capital Asset Group	RDA Long Term Debt	Total RDA
Cash	\$ 95,800	\$ 7,100	\$ -	\$ -	\$ 102,900
Accounts Receivable	\$ -	\$ 2,400	\$ -	\$ -	\$ 2,400
Housing Loans Receivable	\$ -	\$ 2,100,500	\$ -	\$ -	\$ 2,100,500
Capital Assets	\$ -	\$ -	\$ 1,038,900	\$ -	\$ 1,038,900
Other Assets	\$ -	\$ -	\$ -	\$ 3,386,900	\$ 3,386,900
	<u>\$ 95,800</u>	<u>\$ 2,110,000</u>	<u>\$ 1,038,900</u>	<u>\$ 3,386,900</u>	<u>\$ 6,631,600</u>
Accounts Payable	\$ 219,800	\$ -	\$ -	\$ -	\$ 219,800
Deferred Housing Loan Revenue	\$ -	\$ 2,100,500	\$ -	\$ -	\$ 2,100,500
Rispin Purchase Loan	\$ 1,350,000	\$ -	\$ -	\$ -	\$ 1,350,000
Advance from General Fund	\$ -	\$ -	\$ -	\$ 618,000	\$ 618,000
Special Districts Note Payable, yrs. 1-20 (ends 2012)	\$ -	\$ -	\$ -	\$ 40,300	\$ 40,300
Library Note Payable, yrs. 1-20 (ends 2012)	\$ -	\$ -	\$ -	\$ 91,800	\$ 91,800
Note Payable - 2000 Tax Allocation Note (due 2014)	\$ -	\$ -	\$ -	\$ 1,000,000	\$ 1,000,000
Library Building Contract (\$2.6 million) (ends 2018)	\$ -	\$ -	\$ -	\$ 1,636,800	\$ 1,636,800
	<u>\$ 1,569,800</u>	<u>\$ 2,100,500</u>	<u>\$ -</u>	<u>\$ 3,386,900</u>	<u>\$ 7,057,200</u>
Reserved Fund Balance	\$ (1,350,000)	\$ -	\$ -	\$ -	\$ (1,350,000)
Undesignated Fund Balance	<u>\$ (124,000)</u>	<u>\$ 9,500</u>	<u>\$ 1,038,900</u>	<u>\$ -</u>	<u>\$ 924,400</u>

**Report prepared by:**  
**Lonnie Wagner, Accountant II**

**Approved by:**  
**Derek Johnson**  
 Deputy Executive Director \_\_\_\_\_

**Reviewed and forwarded:**  
**Debbie Johnson**  
 RDA Treasurer \_\_\_\_\_



Item #: **3.V.**

## CITY COUNCIL AGENDA REPORT

MEETING OF MAY 12, 2011

FROM: DEPARTMENT OF PUBLIC WORKS  
DATE: MAY 6, 2011  
SUBJECT: ANNUAL AGREEMENT WITH HOPE SERVICES FOR BEACH AND ESPLANADE  
CLEANING

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**Recommended Action:** By motion and roll call vote, approve an agreement with Hope Services in an amount not to exceed \$12,600 for cleaning of the beach and Esplanade sidewalk from June 6, 2011 through September 16, 2011, and authorize the Director of Public Works to execute the agreement on behalf of the City.

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### **BACKGROUND**

For the last nine summers the City has contracted with the Hope Services for trash pickup and cleaning along the beach and the Esplanade. The contract has been very successful as it supported the efforts of the Parks and Streets crews in keeping these areas clean.

### **DISCUSSION**

The Hope Services crews work Monday through Friday for 5 hours a day at a cost of \$175 per day. The crew consists of 2-4 workers and a supervisor. This contract will cover the period June 6, 2011 through September 16, 2011.

### **FISCAL IMPACT**

Funding for the FY2010-11 portion of the contract is included in the funds appropriated for this work in the Public Works Contract Services. Funding in FY2011-12 for this contract is dependent upon the adoption of the 2011-12 fiscal year budget.

### **ATTACHMENTS**

Agreement with Hope Services

**Report Prepared By:** Steven Jesberg  
Public Works Director

**Reviewed and Forwarded  
By City Manager:** \_\_\_\_\_



**Litter Abatement, Beach Clean Up & Sidewalk Maintenance Work Group  
Agreement between HOPE Services, Santa Cruz, CA., and  
The City of Capitola Public Works Department, Capitola. CA.**

**Agreement to provide Litter Abatement and Street Cleaning for the City of Capitola**

**HOPE Services does hereby propose to provide the necessary labor and supervision, to perform the services below. This agreement is entered into this \_\_\_\_ day of \_\_\_\_, between The City of Capitola, Capitola, CA., and HOPE Services, a California non-profit corporation whose address is 220 Lincoln Street, Santa Cruz, CA. 95060, thereafter referred to as "Contractor" This agreement is for a period between June 6<sup>th</sup>, 2011 and through September 16<sup>th</sup>, 2011.**

**HOPE Services is a non-profit organization that serves developmentally disabled adults with various programs including vocational support. The State Department of Rehabilitation refers clients for services and the San Andreas Regional Center manages the individual cases of each of the Skills Center clients. We are an accredited organization meeting Federal accreditation standards set by the Commission of the Accreditation of Rehabilitation Facilities (CARF). Since 1953 we have provided services to individuals with developmental disabilities.**

**PROPOSAL TO:**

**City of Capitola  
Steve Jesberg  
Public Works Director  
420 Capitola Ave  
Capitola, CA. 95010**

**SCHEDULE: Hours: Monday through Friday: 11:00am to 4:30pm with a half hour lunch break.**

**WORK EQUIVELANCIES:**

**The Equivalency of 2 non-disabled workers  
One Working Supervisor**

**RATE: \$175.00 per day**

**\*From time to time additional HOPE Services staff may accompany the work group to evaluate other clients at no additional charge to the City of Capitola.**

**MATERIALS:**

**All Cleaning Supplies, such as, brooms, dustpans, grab-sticks, litter collection bags etc. to be provided by the City of Capitola.**

**SPECIAL CLOTHING: HOPE Services will provide our Work Crew with appropriate weather gear.**

**STORAGE OF SUPPLIES AND SPECIAL CLOTHING: The City of Capitola will supply a place to store cleaning supplies and the Work Group's Special Clothing.**

**DUTIES:**

**Meet daily at the Esplanade Park area to pick up supplies from City Public Works staff. City of Capitola Contact: Eddie Ray Garcia at 212-4046 (cellular).**

- **Pick up litter with grab-sticks**
- **Sweep debris into dust pans**
- **Deposit litter in rolling trash bins with liners**
- **Litter to be placed in bags for collection by the City of Capitola**
- **Sweep gutters**
- **Sweep sidewalks**
- **Pick up Trash from the Beach**
- **Empty beach trash containers**
- **Recycle bottles and cans**
- **Pick up litter in the Streets**
- **Pick up litter in the tree wells**
- **Occasional weeding of downtown landscaping**
- **Special projects as needed by Public Works Department and agreed upon by HOPE Services**

**HOPE Services TO PROVIDE:**

- **Labor to perform tasks performed by HOPE Services clients, adults with developmental disabilities**
- **100% supervision of HOPE Services clients by HOPE Services Supervisor**
- **Training and safety education in work duties**
- **HOPE Services Supervisor is certified in First Aid and CPR**
- **Work completion by our Supervisor in the event of HOPE Services client absenteeism.**
- **Workman's Compensation Insurance and Liability Insurance for our Work Group and Supervisor.**
- **Certificate of Insurance upon request.**

## **INSURANCE:**

**HOPE Services shall secure, maintain, in full force and effect, and bear full cost of complete Worker's Compensation Insurance, Business, Auto, Public Liability Insurance shall be in the amount of no less than 5 million and no cents (\$5,000,000) for injuries, including accidental death to any one person, and subject to the same limit for each person in any amount not less than one million dollars and no cents (\$1,000,000) per occurrence. City of Capitola, it's agents, officers and/or employees shall not be liable or responsible for any accident, loss or damage as a result of the work in the Agreement or costs of expense in law or equity arising out of damages to property or personal injury by reason of or in the course of performing Contractor's responsibilities under the Agreement.**

**Contractor shall file with City of Capitola, Capitola, California, prior to execution of the Agreement, a Certificate of Insurance issued by the carrier certifying that the stipulated insurance policies are in effect and that thirty (30) days written notice will be given City of Capitola, prior to cancellation or reduction thereof City of Capitola, its officers, and its employees, shall be named as additional insureds under the policies. City of Capitola, its agents, officers, and/or employees shall not be liable or responsible for any accident, loss or damage as a result of the work in the Agreement or costs of expense in law or equity arising out of damages to property or personal injury by reason of on in the course of performing Contractors responsibilities under this Agreement.**

## **CIVIL RIGHTS COMPLIANCE:**

**Contractor must be in compliance with the Civil Rights Act of 1964 and the Age Discrimination in Employment Act of 1967, which prohibits employment discrimination on the basis of race, color, religion, sex, national origin, or age. In addition, Contractor will not discriminate in employment on the basis of physical handicap or sexual orientation. This requirement shall apply (but not be limited) to recruitment, employment, promotion, demotion, transfer, compensation, training and termination. Contractor should also maintain an affirmative action plan to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, national origin, physical handicap or sexual orientation. In the event of the Contractor's noncompliance with this clause, Contractor may be declared ineligible for further contracts with the City of Capitola.**

## **GENERAL PROVISIONS:**

### **1.) Workmanship and Supervision:**

**In performance pursuant to this Agreement, Contractor shall provide the highest quality workmanship available. All work shall be performed directly by personnel directly employed and supervised by the Contractor. Contractor shall provide management and technical supervision as required to implement the work.**

**A HOPE Services Supervisor will supervise the Work Group 100% of the time.**

**2.) Equipment and Labor:**

**Contractor shall use and furnish unless otherwise indicated herein, at its own expense, all labor necessary for the satisfactory performance of the work set forth in this Agreement.**

**3.) Safety:**

**Contractor shall follow and modify as necessary an Illness and Injury Prevention Program (I.I.P.P.)**

**4.) Security:**

**Contractor shall comply with the City of Capitola's regular security regulations, specifically:**

- a.) Terms and conditions set forth per the terms and conditions for acceptance Purchase Order Agreements.**

**GENERAL:**

**No member, officer, or employee of the City of Capitola, during his or her tenure, or for one (1) year thereafter, shall have any interest, direct or indirect in this Agreement or the proceeds thereof and contractor agrees not to allow, permit, grant, transfer or otherwise do anything which will result in such member, officer, or employee of the City of Capitola has such interest.**

**LAW GOVERNING:**

**This agreement shall be governed by the laws of the State of California.**

**ASSIGNABILITY:**

**Contractor shall not assign or transfer any interest in this Agreement nor the Performance of any of Contractor's obligations hereunder, without the prior Written consent to the City of Capitola, and any attempt by Contractor to so assign this Agreement or any rights, duties obligations arising hereunder shall be void and of no effect. Written and signed amendments shall precede a change in rate.**

**ENTIRE AGREEMENT:**

**The following Agreement represents the entire understanding of parties as to these matters, contained herein. No prior oral or written understanding shall be of any force or effect with respect to these matters covered hereunder.**

- 1.) Agreement between the City of Capitola, Public Works Department, Capitola, CA and HOPE Services, Santa Cruz, CA.**
- 2.) Terms and conditions for acceptance of contract Purchase Orders.**

**WORK SCHEDULE: Monday through Friday 11:00am to 4:30pm.**

**HOLIDAYS: The following days are holidays in the year 2010, which HOPE Services observes and shall not be, obligated to perform any services. Services shall be performed the day following a holiday, if requested in advance.**

**Independence Day, Monday, July 4, 2011  
HOPE Services Annual Picnic, date to be announced  
Labor Day, Monday, September 5, 2011**

**CANCELLATION:**

**Notwithstanding any other provisions of this agreement to the contrary, this Agreement may be terminated at any time by either party upon thirty (30) days written notice as follows:**

**Contractor: Regional Manager of Vocational Services  
Sheryl Hagemann, (831) 345-5256  
HOPE Services  
220 Lincoln Street  
Santa Cruz , CA. 95060**

**City of Capitola: City of Capitola  
Steve Jesberg  
Public Works Department  
420 Capitola Avenue  
Capitola, CA. 95010**

**TERMS AND PAYMENT:**

**The City of Capitola agrees to pay HOPE Services the rate of \$175.00 per day.**

**PAYMENTS:**

**HOPE Services shall submit all invoices bi-monthly, on the fifteenth and last working day of the month, for payment within thirty (30) days of invoice.**

**ACCEPTANCE:**

**Effective \_\_\_\_\_**

\_\_\_\_\_  
**City of Capitola**

\_\_\_\_\_  
**HOPE Services**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date





Item #: **3.W.**

## CITY COUNCIL AGENDA REPORT

MEETING OF MAY 12, 2011

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

DATE: MAY 4, 2011

SUBJECT: **201 ESPLANADE #11-028 APN: 035-211-05**

Appeal of a Planning Commission denial for an amendment to a Conditional Use Permit to allow a take-out window at an existing restaurant (Mr. Kebab) in the CV (Central Village) Zoning District.

Environmental Determination: Categorical Exemption

Property Owner: J. Xavier Sanchez, filed 3/16/11

Representative: Amjad Al Asud

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**Recommended Action:** By motion, direct staff to set a Public Hearing for the appeal of Application #11-028, for the City Council meeting on May 26, 2011.

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### **BACKGROUND**

On April 7, 2011, the Planning Commission denied an amendment to a Conditional Use Permit to allow a take-out window at an existing restaurant (Mr. Kebab) at 201 Esplanade. A timely appeal<sup>1</sup> of the Planning Commission's approval was received on April 18, 2011 from the applicant Amjad Al Asud. Community Development staff requests that the City Council set the Public Hearing on the appeal for May 26, 2011.

### **ATTACHMENTS**

Appeal Letter

**Report Prepared By:** Ryan Bane  
Senior Planner

**Reviewed and Forwarded  
By City Manager:** \_\_\_\_\_

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<sup>1</sup> §2.52.020, Capitola Municipal Code

APR 18 2011

CITY OF CAPITOLA

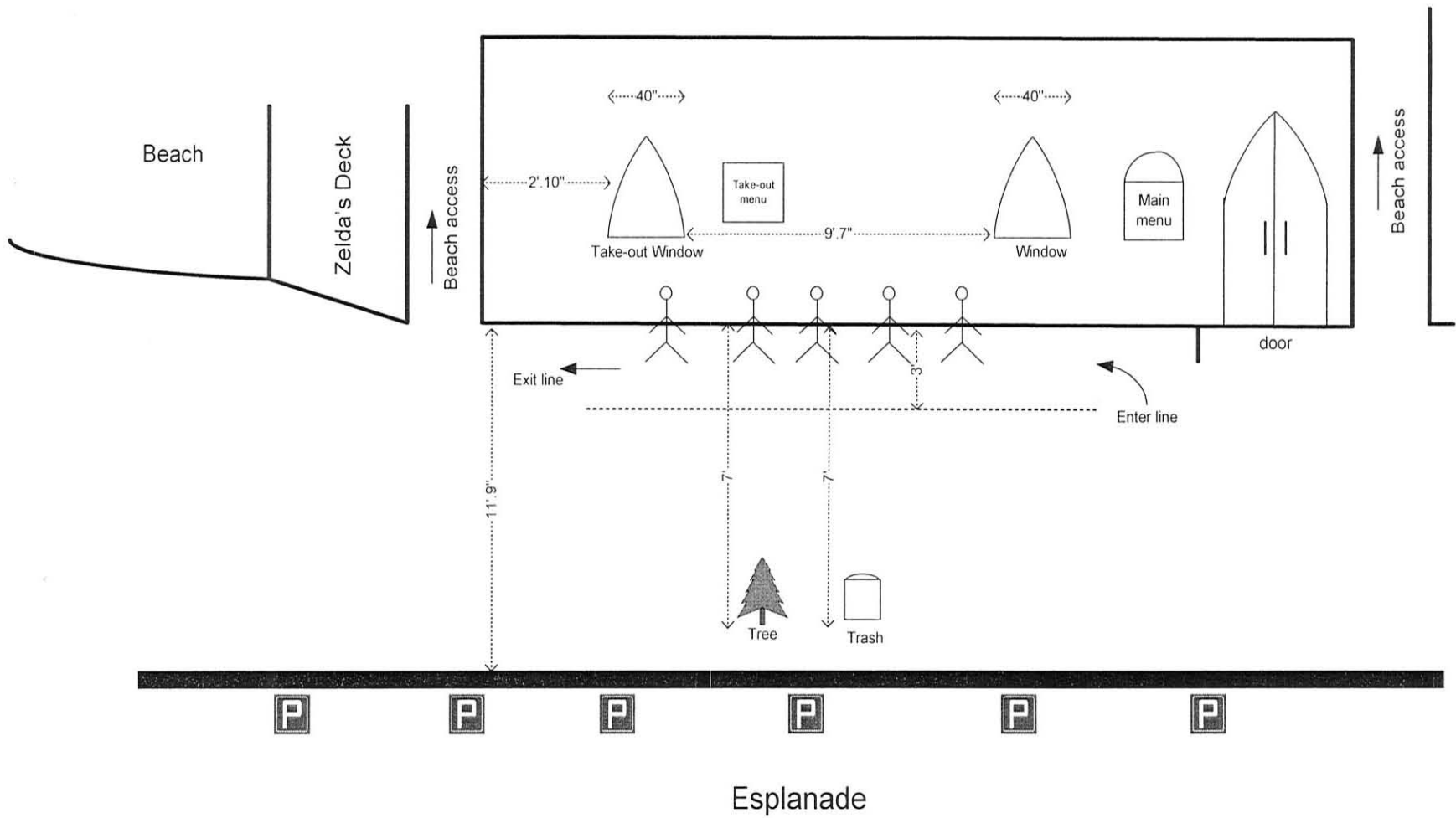
We are appealing the city of Capitola Planning Commission's decision to reject our request for a take-out window permit at "Mr Kebab and Falafel" restaurant. We feel the decision was unfair to us due to the following reasons:

- 1. We feel that the planning Commission did not thoroughly evaluate our request and did not give us equal opportunity and fair chance. The Planning Commission's reasoning for rejecting our request was that a line forming by the take-out window blocks the sidewalk.**
  - a. Lines form at businesses in Capitola village all the time. Pizza My Heart and Zelda's deck are two examples.
  - b. Previous restaurants operated a take-out window, at the same location, in the past. It did not cause any problems.
  - c. There are no laws or city ordinances against opening a take-out window in the village.
  - d. Our neighboring businesses have no objections to us opening a take-out window.
  - e. We can devise several ways of controlling the line size. We can use pagers or text messages to inform customers when their orders are ready. This way they don't have to wait by the window.
- 2. Compared to other businesses, that operate take-out windows in the village, we have plenty of space on the side walk. The sidewalk is 11 feet and 9 inches wide; the widest sidewalk adjacent to a business in the village.**
  - a. More than 5 feet wide of the sidewalk, adjacent to our restaurant, is on our property. If a line forms it will be on our property.
  - b. Compared to the sidewalk by Pizza My Heart, who operates a take-out window, the width of our sidewalk exceeds Pizza My Heart's sidewalk by more than 4 feet.
  - c. The side of our restaurant facing the sidewalk is more than 35 feet long. If a line forms it will not exceed the length of our building. It will not extend in front of neighboring businesses.
  - d. The side of Pizza My Heart's building facing the sidewalk is much shorter (about 1/3 of ours). The way their customer line forms, it is almost always in front of their neighboring businesses.
  - e. Compared to the Hot Dog shop across the street, we have a lot more space to accommodate customers.
  - f. Alternatively, we can have our customer line form around the corner, on the eastern side of our building, on our property and not on the sidewalk.
- 3. Our business is not viable without a take-out window.**
  - a. Zelda's deck surrounds our restaurant and chokes it, blocks our ocean view and leaves us with limited outside seating.

- b. Many customers want our food and ask to be seated on the deck. When we tell them the deck does not belong to us, they decide to go to Zelda's for the deck seating.
- c. We need the take-out business to become profitable and survive as business.

**4. Take window by the beach is good for Capitola and its visitors.**

- a. Our business is about serving good wholesome food. We don't even serve any alcoholic beverages.
- b. Many people want to enjoy their meal outside by the beach. They may not be dressed for a dine-in meal. They don't want to bother change clothes, clean their feet and wear shoes.
- c. Many families with kids would rather get take-out food for their family and keep their eyes on their kids than drag everybody off the beach to dine at a restaurant.
- d. Many people have limited time (the parking meters have a 2 hour limit). They would rather enjoy a quick take-out meal by the beach than spend most of their time inside a restaurant.





## CITY COUNCIL AGENDA REPORT

MEETING OF MAY 12, 2011

FROM: ART & CULTURAL COMMISSION

DATE: May 5, 2011

SUBJECT: APPROVAL OF AGREEMENT WITH CITY OF SAN JOSE OFFICE OF CULTURAL AFFAIRS PUBLIC ART PROGRAM, BARBARA GOLDSTEIN, AS THE ART PROJECT MANAGER FOR THE 41<sup>ST</sup> AVENUE PUBLIC ART PROJECT IN AN AMOUNT NOT TO EXCEED \$19,800

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**RECOMMENDED ACTION:** By motion and roll call vote, that the City Council approve the proposed Professional Services Agreement with the City of San Jose Office of Cultural Affairs, Barbara Goldstein, as the Project Manager for the 41<sup>st</sup> Avenue Public Art Project in an amount not to exceed \$19,800.

---

### **BACKGROUND**

The Art & Cultural Commission brought forward to the City Council in January of this year a new Public Art Project for the medians along 41<sup>st</sup> Avenue from Clares Street to Brommer Street, the gateway to the City's commercial corridor. The City Council authorized the Commission to move forward on the project.

### **DISCUSSION**

The Art & Cultural Commission believes a Public Art Project on 41<sup>st</sup> Avenue would be an excellent location for displaying public art. The Commission envisions hiring one artist to create a cohesive series of sculptures that represent the spirit and natural resources of the community. This project would enhance the experience of traversing the city's main retail corridor and provide a unique visual experience to the community.

This art project will be the largest undertaking by the Commission. Because of this the Commission felt it was essential to hire a professional Public Art Manager to bring this project to a successful completion. The professional Public Art Manager will provide administration and management services for the process. A request for proposals was issued for these services in early February. Multiple web sites listed the RFP for services and several public art managers were sent the RFP directly. The proposals were due on March 23, 2011. The City received only one proposal, which was from Barbara Goldstein, Public Art Director for the City of San Jose. The Art & Cultural Commission reviewed the proposal and, based on Ms. Goldstein's professional credentials, experience and thoroughness of her proposal, is recommending the City Council approve her contract. Ms. Goldstein is of no relation to the City Manager

The target date for project completion would be early 2012.

### **FISCAL IMPACT**

The Public Art Fund has an estimated fund balance of \$262,800 for FY10-11. The proposed total project cost is \$200,000 of which \$20,000 was budgeted for the Public Art Manager. This project was budgeted in the Public Art Fund for FY10-11.

### **ATTACHMENT** – Professional Services Agreement

**Report Prepared By:** Lisa G. Murphy  
Assistant to the City Manager

**Reviewed and Forwarded  
By City Manager:** \_\_\_\_\_

**PROFESSIONAL SERVICES AGREEMENT  
STANDARD FORM**

THIS AGREEMENT is entered into on \_\_\_\_\_, 2011, by and between the City of Capitola, a Municipal Corporation, hereinafter called "City" and City of San Jose Office of Cultural Affairs, Barbara Goldstein, hereinafter called "Consultant".

WHEREAS, City desires certain services described in Appendix One and Consultant is capable of providing and desires to provide these services;

NOW, THEREFORE, City and Consultant for the consideration and upon the terms and conditions hereinafter specified agree as follows:

**SECTION 1  
Scope of Services**

The services to be performed under this Agreement are set forth in Appendix One.

**SECTION 2  
Duties of Consultant**

All work performed by Consultant, or under its direction, shall be sufficient to satisfy the City's objectives for entering into this Agreement and shall be rendered in accordance with the generally accepted practices, and to the standards of, Consultant's profession.

Consultant shall not undertake any work beyond the scope of work set forth in Appendix One unless such additional work is approved in advance and in writing by City. The cost of such additional work shall be reimbursed to Consultant by City on the same basis as provided for in Section 4.

If, in the prosecution of the work, it is necessary to conduct field operations, security and safety of the job site will be the Consultant's responsibility excluding, nevertheless, the security and safety of any facility of City within the job site which is not under the Consultant's control.

Consultant shall meet with Lisa Murphy, Assistant to the City Manager, called "Director," or other City personnel, or third parties as necessary, on all matters connected with carrying out of Consultant's services described in Appendix One. Such meetings shall be held at the request of either party hereto. Review and City approval of completed work shall be obtained monthly, or at such intervals as may be mutually agreed upon, during the course of this work.

**SECTION 3  
Duties of the City**

City shall make available to Consultant all data and information in the City's possession which City deems necessary to the preparation and execution of the work, and City shall actively aid and assist Consultant in obtaining such information from other agencies and individuals as necessary.

The Director may authorize a staff person to serve as his or her representative for conferring with Consultant relative to Consultant's services. The work in progress hereunder shall be reviewed from time to time by City at the discretion of City or upon the request of Consultant. If the work is satisfactory, it will be approved. If the work is not satisfactory, City will inform Consultant of the changes or revisions necessary to secure approval.

SECTION 4  
**Fees and Payment**

Payment for the Consultant's services shall be made upon a schedule and within the limit, or limits shown, upon Appendix Two. Such payment shall be considered the full compensation for all personnel, materials, supplies, and equipment used by Consultant in carrying out the work. If Consultant is compensated on an hourly basis, Consultant shall track the number of hours Consultant, and each of Consultant's employees, has worked under this Agreement during each fiscal year (July 1 through June 30) and Consultant shall immediately notify City when the number of hours worked during any fiscal year by any of Consultant's employees reaches 900 hours. In addition each invoice submitted by Consultant to City shall specify the number of hours to date Consultant, and each of Consultant's employees, has worked under this Agreement during the current fiscal year.

SECTION 5  
**Changes in Work**

City may order major changes in scope or character of the work, either decreasing or increasing the scope of Consultant's services. No changes in the Scope of Work as described in Appendix One shall be made without the City's written approval. Any change requiring compensation in excess of the sum specified in Appendix Two shall be approved in advance in writing by the City.

SECTION 6  
**Time of beginning and Schedule for Completion**

Consultant shall begin work upon its receipt of a written Notice to Proceed from Director. The Notice to Proceed shall not be issued until after this Agreement has been approved and authorized by the City Council.

The schedule for completion of the work shall be as shown upon Appendix two. In the event that major changes are ordered, the schedule for completion as stated in Appendix Two will be adjusted by City so as to allow Consultant a reasonable period of time within which to complete any additional work which may be required as a result of the ordered changes.

In the event Consultant is delayed in performance of its services by circumstances beyond its control, the City will grant Consultant a reasonable adjustment in the schedule for completion as described in Appendix Two provided that to do so would not frustrate the City's objective for entering into this Agreement. All claims for adjustments in the schedule of completion must be submitted to City by Consultant within thirty calendar days of the time of occurrence of circumstances necessitating the adjustment.

Consultant acknowledges that it is necessary for Consultant to complete its work on or before the completion date set forth in Appendix Two in order to allow the City to achieve its objectives for entering into this Agreement. The parties therefore agree to make every effort to meet the schedule noted in Appendix Two of this Agreement.

SECTION 7  
**Termination**

City shall have the right to terminate this Agreement at any time upon giving ten days written notice to Consultant. Consultant may terminate this Agreement upon written notice to City should the City fail to fulfill its duties as set forth in this Agreement. In the event of termination, City shall pay the Consultant for all services performed and accepted under this Agreement up to the date of termination.

SECTION 8  
**Insurance**

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, his agents, representatives, or employees.

***Minimum Scope of Insurance***

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial Liability coverage (occurrence Form CG 0001).
2. Insurance Services office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto).
3. Workers' Compensation insurance as required by the State of California.
4. Errors and Omissions Liability insurance appropriate to the consultant's profession. Architects' and engineers' coverage shall include contractual liability.

***Minimum Limits of Insurance***

Consultant shall maintain limits no less than:

- |  |  |
|--|--|
| 1. General Liability:<br>(including operations,<br>products and<br>completed operations) | <b>\$1,000,000</b> per occurrence and \$2,000,000 in aggregate<br>for bodily injury, personal and property damage. |
| 2. Automobile Liability:   | <b>\$1,000,000</b> per accident for bodily injury and property<br>damage.  |
| 3. Errors and Omissions Liability:<br>limits   | <b>\$1,000,000</b> per claim and in the aggregate.   |

***Other Insurance Provisions***

The commercial general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City of Capitola, its officers, officials, employees and volunteers are to be covered



as additional insureds as respects: liability arising out of work or operations performed by or on behalf of the Consultant or automobiles owned, leased, hired or borrowed by the Consultant.

2. For any claims related to this project, the Consultant's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.
4. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

### ***Acceptability of Insurers***

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City.

### ***Verification of Coverage***

Consultant shall furnish the City with original certificates and amendatory endorsements affecting coverage by this clause. The endorsements should be on forms provided by the City or on other than the City's forms provided those endorsements conform to City requirements. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

## **SECTION 9 Indemnification**

Consultant agrees to indemnify, defend, and hold harmless the City, its officers, agents and employees, from and against any and all claims, demands, actions, damages, or judgments, including associated costs of investigation and defense arising in any manner from consultant's negligence, recklessness, or willful misconduct in the performance of this agreement.

## **SECTION 10 Civil Rights Compliance/Equal Opportunity Assurance**

Every supplier of materials and services and all consultants doing business with the City of Capitola shall be in compliance with the applicable provisions of the Americans with Disabilities Act of 1990, and shall be an equal opportunity employer as defined by Title VII of the Civil Rights Act of 1964 and including the California Fair Employment and Housing Act of 1980. As such, consultant shall not discriminate against any person on the basis of race, religious creed, color, national origin, ancestry, disability, medical condition, marital status, age or sex with respect to hiring, application for employment, tenure or terms and conditions of employment. Consultant agrees to abide by all of the foregoing statutes and regulations.

SECTION 11  
**Legal Action/Attorneys' Fees**

If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees in addition to any other relief to which he or she may be entitled. Either the Santa Cruz County Superior or Municipal Court shall have jurisdiction over any such action and that Court shall be authorized to determine which party is the prevailing party and what amount constitutes reasonable attorneys' fees to be awarded to the prevailing party.

SECTION 12  
**Assignment**

This Agreement shall not be assigned without first obtaining the express written consent of the Director after approval of the City Council.

SECTION 13  
**Amendments**

This Agreement may not be amended in any respect except by way of a written instrument which expressly references and identifies that particular Agreement, which expressly states that its purpose is to amend this particular Agreement, and which is duly executed by the City and Consultant. Consultant acknowledges that no such amendment shall be effective until approved and authorized by the City Council, or an officer of the City when the City Council may from time to time empower an officer of the City to approve and authorize such amendments. No representative of the City is authorized to obligate the City to pay the cost or value of services beyond the scope of services set forth in Appendix Two. Such authority is retained solely by the City Council. Unless expressly authorized by the City Council, Consultant's compensation shall be limited to that set forth in Appendix Two.

SECTION 14  
**Miscellaneous Provisions**

1. *Project Manager.* Director reserves the right to approve the project manager assigned by Consultant to said work. No change in assignment may occur without prior written approval of the City.
2. *Consultant Service.* Consultant is employed to render professional services only and any payments made to Consultant are compensation solely for such professional services.
3. *Licensure.* Consultant warrants that he or she has complied with any and all applicable governmental licensing requirements.
4. *Other Agreements.* This Agreement supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter, and no other agreement, statement or promise related to the subject matter of this Agreement which is not contained in this Agreement shall be valid or binding.
5. *City Property.* Upon payment for the work performed, or portion thereof, all drawings, specifications, records, or other documents generated by Consultant pursuant to this Agreement are, and shall remain, the property of the City whether the project for which they are made is executed or not. The Consultant shall be permitted to retain copies, including reproducible copies, of drawings and specifications for information and reference in connection with the City's use and/or occupancy of the

project. The drawings, specifications, records, documents, and Consultant's other work product shall not be used by the Consultant on other projects, except by agreement in writing and with appropriate compensation to the City.

6. *Consultant's Records.* Consultant shall maintain accurate accounting records and other written documentation pertaining to the costs incurred for this project. Such records and documentation shall be kept available at Consultant's office during the period of this Agreement, and after the term of this Agreement for a period of three years from the date of the final City payment for Consultant's services.

7. *Independent Contractor.* In the performance of its work, it is expressly understood that Consultant, including Consultant's agents, servants, employees, and subcontractors, is an independent contractor solely responsible for its acts and omissions, and Consultant shall not be considered an employee of the City for any purpose.

8. *Conflicts of Interest.* Consultant stipulates that corporately or individually, its firm, its employees and subcontractors have no financial interest in either the success or failure of any project which is, or may be, dependent on the results of the Consultant's work product prepared pursuant to this Agreement.

9. *Notices.* All notices herein provided to be given, or which may be given by either party to the other, shall be deemed to have been fully given and fully received when made in writing and deposited in the United States mail, certified and postage prepaid, and addressed to the respective parties as follows:

CITY

CONSULTANT

CITY OF CAPITOLA  
Attention:  
420 Capitola Avenue  
Capitola, CA 95010

CITY OF CAPITOLA

By \_\_\_\_\_  
Benjamin Goldstein, City Manager

Dated \_\_\_\_\_

CONSULTANT

By \_\_\_\_\_

Dated \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
John G. Barisone, City Attorney

**APPENDIX ONE**  
**Scope of Services**

**I. SCOPE OF SERVICES TO BE PERFORMED**

The Consultant shall provide the following services:

**PHASE ONE**

*Project Analysis and Development of Request for Qualifications*

1. Develop Detailed Project Budget
2. Evaluate proposed site, legal and physical parameters
3. Identify key stakeholders to inform artist and project
4. Develop a scope of work for Request for Qualifications

**Tasks**

- a. Facilitate public meeting to develop a broad vision for the project
- b. Consult with Arts Commission on Request for Qualifications
- c. Report findings to Arts Commission for review and approval
- d. Post Request for Qualifications and coordinate artist outreach

**PHASE TWO**

*Artist Selection*

1. Facilitate Artist Selection Process

**Tasks**

- a. Coordinate panel logistics and materials for artist selection
- b. Organize artist application workshop and finalists site visits
- c. Coordinate presentation of finalist proposals
- d. Present selection panel recommendation to Art Commission for review and approval

**PHASE THREE**

*Contract Development and initial project coordination.*

1. Develop and monitor artist's contract
2. Manage artist's design process

**Tasks**

- a. Work with City Staff
- b. Coordinate artist's work with Public Works Department and other City departments
- c. Schedule and coordinate artist's public design review presentations to community and Arts Commission.

**APPENDIX TWO**  
**Fees, Payments & Schedule of Work**

For the services performed, the City will pay the Consultant on a time-charge plus expense basis, monthly as charges accrue, the sum of consultant's salary expenses and non-salary expenses.

Salary expenses include the actual direct pay of personnel assigned to the project (except for routine secretarial and accounting services) plus payroll taxes, insurance, sick leave, holidays, vacation, and other fringe benefits. The percentage of compensation attributable to salary expenses includes all of Consultant's indirect overhead costs and fees. For purposes of this Agreement, Consultant's salary expenses and non-salary expenses will be compensated at the rates set forth in the fee schedule attached to this appendix and in accordance with the terms set forth therein. Non-salary expenses include travel, meals and lodging while traveling, materials other than normal office supplies, reproduction and printing costs, equipment rental, computer services, service of subconsultants or subcontractors, and other identifiable job expenses. The use of Consultant's vehicles for travel shall be paid at the current Internal Revenue Service published mileage rate.

Salary payment for personnel time will be made at the rates set forth in the attached fee schedule for all time charged to the project. Normal payroll rates are for 40 hours per week. Consultant shall not charge the City for personnel overtime salary at rates higher than those set forth in the attached fee schedule without the City's prior written authorization.

Budget estimates of the cost of each phase and the schedule of work for the project are attached.

Variations from the costs for each phase which are justified by statements indicating personnel time expended are allowed after advance written City approval is obtained, in the manner set forth in the Agreement; however, in no event shall the total fee charged for the scope of work set forth in Appendix One exceed the budget of \$19,800 without additional advance written City authorization.

Payments shall be made monthly by the City based on itemized invoices from the Consultant which list actual costs and expenses. Such payments shall be for the invoice amount.

Invoices shall indicate the percentage completion of each work task as identified in the Scope of Work (Appendix One), the overall percentage of completion of the total required services and the hours worked by Consultant's staff.

Unless otherwise specified in the attached fee schedule, Consultant's fees shall be payable on monthly statements. The monthly statements shall detail the time worked by each class of employee and the expenses incurred for which billing is made. The monthly statements shall contain the following affidavit signed by a principal of the Consultant's firm:

"I hereby certify as principal of the firm of \_\_\_\_\_, that the charge of \$ \_\_\_ as summarized above and shown in detail on the attachments is fair and reasonable, is in accordance with the terms of the Agreement dated \_\_\_\_\_, \_\_, and has not been previously paid."

**San Jose Public Art Program Fee Proposal  
City of Capitola 41<sup>st</sup> Avenue Public Art Project**

<b>Phase One</b>	<b>hours</b>	<b>\$/hour</b>	<b>subtotal</b>
Program Director	20	\$78.23	\$1,564.60
Project Manager	60	\$64.93	\$3,895.00
<b>Total Phase One</b>			<b>\$5,460.40</b>

<b>Phase Two</b>	<b>hours</b>	<b>\$/hour</b>	<b>subtotal</b>
Program Director	20	\$78.23	\$1,564.60
Project Manager	80	\$64.93	\$5,194.40
<b>Total Phase Two</b>			<b>\$6,759.00</b>

<b>Phase Three</b>	<b>hours</b>	<b>\$/hour</b>	<b>subtotal</b>
Program Director	20	\$78.23	\$1,564.60
Project Manager	40	\$64.93	\$2,597.20
<b>Total Phase Three</b>			<b>\$4,161.80</b>

**Total Staff Costs** \$16,381.20

<b>Mileage</b>	<b>trips</b>	<b>miles</b>	<b>\$/mile</b>	
San Jose to Capitola Round Trip	10	70	\$0.50	\$350.00

**Expense**  
Posting of electronic RFQ for artist \$500.00

**Contingency** \$2,600.00

**TOTAL FEE PROPOSAL** \$19,775.08



## PHASE ONE

### Time Frame: Four Weeks

#### *Project Analysis and Development of Request for Qualifications*

1. Develop Detailed Project Budget
2. Evaluate Proposed site, legal and physical parameters
3. Identify key stakeholders to inform artist and project
4. Develop a scope of work for Request for Qualifications

#### Tasks

- Facilitate public meeting to develop a broad vision for the project
- Create stakeholder committee to inform Request for Qualifications and provide artist with guidance during project design
- Consult with Arts Commission on Request for Qualifications
- Post Request for Qualifications and coordinate artist outreach

## PHASE TWO

### Time Frame: six weeks

#### *Artist Selection*

1. Form artist selection panel and facilitate review of artists qualification and artist selection Process

#### Tasks

- Coordinate panel logistics and materials for artist selection
- Organize artist application workshop and finalists site visits
- Coordinate presentation of finalist proposals
- Present selection panel recommendation to Arts Commission for review and approval

## PHASE THREE

### Time Frame: four months

#### *Contract Development and Initial Project Coordination*

1. Develop and artist's contract
2. Manage artist's design process

#### Tasks

- Work with City Manager, Risk Manager, City Attorney to develop artist's contract
- Establish coordination procedures for artist's work with Public Works Department and other City departments
- Coordinate Arts Commission and Stakeholder review.



Item #: 4.A.

## JOINT CITY COUNCIL AND REDEVELOPMENT AGENCY AGENDA REPORT

MEETING OF MAY 12, 2011

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

DATE: MAY 4, 2011

SUBJECT: PUBLIC HEARING TO CONSIDER MOBILE HOME PARK RENTAL ASSISTANCE PROGRAM OPTIONS

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**Recommended Action:** By motion and roll call vote, that the Agency Board and City Council authorize the City Manager/Executive Director to execute the proposed agreement in a substantially similar form to implement a Mobile Home Park Rental Assistance Program to be administered by the Housing Authority of the County of Santa Cruz in an amount not to exceed \$126,000 under Option I, or \$193,038 under Option II for FY 2011-2012.

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### **BACKGROUND**

Capitola has a long-standing commitment to maintaining affordable rent levels in the community's nine mobile home parks. With City support, three parks have been subdivided through resident-initiated efforts and two other parks have been converted to resident-controlled cooperative ownership. In an effort to end years of costly litigation associated with defending the City's rent control ordinance while preserving affordable housing for existing low-income mobile home park residents, last month the City entered into a settlement agreement which included an amendment to the rent control ordinance. That ordinance amendment was one part of a broad effort by the City to protect low-income residents, while avoiding further costly and risky litigation. That effort also included facilitating the non-profit acquisition of Castle Estates Mobile Home Park and establishing a ten-year agreement with the Housing Authority to administer mobile home rental assistance programs.

Last month, Council adopted Ordinance No. 953 amending the Mobile Home Park Rent Stabilization Ordinance allowing long-term leases to park residents with specific terms for low and moderate-income residents. In response to the Ordinance amendment, owners of the Surf & Sand Mobile Home and the Cabrillo Mobile Home Parks indicated they would offer ordinance-compliant leases that increase space rents for all residents.

On March 14, 2011, the City and Agency entered into a ten year Cooperation Agreement with the Housing Authority pledging the Agency's Low and Moderate Income Housing Funds in an amount not to exceed \$365,000 per year for the operation of affordable housing programs. The Agreement includes the development and administration of a Mobile Home Park Rental Assistance Program to offset the impact of the rent increases associated with the recent ordinance amendment to the lowest income park residents.

The residents of Loma Vista and Wharf Road Manor Mobile Home Parks completed cooperative acquisitions of their parks in 2000 and 2004. At that time, the City committed rental assistance funds for low-income residents impacted by the rental increases required by the acquisitions. Continued rental assistance for the ten remaining participant households is recommended for inclusion under the new proposed Rental Assistance Program.



**DISCUSSION**

In order to design a fair and efficient rental assistance program, City staff and Millennium Housing administered rent and income surveys of Surf and Sand, Cabrillo and Castle mobile home park residents and prepared a series of rental assistance program options based on resident need identified in the surveys and analyzed anticipated program resources. Additionally, the program models looked at levels of rental assistance, based on current and future rents and the ability to cover rent increases with existing resident income and expenses.

The City’s program should be viewed as an intermediate effort to ease the immediate impacts on existing lower income residents. Income eligible park residents will be encouraged to apply for rental assistance through the Housing Authority’s “Section 8” program. The Section 8 program is a well-established federal program that could provide funding for the bulk of residents that would be included in the City’s program. While there is a long waiting list for acceptance into this program, in many cases Section 8 assistance may eventually offer a better alternative to the City’s rental assistance program as Section 8 vouchers allow tenants the ability to move and bring the entitlement to a new location.

The resident survey results suggest there is not a significant need to assist moderate-income individuals. In almost all situations, it was determined that moderate-income residents were able to keep total housing costs at less than 30% of their adjusted income with the rent increases and are not eligible for inclusion under the rental assistance program due to limitations on housing funds.

The proposed rental assistance formula will assist extremely low, very low and low-income households:

<b>Income</b>	<b>One- person</b>	<b>Two- person</b>	<b>Three-Person</b>
Extremely Low <30% Area Median Income (AMI)	\$20,300	23,200	26,100
Very Low 30% to 50% AMI	\$33,800	38,600	43,450
Low 50% to 80% AMI	54,050	61,800	69,800

**Option I**

Based on preliminary Council direction, the purpose of the Mobile Home Park Rental Assistance Program is to focus on serving the lower income residents in the Surf & Sand and Cabrillo Mobile Home Parks; the two parks most directly affected by the Ordinance amendment. Under Option I, the program will assist lower income residents in Surf & Sand and Cabrillo and to the 10 existing residents at Loma Vista and Wharf Road Manor with whom the City has an existing commitment for rental assistance. This option would have a maximum rental assistance benefit of \$225. This cap is recommended to keep overall costs in line with the overall housing program budget. The anticipated total cost of the program would be \$ 101,000 plus administrative costs of \$25,000. Administrative costs are anticipated to be reduced in the subsequent years of the program. Removing the cap of \$225 and funding 100% of the rental increases for all lower income residents in these Option I parks would cost \$157,271 per year. Option I is shown in the following table:

Option I	% of Rental increase to be offset by Program	Maximum Rental Assist	Loma Vista (units)	Wharf (units)	Surf & Sand (units)	Cabrillo (units)	Total
Extremely Low	80%	\$225	N/A	N/A	18	22	
Very Low	50%	\$225	N/A	N/A	12	3	
Low	25%	\$225	N/A	N/A	5	9	
Units			5	5	35	35	
<b>Total Cost</b>			\$3,936	7,560	\$38,139	\$51,923	<b>\$101,558</b>

**Option II**

In reviewing the income levels and anticipated rental increases for the parks currently facing rent increases it became apparent that the lower income residents at the Castle Mobile Home Park may also be impacted by proposed increases. In spite of the City’s investment toward the acquisition of Castle Mobile Home Park by Millennium Housing, rental increases for existing tenants will be required. Current rents are in the \$225 to \$250 per month level and the new rents will be in the \$500 to \$600 per month range.

With this need in mind staff has prepared Option 2 as an alternative Rental Assistance Program scenario. Under this option, the program will provide assistance to lower income residents in Surf & Sand, Cabrillo and Castle Mobile Home Parks, while continuing to provide assistance to the 10 existing residents at Loma Vista and Wharf Road Manor.

This option would have a maximum rental assistance benefit of \$175. This cap was needed to keep overall costs in line with the overall housing program budget. The anticipated total cost of the program would be \$158,038 plus administrative costs of \$35,000. Option II is shown in the following table:

Option Two	% of Rental increase to be offset by Program	Maximum Rental Assist	Loma Vista (units)	Wharf (units)	Surf & Sand (units)	Cabrillo (units)	Castle (units)	Total
Extremely Low	75%	\$175	N/A	N/A	18	22	29	
Very Low	30%	\$175	N/A	N/A	12	3	41	
Low	15%	\$175	N/A	N/A	5	9	20	
Units			5	5	35	35	90	
<b>Total Cost</b>			\$3,936	7,560	\$30,335	38,401	\$77,805	<b>\$158,038</b>

Due to funding limitations, neither of the options offers full payment of the rent differential even for extremely low-income residents. Under Option 2 funding 100% of the rental increases for extremely low, very low, and low- income residents would cost approximately \$507,191 per year.

**FISCAL IMPACT**

**Option I – Fiscal Impact**

The proposed funding level of \$126,000 for FY 2011/2012 for Option I will include both the provision of rental assistance and the administrative costs of the Housing Authority. These funds will come from the Agency’s Low and Moderate Income Housing Fund what have been included the Housing Cooperation Agreement between the City, the Agency and the Housing Authority. Funding Option 1 would reduce available funding for the Agency’s currently funded Emergency Housing Program, First Time Homebuyer Program and Security Deposit Program.

**Option II – Fiscal Impact**

The proposed funding level of \$193,038 for FY 2011/2012 for Option II will include both the provision of rental assistance and the administrative costs of the Housing Authority. These funds will come from the Agency’s Low and Moderate Income Housing Fund which are included the Housing Cooperation Agreement between the City, the Agency and the Housing Authority. Funding Option II would require the elimination of the Agency’s current Emergency Housing Program, First Time Homebuyer Program, and Security Deposit Program.

<b>Program</b>	<b>FY 10-11</b>	<b>Option I Proposed FY 11-12</b>	<b>Option II Proposed FY 11-12</b>
First Time Homebuyer loans	60,000	0	0
Loma Vista & Wharf Road Rent Assistance	15,000	0 <sup>1</sup>	0
Security Deposit Program	15,000	5,000	0
Emergency Housing Assistance (rent)	95,000	76,200	14,162
Eligibility Screening	5,000	0 <sup>2</sup>	0
HA- Professional Services	15,000	10,000	10,000
Rental Assistance Program	0	101,000	158,038
Rental Assistance Program Administration Costs	0	25,000	35,000
Castle Mobile Home Park Rental Assistance/Infrastructure Program	0	100,000	100,000
<b>TOTAL</b>	<b>205,000</b>	<b>317,200</b>	<b>317,200</b>

1 Funded in newly created program listed below.

2 Funded in Rental Assistance Program Administration Costs listed below.

**ATTACHMENTS**

1. Mobile Home Park Rental Assistance Program Grant Agreement

**Report Prepared By:** David Foster  
Housing and Redevelopment Project Manager

**Reviewed and Forwarded by**  
**City Manager/Executive Director:**

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**HOUSING RENTAL ASSISTANCE GRANT AGREEMENT**

**Among**

**The City of Capitola**

**and**

**The Redevelopment Agency of the City of Capitola**

**and**

**The Housing Authority of the County of Santa Cruz**

**(Mobile Home Park Rental Assistance Program Grant Program)**

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Exhibit A:	Mobile Home Park Rental Assistance Program Guidelines
Exhibit B:	Form of Monthly Report
Exhibit C:	Scope of Work for Authority

**MOBILE HOME PARK RENTAL ASSISTANCE PROGRAM**  
**REDEVELOPMENT AGENCY OF THE CITY OF CAPITOLA**  
**CITY OF CAPITOLA**  
**HOUSING AUTHORITY OF THE COUNTY OF SANTA CRUZ**

This Housing Assistance Grant Agreement (the "Agreement") is entered into and effective as of May 12, 2011 (the "Effective Date"), by and among the Redevelopment Agency of the City of Capitola, a public body, corporate and politic (the "Agency"), the City of Capitola (the "City"), and the Housing Authority of the County of Santa Cruz, a public body, corporate and politic (the "Authority"), (collectively, the "Parties"), with reference to the following facts and for the purposes of funding a mobile home park rental assistance program to be developed and administered by the Authority:

**RECITALS**

WHEREAS, pursuant to the California Community Redevelopment Law (Health & Safety Code Section 33000 et seq. (the "Redevelopment Law")), the City Council of the City adopted the Redevelopment Plan for the Capitola Redevelopment Project Area (the "Redevelopment Plan"). The Redevelopment Plan establishes the redevelopment project area (the "Project Area") and sets forth goals, objectives, and proposed activities for redevelopment of the Project Area, including the provision of affordable housing for low -income households. The Agency is responsible for implementing the Redevelopment Plan in the Project Area. The Agency has established a Low Income Housing Fund (the "Housing Fund") pursuant to Health and Safety Code Section 33334.2.

WHEREAS, the Agency has adopted the Capitola Redevelopment Project 2010-2014 Implementation Plan (the "Implementation Plan") pursuant to Health and Safety Code Section 33490 and the 2004-2014 Housing Strategy Update, which identify specific affordable housing activities to be undertaken for the benefit of the Project Area.

WHEREAS, the City's Housing Element of the General Plan has adopted goals to protect the affordability of existing mobile home parks, to preserve existing affordable housing, and to maintain the condition of the City's housing stock.

WHEREAS, the Authority has the special expertise to administer affordable housing programs.

WHEREAS, on February 24, 2011, the City and the Agency entered into that certain Cooperation Agreement, as further amended by the City and Agency on March 8, 2011 (the "Cooperation Agreement"), whereby the City agreed to carry out certain projects for the Agency, including but not limited to affordable housing projects anticipated to be assisted with Housing Fund monies, and pledged its Housing Funds to the City for the purpose of implementing affordable housing projects consistent with Redevelopment Law.

WHEREAS, on March 14, 2011, the Agency, the City, and the Authority entered into that certain "Housing Cooperation Agreement," whereby the Agency and the City provided Housing Fund monies to the Authority in the form of a "Housing Grant," as defined in the Housing Cooperation Agreement, to finance affordable housing activities, including a Mobile Home Park



Rental Assistance Program, consistent with the Redevelopment Plan and the Implementation Plan, as they currently exist or as they may be amended from time-to-time.

WHEREAS, by City Resolution No. 3862 and Agency Resolution No. 2011-5, both adopted on March 14, 2011, the City and Agency found that the expenditure of Housing Funds outside the Project Area for housing subsidies to benefit very low and lower income households is of benefit to the Project Area because it will provide assistance to very low and lower income households to remain in affordable mobile home residences and otherwise assist very low and lower income households in obtaining affordable residences. Such households live and work in the Project Area, and such housing assistance will support the goal in the City's Housing Element of the General Plan to protect the affordability of existing mobile home parks.

WHEREAS, the City Council on March 18, 2011 approved a settlement agreement and amendment to its Mobile Home Rent Stabilization Ordinance which permits specific increases in space rents at the privately owned mobile home parks (collectively the "Mobile Home Parks"; individually a "Mobile Home Park"). The permitted increases in space rents will increase housing costs to residents of the Mobile Home Parks such that pad rents may not be affordable to some extremely low, very low, or low-income households.

WHEREAS, the City Council and Redevelopment Agency on March 10, 2011 approved a commitment of funds to Millennium Housing LLC toward the purchase of the Castle Mobile Home Park the purchase of which will provide 55-years of guaranteed affordability but will also require initial space rent increases that may not be affordable to some extremely low, very low and low-income existing households living in the park.

WHEREAS, to preserve the affordability of the residences in the Mobile Home Parks, and to further implement the Housing Cooperation Agreement, the Agency and the City desire that the Authority administer a Mobile Home Park Rental Assistance Program, as contemplated in the Housing Cooperation Agreement, to provide rental subsidies to extremely low, very low, and low- income households residing in the Mobile Home Parks who meet certain eligibility criteria specified in this Agreement (the "Participants"). The Mobile Home Park Rental Assistance Program shall be referred to in this Agreement as the "Program" and will be undertaken in coordination with the City and the Agency and based on income guidelines consistent with Redevelopment Law.

WHEREAS, the Program shall be funded with a portion of the Housing Grant pledged to the Authority pursuant to the Housing Cooperation Agreement, in the maximum amount of One Hundred Twenty Six Thousand Dollars (\$126,000.00) per fiscal year (the "Program Grant"). By approving and entering into this Agreement to implement the Housing Cooperation Agreement, the Agency has pledged a portion of the tax increment revenue from the Redevelopment Area to fund the Program. The obligations set forth in this Agreement are contractual obligations that, if breached, will subject the Parties to damages or other liabilities or remedies.

WHEREAS, pursuant to CEQA Guidelines Section 15378(b)(5), approval of the Agreement is not a project subject to the California Environmental Quality Act, because this Agreement consists of an approval of the administration of a governmental program that does not include, nor will result in, direct or indirect physical changes in the environment.

NOW, THEREFORE, in consideration of the recitals hereof and the mutual promises and covenants set forth in this Agreement, the City, the Agency, and the Authority hereby agree as follows:

## **AGREEMENT**

The foregoing recitals are hereby incorporated by reference and made part of this Agreement.

## ARTICLE 1 DEFINITIONS AND EXHIBITS

Section 1.1 Definitions. In addition to the terms defined in the recitals and elsewhere in this Agreement, the following capitalized terms have the meanings set forth in this Section 1.1 wherever used in this Agreement, unless otherwise provided:

"Lease" shall mean each lease agreement entered into by a Participant and the owner of a Mobile Home Park for the rental of a pad for a Mobile Home Unit. In the case of a cooperatively owned park "lease" shall mean the membership agreement between the Participant and the Homeowners Association for the membership payment made in exchange for exclusive use of a pad for a Mobile Home Unit.

"Lower Income Participant" shall mean a Participant with an income that does not exceed the qualifying limit for low, very low and extremely low-income households as defined in Health & Safety Code Section 50079.5.

"Monthly Report and Disbursement Request" shall mean the monthly report and reimbursement request provided by the Authority to the City and the Agency by the tenth (10<sup>th</sup>) calendar day of each month in substantially the form as the attached Exhibit B.

"Mobile Home Unit" means one mobile home located on a pad in a Mobile Home Park, where the owner of the mobile home has entered into a valid Lease with the owner of the Mobile Home Park.

"Pad Rent" shall mean the actual rent (or membership fee in the case of a cooperatively owned park) paid by a Participant for rental of a pad in a Mobile Home Park pursuant to the Lease.

"Participant" shall mean a household that occupies a Mobile Home Unit, is eligible to receive a Subsidy pursuant to this Agreement and the Program Guidelines, as more particularly described in the attached Exhibit A, and is receiving Assistance pursuant to this Agreement.

"Rental Assistance" shall have the meaning set forth in Section 2.3(d). The Program Grant shall be utilized to provide the Rental Assistance.

"Successor" shall mean any lawful successor of the Agency, and/or any lawful successor to any powers and rights of the Agency, pursuant to any applicable constitutional provision, statute or other provision of law now existing or adopted in the future.

"Term" shall mean the term of the Program Grant, commencing on the date of this Agreement and continuing until such time as the Program Grant has been disbursed, but in no event to exceed 10 years (120 months) from the date of this Agreement. The Term may be extended for an additional 2 years (24\_month) period in the sole discretion of the City.

Section 1.2 Exhibits. The following exhibits are attached to this Agreement and incorporated into this Agreement by this reference:

Exhibit A:	Mobile Home Park Rental Assistance Program Guidelines
Exhibit B:	Form of Monthly Report and Disbursement Request
Exhibit C:	Scope of Work for Authority

## ARTICLE 2 PROGRAM GRANT PROVISIONS

Section 2.1 Program Grant. The City and Agency hereby grant to the Authority the Program Grant in an amount not to exceed One Hundred Twenty-Six Thousand Dollars (\$126,000.00) per fiscal year for the purposes set forth in Section 2.2 of this Agreement. In no case may the Program Grant exceed the maximum Housing Grant pledged to the Authority.

The obligation of the Agency to pay the Housing Grant to the City, and the obligation of the City to pay the Program Grant (which is a portion of the Housing Grant) to the Authority shall constitute an indebtedness of the Agency incurred in carrying out the Agreement and a pledge of tax increment revenue received by the Agency or Successor from the Project Area to repay such indebtedness under the provisions of Article XVI, Section 16 of the Constitution of the State of California, the Redevelopment Law, and the Plans, or under any applicable constitutional provision, statute, or other provision of law now existing or adopted in the future.

### Section 2.2 Use of Program Grant; Material Change in Program.

The Authority shall use the Program Grant to provide (1) reasonable administrative costs, as defined in Exhibit C in an amount not to exceed \$25,000, and (2) Rental Assistance to Participants in the Program in accordance with the Program Guidelines substantially in the form as the attached Exhibit A and the Scope of Work substantially in the form as the attached Exhibit C.

The Authority shall not use the Program Grant funds for any other purpose without the prior written consent of the City. The Authority agrees and acknowledges that the Program Guidelines, attached as Exhibit A, and the Scope of Work, attached as Exhibit C, set forth specific eligibility requirements for Participants, the application process for potential Participants, continuing Participant obligations, and other Program requirements. The Authority further agrees and acknowledges that the Authority shall not materially alter the Program Guidelines or Scope of Work, as set forth in the attached Exhibit A and Exhibit C, without the prior written approval of the City and the Agency. The City and the Agency shall have thirty (30) days to either reasonably approve or disapprove any Authority request to materially change or modify the Program. In the event the City or the Agency fail to approve or disapprove the Authority's request to materially change or alter the Program within such thirty (30) day period, such request shall be deemed disapproved. The Authority's failure to comply with the requirements of this Section 2.2 shall constitute a Default under Section 6.1.

### Section 2.3 Determination of Subsidy and Eligible Participants.

Purpose. Authority agrees that the Program Grant shall be used to provide Rental Assistance for Participants in accordance with the requirements of this Section 2.3. The purpose of the Program Grant is to provide Subsidies Rental Assistance to preserve the affordability of the Mobile Home Parks for Participants.

Income Determination. Each Participant receiving assistance pursuant to this Agreement must be a Lower Income Participant. The Authority shall obtain, complete and maintain on file, upon application income certifications from each Participant. Annual income will be projected based on HUD's income definition described at 24 CFR Part 5. Essentially, annual income will be determined by taking current income of all household members, and projecting that income forward for one year. Income includes wages of all employed adults, as well as Social Security, Supplemental Security Income, State Disability, Unemployment, Workers Compensation, all other public benefits, as well as any and all other income expected to be

received by any household member. Annual income will also include income from assets, such as interest and dividends.

Some allowances and deductions will reduce the amount of annual income as allowed in the HUD Part 5 income definition, such as allowances for elderly or disabled households, deductions of allowable medical expenses for elderly or disabled households, and allowances and deductions for households with full time students and households that have out of pocket child care expenses. Copies of Participant income certifications shall be available to the City and the Agency upon request.

Households receiving assistance through the Program will receive an annual re-examination of their income to ensure continued eligibility and to make adjustments to the level of subsidy they may receive to reflect any changes that have occurred over the course of the year. Annual re-examinations will be based on households' self certification under penalty of perjury. After initial eligibility is determined, program participants will no longer be required to provide current original documentation of income. However, the Authority at its sole discretion may require re-examination to determine eligibility as specified in the Agreement with Mobile Home Residents.

#### Rental Assistance Amount.

Each family shall be placed in categories depending on their income. Categories will align with HUD's income eligibility thresholds for Extremely Low Income, Very Low, and Low Income.

The Housing Authority will calculate the difference between each household's current pad rent and the future anticipated rent (the "rent differential). Finally, the Housing Authority will calculate the monthly Rental Assistance by applying an established percentage of the rent differential. The percentage will be adjusted for each income category at 80% for Extremely low, 50% for Very Low and 25% for Low-income households. A maximum monthly assistance level has been set at \$225 for all income categories. Arrangements will be made so that the rental assistance amount determined for each applicant is paid directly to the Participant.

Date of Residence in Mobile Home Park. Only full time residents residing in a Mobile Home Park as of January 1, 2010 may receive a Subsidy pursuant to the Program.

#### Section 2.4 Agreement with Mobile Home Residents.

Before disbursing Rental Assistance to Participants in a Mobile Home Park, the Authority shall enter into agreements, as reasonably acceptable to the City and Agency, with the residents of that Mobile Home Park (the " Participant"). The City and the Agency shall have thirty (30) days to either reasonably approve or disapprove an agreement with a Participant. In the event the City or the Agency fail to approve or disapprove such an agreement within such thirty (30) day period, such request shall be deemed disapproved. The Authority's failure to comply with the requirements of this Section 2.4 shall constitute a Default under Section 6.1.

Section 2.5 Conditions Precedent to Disbursement. The City and the Agency shall not be obligated to make any disbursements of Program Grant funds or take any other action under the Agreement unless the following conditions precedent are satisfied prior to each such disbursement of the Program Grant:

There exists no Default or any act, failure, omission or condition that would constitute an event of Default under this Agreement;

The Authority has executed and delivered to the City all documents, instruments, and policies required under this Agreement;

The City and the Agency have received an executed Monthly Report and Disbursement Request substantially in the form as the attached Exhibit B, setting forth the eligible expenses and Subsidies to be reimbursed consistent with this Agreement, and to the extent applicable, such additional evidence reasonably requested by the City and the Agency to document eligible costs and expenses incurred by the Authority;

For each Participant for which the Authority is requesting a Subsidy:

(i) The Authority has verified the income of the Participant and confirmed that the income of each Participant meets the requirements set forth in Section 2.3;

(ii) The Authority has verified the Participant's current and anticipated future pad rent pursuant to Section 2.3;

(iii) The Authority has calculated the authorized Rental Assistance amount for each Participant; and

(iv) The Authority has verified that each Participant was residing in a Mobile Home Park as of January 1, 2010;

Each Mobile Home Unit for which the Authority is requesting reimbursement meets the habitability requirements set forth in Section 3.2 below; and

The Authority has entered into a written agreement with the Park Resident as specified in Section 2.4, and the City and the Authority have approved such agreement.

Section 2.6 Disbursement Schedule. The Authority shall submit a Monthly Report to the City and the Agency by the tenth (10<sup>th</sup>) calendar day of each month. Provided that the conditions set forth in Section 2.4 are satisfied, the City or the Agency shall reimburse the Authority for all eligible expenses documented on the Monthly Report within thirty (3) calendar days of the City's receipt of the Monthly Report.

### ARTICLE 3 LEASE REQUIREMENTS

Section 3.1 Lease Requirements. The Authority shall review each Lease to verify the current and anticipated future Pad Rents actually paid by each Participant.

### ARTICLE 4 GRANT REQUIREMENTS

Section 4.1 Compliance with Agreement. The Authority shall comply with the terms of this Agreement and any breach by the Authority under this Agreement shall be considered a Default under this Agreement.

Section 4.2 Financial Accountings and Audits. In addition to the Monthly Reports, the Authority shall submit a yearend report at the end of each fiscal year, but in no event later than July 30 of each year, summarizing the performance of the Program for the preceding year, and providing any other information the City or the Agency reasonably determines is necessary to evaluate the Program.

During the Term, from time to time as reasonably requested by the City or the Agency, the Authority shall make available for examination during normal business hours to City or the Agency all books, accounts, reports, files, and other papers or property with respect to all matters covered by this Agreement, and shall permit the City or the Agency to audit, examine, and make excerpts or transcripts from such records. The City or the Agency may make audits of any conditions relating to this Agreement.

Section 4.3 Information. The Authority shall provide any information reasonably requested by the City or Agency in connection with the Program, including (but not limited to) any information required by the State of California in connection with Authority's use of the Program Grant funds.

Section 4.4 Records.

The Authority shall maintain complete, accurate, and current records pertaining to the Program for a period of five (5) years after the creation of such records, and shall permit any duly authorized representatives of the City or the Agency to inspect and copy records. Such records shall include all Leases, Participant applications, invoices, receipts, and other documents related to expenditures from the Program Grant funds. Records must be kept accurate and current.

The City or the Agency shall notify the Authority of any records it deems insufficient. The Authority shall have fifteen (15) calendar days after the receipt of such a notice to correct any deficiency in the records specified by the City or the Agency, or if a period longer than fifteen (15) days is reasonably necessary to correct the deficiency, then the Authority shall begin to correct the deficiency within fifteen (15) days and correct the deficiency as soon as reasonably possible (but in any event no later than sixty (60) days following the initial Notice from the City or the Agency).

Section 4.5 Notice of Litigation. The Authority shall require that Participants and Park Owners promptly notify it in writing of any litigation materially affecting the Participant or the Mobile Home Units (or any individual Mobile Home Unit) and of any claims or disputes that involve a material risk of such litigation. The Authority shall immediately provide a copy of such notification to the City and the Agency.

Section 4.6 Fees and Taxes. The Authority shall provide in its agreements with Participants and Park Owners, that Participants and Park Owners, as applicable, are solely responsible for payment of all fees, assessments, taxes, charges, and levies imposed by a public authority or utility company with respect to the Mobile Home Units to the extent owed by the Participant or the Park Owner, and shall pay any such charges prior to delinquency.

Section 4.7 Nondiscrimination and Mandatory Language in All Subsequent Deeds, Leases and Contracts. In satisfaction of Health and Safety Code Sections 33435 and 33436, the Authority shall prohibit, during the operation of the Program, all discrimination on the basis of race, color, creed, religion, sex, sexual orientation, marital status, source of income, national origin or ancestry in the hiring, firing, promoting or demoting of any person engaged in the work, nor shall the Authority or any person claiming under or through the Authority establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the Mobile Home Units. All contracts made or entered into by the Authority, its successors or assigns pursuant to this Agreement shall contain the following language:

"(1) There shall be no discrimination against or segregation of, any person or group of persons on account of any basis listed in subdivision (a) and (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955 and Section 12955.2 of the Government Code in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the property nor shall the transferee or any person claiming under or through the transferee establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the land.

(2) Notwithstanding paragraph (1), with respect to familial status, paragraph (1) shall not be construed to apply to housing for older persons, as defined in Section 12955.9 of the Government Code. With respect to familial status, nothing in paragraph (1) shall be construed to affect Sections 51.2, 51.3, 51.4, 51.10, 51.11, and 799.5 of the Civil Code, relating to housing for senior citizens. Subdivision (d) of Section 51 and Section 1360 of the Civil Code and subdivisions (n), (o), and (p) of Section 12955 of the Government Code shall apply to paragraph (1)."

Section 4.8 Insurance Requirements. The Authority shall maintain the insurance coverage set forth in Section 8 of the Housing Cooperation Agreement throughout the Term of the Program Grant.

## ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF AUTHORITY

Section 5.1 Representations and Warranties. The Authority hereby represents and warrants to the City and the Agency as follows:

Organization. The Authority is a duly organized, validly existing housing authority and is in good standing under the laws of the State of California and has the power and authority to own its property and carry on its business as now being conducted;

Authority. The Authority has full power and authority to execute and deliver this Agreement and to make and accept the borrowings contemplated hereunder, and to perform and observe the terms and provisions of all of the Agreement;

Authority of Persons Executing Documents. This Agreement and all other documents or instruments executed and delivered, or to be executed and delivered, pursuant to this Agreement have been executed and delivered by persons who are duly authorized to execute and deliver the same for and on behalf of the Authority, and all actions required under the Authority's organizational documents and applicable governing law for the authorization, execution, delivery and performance of this Agreement and all other documents or instruments



executed and delivered, or to be executed and delivered, pursuant to this Agreement, have been duly taken;

Valid Binding Agreements. This Agreement and all other documents or instruments which have been executed and delivered pursuant to or in connection with this Agreement constitute or, if not yet executed or delivered, will when so executed and delivered constitute, legal, valid and binding obligations of the Authority enforceable against it in accordance with their respective terms;

No Breach of Law or Agreement. Neither the execution nor delivery of this Agreement or of any other documents or instruments executed and delivered, or to be executed or delivered, pursuant to this Agreement, nor the performance of any provision, condition, covenant or other term hereof or thereof, will conflict with or result in a breach of any statute, rule or regulation, or any judgment, decree or order of any court, board, commission or agency whatsoever binding on the Authority, or any provision of the organizational documents of the Authority, or will conflict with or constitute a breach of or a default under any agreement to which the Authority is a party, or will result in the creation or imposition of any lien upon any assets or property of the Authority, other than liens established pursuant hereto;

Pending Proceedings. The Authority is not in default under any law or regulation or under any order of any court, board, commission or agency whatsoever, and there are no claims, actions, suits or proceedings pending or, to the knowledge of the Authority, threatened against or affecting the Authority, at law or in equity, before or by any court, board, commission or agency whatsoever which might, if determined adversely to the Authority, materially affect the Authority's ability to administer the Program.

## ARTICLE 6 DEFAULT AND REMEDIES

Section 6.1 Events of Default. Each of the following shall constitute a "Default" by the Authority under this Agreement:

Breach of Covenants. Failure by the Authority to duly perform, comply with, or observe any of the conditions, terms, or covenants of this Agreement, and such failure having continued uncured for thirty (30) days after receipt of written notice thereof from the City or the Agency to the Authority; provided, however, that if a different period or notice requirement is specified under any other section of this Article 6, the specific provisions shall control;

Suspension; Termination. The Authority shall have voluntarily suspended its business;

Representation or Warranty Incorrect. Any Authority representation or warranty contained in this Agreement, or in any application, financial statement, certificate, or report submitted to the City or the Agency in connection with this Agreement, proving to have been incorrect in any material respect when made and having a material adverse effect on the Program.

Section 6.2 Remedies. The occurrence of any Default hereunder following the expiration of all applicable notice and cure periods will, either at the option of the City or the Agency or automatically where so specified, relieve the City or the Agency of any obligation to make or continue the Program Grant and shall give the City or the Agency the right to proceed with any and all remedies in law or equity, including suit for recovery of any Program Grant funds which the Authority has not utilized in compliance with this Agreement.

Section 6.3 Right of Contest. The Authority shall have the right to contest in good faith any claim, demand, levy, or assessment the assertion of which would constitute a Default hereunder. Any such contest shall be prosecuted diligently and in a manner unprejudicial to the City or the Agency or the rights of the City or the Agency hereunder.

Section 6.4 Remedies Cumulative. No right, power, or remedy given to the City or the Agency by the terms of this Agreement is intended to be exclusive of any other right, power, or remedy; and each and every such right, power, or remedy shall be cumulative and in addition to every other right, power, or remedy given to the City or the Agency by the terms of any such instrument, or by any statute or otherwise against the Authority and any other person. Neither the failure nor any delay on the part of the City or the Agency to exercise any such rights and remedies shall operate as a waiver thereof, nor shall any single or partial exercise by the City or the Agency of any such right or remedy preclude any other or further exercise of such right or remedy, or any other right or remedy.

## ARTICLE 7 GENERAL PROVISIONS

Section 7.1 Relationship of Parties. Nothing contained in this Agreement shall be interpreted or understood by any of the Parties, or by any third persons, as creating the relationship of employer and employee, principal and agent, limited or general partnership, or joint venture between the City or the Agency and the Authority or its agents, employees or contractors, and the Authority shall at all times be deemed an independent contractor and shall be wholly responsible for the manner in which it or its agents, or both, perform the services required of it by the terms of this Agreement. The Authority has and retains the right to exercise full control of employment, direction, compensation, and discharge of all persons assisting in the performance of services under the Agreement. The Authority shall be solely responsible for all matters relating to payment of its employees, including compliance with Social Security, withholding, and all other laws and regulations governing such matters, and shall include requirements in each contract that contractors shall be solely responsible for similar matters relating to their employees. The Authority shall be solely responsible for its own acts and those of its agents and employees.

Section 7.2 No Claims. Nothing contained in this Agreement shall create or justify any claim against the City or the Agency by any person that the Authority may have employed or with whom the Authority may have contracted relative to the purchase of materials, supplies or equipment, or the furnishing or the performance of any work or services with respect to the operation of the Program and the Authority shall include similar requirements in any contracts entered into for the operation of the Program.

Section 7.3 Amendments. No alteration or variation of the terms of this Agreement shall be valid unless made in writing by the Parties.

Section 7.4 Indemnification. The Authority shall indemnify, defend (with counsel reasonably acceptable to the City and the Agency) and hold the City and the Agency harmless against all claims made against it and expenses (including reasonable attorneys' fees) which arise out of or in connection with the operation of the Program (including, but not limited to, any claim made by a Participant or any claim made by the owner of an Mobile Home Unit), except to the extent such claim arises from the grossly negligent or willful misconduct of the City or the Agency, their agents, and their employees. The provisions of this Section 7.4 shall survive the expiration of the Term.

Section 7.5 Non-Liability of City or Agency Officials, Employees and Agents. No member, official, employee or agent of the City or the Agency shall be personally liable to the Authority in the event of any default or breach by the City or the Agency or for any amount which may become due to the Authority or its successor or on any obligation under the terms of this Agreement.

Section 7.6 No Third Party Beneficiaries. There shall be no third party beneficiaries to this Agreement.

Section 7.7 Conflict of Interest.

Except for approved eligible administrative or personnel costs, no person described in Section 7.7(b) below who exercises or has exercised any functions or responsibilities with respect to the activities funded pursuant to this Agreement or who is in a position to participate in a decision-making process or gain inside information with regard to such activities, may obtain a personal or financial interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during, or at any time after, such person's tenure. The Authority shall exercise due diligence to ensure that the prohibition in this Section 7.7(a) is followed.

The conflict of interest provisions of Section 7.7(a) above apply to any person who is an employee, agent, consultant, officer, or any immediate family member of such person, or any elected or appointed official of the City or the Agency.

Section 7.8 Notices, Demands and Communications. Formal notices, demands, and communications between the Parties shall be sufficiently given and shall not be deemed given unless dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered by express delivery service, return receipt requested, or delivered personally, to the principal office of the Parties as follows:

City:	City of Capitola 420 Capitola Avenue Capitola, CA 95010
Agency:	Redevelopment Agency of the City of Capitola 420 Capitola Avenue Capitola, CA 95010
Authority:	Housing Authority of the County of Santa Cruz 2931 Mission Street Santa Cruz, CA 95060

Such written notices, demands and communications may be sent in the same manner to such other addresses as the affected Party may from time-to-time designate by mail as provided in this Section. Receipt shall be deemed to have occurred on the date shown on a written receipt as the date of delivery or refusal of delivery (or attempted delivery if undeliverable).

Section 7.9 Applicable Law. This Agreement shall be governed by California law.

Section 7.10 Parties Bound. Except as otherwise limited herein, the provisions of this Agreement shall be binding upon and inure to the benefit of the Parties and their heirs, executors, administrators, legal representatives, successors, and assigns.

Section 7.11 Attorneys' Fees. If any lawsuit is commenced to enforce any of the terms of this Agreement, the prevailing Party will have the right to recover its reasonable attorneys' fees and costs of suit from the other Party.

Section 7.12 Severability. If any term of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall continue in full force and effect unless the rights and obligations of the Parties have been materially altered or abridged by such invalidation, voiding or unenforceability. The Parties to this Agreement, and their counsel, have read and reviewed this Agreement and agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party (including, but not limited to, Civil Code Section 1654) shall not apply to this Agreement.

Section 7.13 City and Agency Approval. Whenever this Agreement calls for City and Agency approval, consent, or waiver, the written approval, consent, or waiver of the City Manager shall constitute the approval, consent, or waiver of the City and the Agency, without further authorization required from the City Council/Agency Board. The City and the Agency hereby authorize the City Manager, or the designee of the City Manager, to deliver such approvals or consents as are required by this Agreement, or to waive requirements under this Agreement, on behalf of the City and the Agency. Any consents or approvals required under this Agreement shall not be unreasonably withheld or made, except where it is specifically provided that a sole discretion standard applies. The City Manager, or the designee of the City Manager, is also hereby authorized to approve, on behalf of the City and the Agency, requests by the Authority for reasonable extensions of time deadlines set forth in this Agreement. The City and the Agency shall not unreasonably delay in reviewing and approving or disapproving any proposal by the Authority made in connection with this Agreement.

Section 7.14 Waivers. Any waiver by the City or the Agency of any obligation or condition in this Agreement must be in writing. No waiver will be implied from any delay or failure by the City or the Agency to take action on any breach or default of the Authority or to pursue any remedy allowed under this Agreement or applicable law. Any extension of time granted to the Authority to perform any obligation under this Agreement shall not operate as a waiver or release from any of its obligations under this Agreement. Consent by the City or the Agency to any act or omission by the Authority shall not be construed to be a consent to any other or subsequent act or omission or to waive the requirement for the City's or the Agency's written consent to future waivers.

Section 7.15 Title of Parts and Sections. Any titles of the sections or subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of the Agreement's provisions.

Section 7.16 Entire Understanding of the Parties. This Agreement constitutes the entire understanding and agreement of the Parties with respect to the Program Grant.

Section 7.17 Multiple Originals; Counterparts. This Agreement may be executed in multiple originals, each of which is deemed to be an original, and may be signed in counterparts, and all of which taken together shall constitute this Agreement.

WHEREAS, this Agreement has been entered into by the undersigned as of Effective Date.

**CITY:**

CITY OF CAPITOLA, a public body, corporate and politic

By: \_\_\_\_\_  
Benjamin Goldstein, City Manager

**AGENCY:**

REDEVELOPMENT AGENCY OF THE CITY OF CAPITOLA, a public body, corporate and politic

By: \_\_\_\_\_  
Benjamin Goldstein, Executive Director

**AUTHORITY:**

HOUSING AUTHORITY OF THE COUNTY OF SANTA CRUZ, a public body, corporate and politic

By: \_\_\_\_\_  
Kenneth Cole, Executive Director

# **City of Capitola Mobile Home Rental Assistance Program Guidelines**

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## **Program Description**

The City of Capitola Mobile Home Rental Assistance Program will provide monthly assistance for eligible families living in mobile home parks whose space rents have been increased under new lease agreements either related to park acquisition or changes under recent amendment to the City's Mobile Home Park Rent Stabilization Ordinance. The Program's income eligibility process will be based on the Housing Authority's Housing Choice Voucher (Section 8) Program to take advantage of efficiencies of scale and reduce administrative costs.

## **Program Eligibility**

All lower income residents of selected mobile home parks in the City of Capitola whose previously affordable rents are increasing either as a result of a park acquisition or due to changes in the City's Mobile Home Park Rent Stabilization Ordinance. Eligible households must own their mobile home and have been current residents in their park either at the time of approval of the acquisition or at the time of the City's Adoption of the Rent Stabilization Ordinance Amendment. Parks covered under the program include Surf & Sand and Cabrillo and for specific residents of Loma Vista and Wharf Road Manor who are currently receiving rental assistance from the Agency. Eligibility for assistance will be based on total household income. Households may have a gross income of up to 80% of median income to qualify for the Program. Annual income will be projected based on HUD's income definition described at 24 CFR Part 5. Essentially, annual income will be determined by taking current income of all household members, and projecting that income forward for one year. Income includes wages of all employed adults, as well as Social Security, Supplemental Security Income, State Disability, Unemployment, Workers Compensation, all other public benefits, as well as any and all other income expected to be received by any household member. Annual income will also include income from assets, such as interest and dividends.

Some allowances and deductions will reduce the amount of annual income as allowed in the HUD Part 5 income definition, such as allowances for elderly or disabled families, deductions of allowable medical expenses for elderly or disabled families, and allowances and deductions for families with full time students and families that have out of pocket child care expenses.

## Enrollment Process and Eligibility Determination

Interested families will contact the Housing Authority. Families must complete a detailed application for assistance, which will include a list of all household members as well as income, assets, allowable expenses, and any and all other information that impacts the determination of eligibility. All income and assets will initially be verified with current original documents, such as paystubs, benefits letters, and bank statements. In some cases, income and assets may be verified directly with a third party source when documentation is not available.

If any household member refuses to complete required application forms or provide documentation of income or assets, the household will be denied assistance. Additionally, if funds are not available to provide a subsidy to all eligible households as described above, families will be assisted based on a first come, first served basis.

## Program Assistance

For each eligible household, the Housing Authority will determine both the current rent and the new anticipated rent (In the case of residents in cooperatively owned parks “rent” will be the monthly membership dues). Each family will then be placed in categories depending on their income. Categories will align with HUD’s income eligibility thresholds, with Extremely Low Income families at less than 30% median household income, Very Low Income families at 30% to 50% median household income, and Low Income families at 50% to 80% median household income.

The Housing Authority will calculate the difference between each household’s current rent and the new anticipated rent (the “rent differential). Finally, the Housing Authority will calculate the monthly subsidy by applying an established percentage, shown below, to the Rent differential.

<b>Income Level</b>	<b>Percentage of Rental Increase to be paid</b>
Extremely Low Income (less than 30% median income):	80%
Very Low Income (30% to 50% median income):	50%
Low Income (50% to 80% median income):	25%

A maximum monthly assistance level has been established of \$225 for all income groups. Arrangements will be made so that the rental assistance amount determined for each applicant is paid directly to the Participant.

## **Ongoing Eligibility**

Households receiving assistance through the Program will receive an annual re-examination of their income to ensure continued eligibility and to make adjustments to the level of subsidy they may receive to reflect any changes that have occurred over the course of the year. Annual re-examinations will be based on families' self certification under penalty of perjury. After initial eligibility is determined, program participants will no longer be required to provide current original documentation of income.

## **Termination or Reduction of Assistance**

Families will be terminated from assistance in the Program if their household income exceeds 80% median household income or if any household member refuses to complete required annual re-examination documents. If funds are not available to continue to provide subsidies for all program participants, families in lower income groups will receive preference, and families in higher income groups may experience a reduction or elimination of their subsidy. At least sixty (60) days notice will be provided before implementing any reduction in subsidy.



**Exhibit B**

Housing Authority of the  
County of Santa Cruz  
2931 Mission St  
Santa Cruz, CA  
95060-5709

May 4, 2011

**INVOICE**

To:

Re: Mobile Home Park Rental Assistance Program,  
FY 2011-12

Reimbursement claim for 2011

	Total Contract	Previously Billed	This Bill	YTD Billed
Rent Assistance				
Salaries & Wages				
	<hr/>			
	<hr/>			
	Total Contract Remaining			
Rent Assistance				
Salaries & Wages				
	<hr/>			
	<hr/>			

If you have any questions, please call \_\_\_\_\_ at \_\_\_\_\_

I hereby certify as principal of the firm of the Housing Authority of the County of Santa Cruz, that the charge of \_\_\_\_\_ as summarized above and shown in detail on the attachments is fair and reasonable, is in accordance with the terms of the Agreement dated August 12, 2010.

---

Name	Date
------	------

---

Check #	Check Amt	Check Date	Fiscal	PSDs	People	Notes
Park name:						

Check #	Check Amt	Check Date	Fiscal	PSDs	People	Notes
Park name:						

Check #	Check Amt	Check Date	Fiscal	PSDs	People	Notes
Park name:						

Total Checks

Total Households

Total People

	Amount	Persons	Households
Repeat			
Totals			

Prepared By:

\_\_\_\_\_ Date: \_\_\_\_\_

Program Director:

\_\_\_\_\_ Date: \_\_\_\_\_

## EXHIBIT C

### SCOPE OF WORK FOR AUTHORITY

1. Develop targeted income restricted rental assistance program to preserve housing affordable to extremely low, very low, and low-income households in specified Mobile Home Parks in coordination with the City and the Agency and based on City approved income guidelines consistent with Redevelopment Law.
2. Prepare and maintain a rental assistance program manual that includes program guidelines, informational materials, and documentation for participation.
3. Enter into agreements with Participants
4. Respond to public inquiries.
5. Provide outreach and program orientation materials on the program to residents in the specified Mobile Home Parks. Any outreach strategy or orientation materials shall be approved in advance by City and Agency staff.
6. Certify income eligible participants pursuant to income guidelines approved pursuant to #1 above.
7. Perform property inspections as required by the City.
8. Disburse rental assistance funds to participants as authorized by program guidelines and within Program Grant amount. Submit invoices to the City for reimbursement of disbursed funds.
9. Maintain participation files and program status reports.
10. Monitor program progress and make recommendations regarding any program modifications to the City.
11. Provide detail of work completed during the hours billed on submitted invoices.



Item #: **4.B.**

## CITY COUNCIL AGENDA REPORT

MEETING OF MAY 12, 2011

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

DATE: MAY 3, 2011

SUBJECT: **3801 CLARES STREET #11-024 APN: 034-261-47**

Appeal of a Planning Commission denial for a Conditional Use Permit for a medical office use (dialysis clinic) in the CC (Community Commercial) Zoning District.

Environmental Determination: Categorical Exemption

Property Owner: Capitola Roth Investments, LLC, filed 3/9/11

Representative: Barry Maner, Entos Design

---

### **Recommended Action:**

Uphold the Planning Commission denial of application #11-024 for a Conditional Use Permit for a medical office use at 3801 Clares Street. If the City Council should decide to uphold the appeal and approve the Conditional Use Permit, recommended conditions and findings have been attached (Attachment 6).

---

### **BACKGROUND**

On April 7, 2011, the Planning Commission considered an application for a Conditional Use Permit to establish a medical office use (dialysis clinic) at 3801 Clares Street. The Commission denied the proposal on a 3-1 vote, concurring with staff that the growth of non-retail uses in the commercial areas will limit the ability to bring in retailers that will contribute to the City's economic stability.

A timely appeal<sup>1</sup> of the Planning Commission's denial was received on April 18, 2011 from Barry Maner acting on behalf of his clients, *Satellite Healthcare* (Attachment 1). The appeal letter, Planning Commission reports and corresponding minutes from the hearing are attached for your information as Attachments 1 through 3.

### **PROJECT DESCRIPTION**

The applicant is proposing to lease 7,896 square feet of commercial space, formerly occupied by *Hollywood Video*. The proposed medical use is a dialysis clinic for *Satellite Healthcare*. The site is located in the CC (Community Commercial) Zoning District which requires that professional offices that occupy more than three thousand square feet of building area obtain a Conditional Use Permit.

---

<sup>1</sup> §2.52.020, Capitola Municipal Code

If approved, the clinic would join a network of facilities in Watsonville, San Jose, Morgan Hill and Gilroy. The facility will include a 4,242 square foot patient care area with 24 patient treatment stations and other support areas. It also includes three offices for a clinic manager, a social worker, and a dietician. Additionally, there is one meeting room for conferences; a supply storage room and a water treatment equipment room to the rear. The facility will be staffed by approximately 15 employees at any one time, serving up to a maximum of 24 patients at any one time. The facility will operate approximately 15 hours a day, with hours ranging from 6:00am to 9:00pm, Monday through Saturday. The patients will be staggered throughout the day, with a maximum of 72 patients being dialyzed per day.

### **FISCAL IMPACT**

The dual impacts of the aging population and weakening retail environment have resulted in retail space vacancies. While there is nothing inherently wrong with the proposed dialysis clinic use, the City Council is advised to use caution in allowing non retail uses that will challenge current efforts to unify the area with consistent retail use patterns. Fragmented retail use patterns are one of the leading causes of an underperforming retail area. Although no comprehensive vacancy data exists for retail in Capitola, brokers report that vacancy rates have increased. Staff recommends that other commercial locations may be more appropriate for the proposed use.

### **ATTACHMENTS**

1. Appeal letter from Barry Maner of Entos Design, dated April 18, 2011
2. April 7, 2011 Planning Commission Staff Report
3. April 7, 2011 Planning Commission Minutes
4. Conditions and Findings
5. Letter of support, dated April 7, 2011
6. Letter of support, dated April 26, 2011
7. Letter of support, dated April 27, 2011
8. Letters of support

**Report Prepared By:** Ryan Bane  
Senior Planner

**Reviewed and Forwarded  
By City Manager:** \_\_\_\_\_

The logo for ENTOS design features the word "ENTOS" in a large, bold, white sans-serif font, with "design" in a smaller, lowercase, white sans-serif font below it. The text is set against a dark, textured rectangular background.

RECEIVED

APR 18 2011

CITY OF CAPITOLA

April 15, 2011

Ryan Bane  
Senior Planner  
City of Capitola  
420 Capitola Ave.  
Capitola, CA 95010

RE: CUP Application @11-024 Satellite Dialysis, 3801 Clares Street

Mr. Bane

We have received the "Notice of Local Action" dated April 8, 2011 informing us that our CUP application was denied. We would like to appeal this decision to the City Council as soon as possible for the following reasons.

First, only four of the five board members were present to vote. The vote resulted in a three to one decision denying the CUP application. Two of the three members were "on the fence" until the final vote was called.

Second, after the vote three board members told us, on the record, that we should appeal the decision to city council.

Third, kidney dialysis is a life-sustaining necessity for many people in the Capitola area who have Chronic Kidney Disease. Our proposed state-of-the-art facility will help save lives and provide patients with the highest possible standard of care and an improved quality of life. Furthermore, the Capitola residents who care for loved ones on dialysis – and who currently drive them to an out-of-town center three or four times per week – will also see the quality of their lives improved. For some area residents, this is literally a life or death matter.

In addition to the above, we would like to restate the key points of our presentation.

- Specific requirements - Satellite's criteria for selecting a site is very unique. It has taken four years to locate an appropriate site in Capitola.
- Established history – Satellite began serving the area from Santa Cruz in 1978.

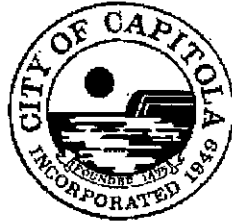
- Contributing employer - Annual payroll \$1,508,535.
- Initial economic boost
  - Projected construction cost is \$970,000.
  - The four general contractors we work with will employ approximately 200+/- sub-trade employees.
- Supports tourism industry – an average of 38 patients per year who are visiting Capitola use our facility.
- Continual economic impact
  - 72 patients and their families would visit Capitola daily, Monday through Saturday, between the hours of 6:00am to 9:00pm.
  - Family members tend to frequent local eateries and shops during each 3-4 hour procedure.
  - Patients tend to shop before procedure.
- Supports other businesses – The facility would maintain contracts with seven local vendors who employ 70 to 110 people.
- Improved quality of life – Convenient location for citizens and neighbors.

In summary, we believe there are both humanitarian and economic reasons to approve this very worthwhile addition to the Capitola community.

Sincerely,



Barry Maners, Architect



## STAFF REPORT

TO: PLANNING COMMISSION

FROM: PLANNING DEPARTMENT

DATE: MARCH 29, 2011 (AGENDA: APRIL 7, 2011)

SUBJECT: **3801 CLARES STREET #11-024 APN: 034-261-47**  
 Conditional Use Permit for a medical office use (dialysis clinic) in the CC (Community Commercial) Zoning District.  
 Environmental Determination: Categorical Exemption  
 Property Owner: Capitola Roth Investments, LLC, filed 3/9/11  
 Representative: Barry Maners, Entos Design

**APPLICANT'S PROPOSAL**

The applicant is requesting a Conditional Use Permit to operate a medical office/clinic within an existing vacant commercial space located at 3801 Clares Street, in the CC (Community Commercial) Zoning District. A professional office use that occupies more than three thousand square feet of building area is consistent with the General Plan and Zoning Ordinance with the issuance of a Conditional Use Permit.

**DISCUSSION**

The applicant is proposing to lease 7,896 square feet of commercial space, formerly occupied by *Hollywood Video*. The proposed medical use is a dialysis clinic for *Satellite Healthcare*. The site is located in the CC (Community Commercial) Zoning District which requires that professional offices that occupy more than three thousand square feet of building area obtain a Conditional Use Permit.

If approved, the clinic would join a network of facilities in Watsonville, San Jose, Morgan Hill and Gilroy. The facility will include a 4,242 square foot patient care area with 24 patient treatment stations and other support areas. It also includes three offices for a clinic manager, a social worker, and a dietician. Additionally, there is one meeting room for conferences; a supply storage room and a water treatment equipment room to the rear. The facility will be staffed by approximately 15 employees at any one time, serving up to a maximum of 24 patients at any one time. The facility will operate approximately 15 hours a day, with hours ranging from 6:00am to 9:00pm, Monday through Saturday. The patients will be staggered throughout the day, with a maximum of 72 patients being dialyzed per day.

While there will be extensive interior improvements within the existing one-story building, exterior improvement will be limited to creating two concrete landings at exterior doors for egress purposes, relocation of one exterior door, and removal of one exterior door that will be replaced with storefront



glazing to match the existing building façade. New signage will be provided, but none is proposed as part of this application.

### Parking

The subject building is located on a parcel that also contains a 12,300 square foot retail building that currently houses *Pier 1 Imports*. In the CC zoning district, both retail and office uses require one parking space for every 300 square feet of gross floor area. Together, as retail uses, the two buildings require a total of 67 parking spaces. With a total of 89 parking spaces on site, the city parking requirement is easily being met.

Per the Parking Ordinance, medical office and clinics require one space for each 300 square feet of gross floor area or five spaces per doctor, whichever is greater. Due to the nature of this type of medical clinic, it is not possible, nor appropriate to apply the requirement for spaces per doctor. Therefore, at one space for each 300 square feet of floor area, the proposed use meets the city parking requirements.

### RECOMMENDATION

The dual impacts of the aging population and weakened retailers have resulted in retail spaces being filled by non-retail tenants. The Planning Commission is advised to use caution in allowing non retail uses that will challenge current efforts to unify the area with consistent retail use patterns. Fragmented retail use patterns are one of the leading causes of an underperforming retail area. Although no comprehensive vacancy data exists for retail in Capitola, brokers report that vacancy rates have increased. Staff recommends that other commercial locations may be more appropriate for the proposed use.

Staff recommends that the Planning Commission carefully consider if this is an appropriate location for a professional medical office use. If the Commission chooses to approve application #11-024, it is recommended that the approval be subject to the following conditions and based upon the following findings:

### CONDITIONS

1. The project approval consists of a Conditional Use Permit to operate a medical office/clinic within an existing vacant commercial space located at 3801 Clares Street.
2. Any significant modifications to the size or exterior appearance of the structure must be approved by the Planning Commission.
3. The application shall be reviewed by the Planning Commission upon evidence of non-compliance with conditions of approval or applicable municipal code provisions.
4. Business hours will be limited to 6:00 a.m. – 9:00 p.m.
5. The applicant shall obtain approval for a Sign Permit through the Community Development Department.
6. The applicant shall obtain a business license prior to operating the business.
7. Prior to granting of final occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Zoning Administrator or Community Development Director.

## **FINDINGS**

- A. **The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance and General Plan.**

Planning Staff and the Planning Commission have reviewed the application and determined that the proposed business is an allowable use in the CC Zoning District and, for reasons indicated in the Staff Report, will meet the requirements of Zoning District. Conditions of approval have been included to ensure that the medical use is consistent with the Zoning Ordinance and General Plan.

- B. **The application will maintain the character and integrity of the neighborhood.**

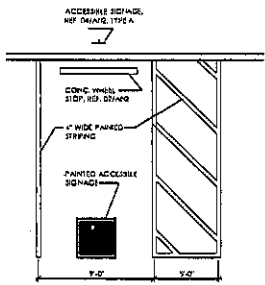
Planning Department Staff and the Planning Commission have reviewed the project and determined that the medical use and modifications to the building conform with the applicable provisions of the Zoning Ordinance and therefore maintain the character and integrity of this area of the City. Conditions of approval have been included to carry out these objectives.

- C. **This project is categorically exempt under Section 15301 of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.**

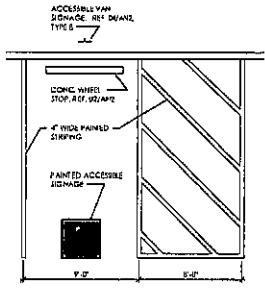
The proposed project involves a medical use occupying an existing commercial space formerly occupied by a retail business. No adverse environmental impacts were discovered during project review by either the Planning Department Staff or the Planning Commission.

**Report Prepared By:** Ryan Bane  
Senior Planner

Attachment A – Project Plans  
Attachment B – Project Description

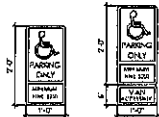


ACCESSIBLE PARKING



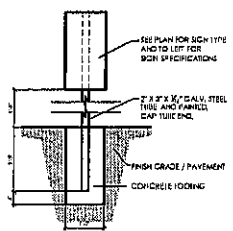
VAN PARKING

05 TYP. H.C. PARKING  
SCALE: 1/4" = 1'-0"

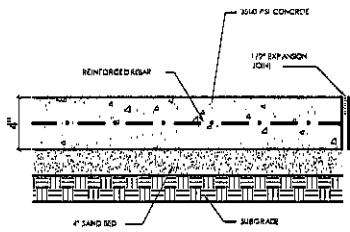


PARKING SIGN A

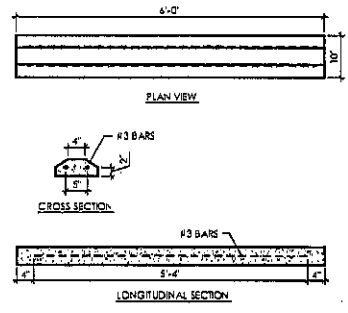
PARKING SIGN B



04 H.C. Sign  
SCALE: 3/4" = 1'-0"

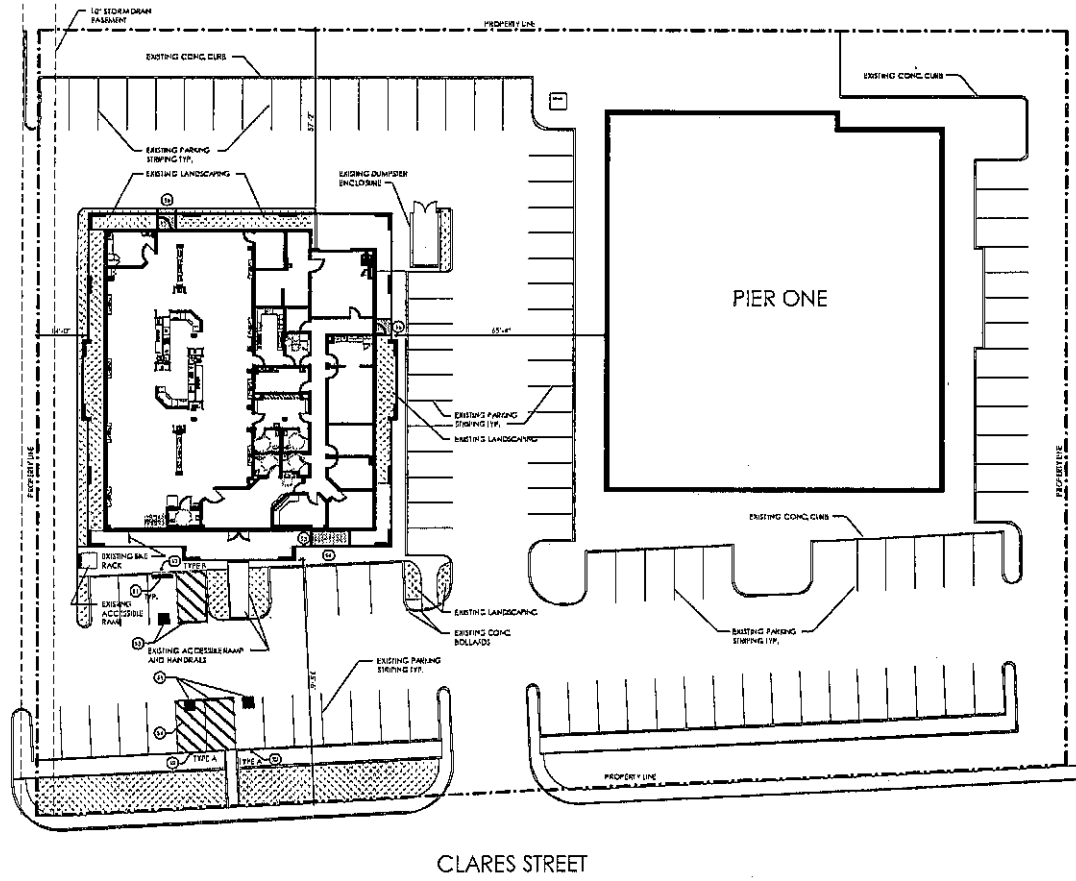


03 Paving Detail  
SCALE: 3/4" = 1'-0"



02 Wheel Stop Detail  
SCALE: 1" = 1'-0"

- ARCHITECTURAL**
1. PROVIDE AND INSTALL NEW CONCRETE WHEEL STOP. REFER TO DETAIL 02/AM2.
  2. PROVIDE AND INSTALL NEW H.C. ACCESSIBLE SIDEWALK. REFER TO DETAIL DRAWING.
  3. DEMOLISH EXISTING CONCRETE RAMP AND LANDSCAPING PATCH AND REPAIR CONCRETE TO MATCH EXISTING DETAIL DRAWING.
  4. REMOVE EXISTING ACCESSIBLE SIDEWALK.
  5. RE-STRIP ACCESSIBLE SIDEWALK AND H.C. SIDEWALK TO DRAWING.
  6. NEW CONCRETE PAVING, REFER TO DETAIL DRAWING. MATCH ADJACENT FINISH.



01 Site Plan  
SCALE: 1/4" = 1'-0"

NO. OF SHEETS	12
NO. SHEETS USED	12
DATE	02/21/2011

Satellite  
Healthcare  
In-Center

3801 CLARES ST.  
CAPITOLA, CA

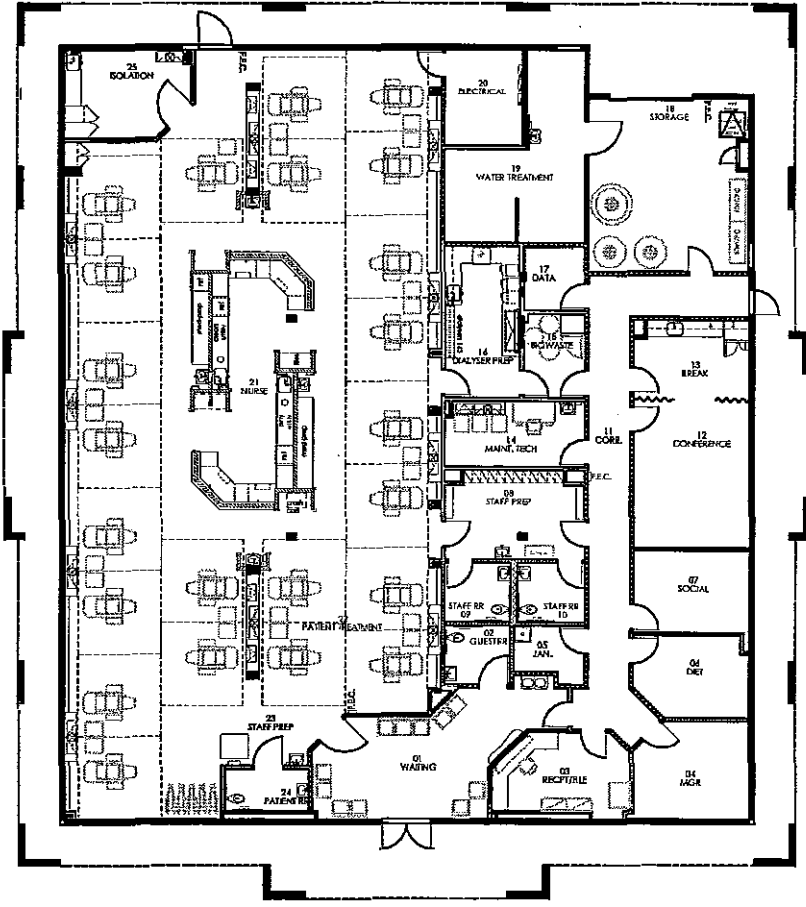
Site Plan

AN2

**LEGEND**

**ARCHITECTURAL**

- 0000 ROOM NUMBER
- OFFICE ROOM NAME
- ELIAS ELEVATION MARK
- SECTION MARK
- REVISION MARK
- REVISION CLOUD
- GLAZING MARK
- PARTITION MARK
- STUD WIDTH
- PARTITION TYPE
- EXISTING PARTITION TO REMAIN
- NEW PARTITION
- SIGHTLINE/WINDOW
- EXISTING PARTITION WITH SOUND INSULATION
- ONE HOUR PARTITION, TYPE D3
- PARTITION WITH SOUND INSULATION
- HALF HEIGHT WALL, SEE PARTITION TYPES
- DOOR MARK
- SPECIAL WIDTH
- FIRE RATING
- Hardware SET
- DOOR TYPE
- WATER LINE WITH SHUT-OFF VALVE



**01 Floor Plan**  
Scale: 1/8" = 1'-0"

For CUP Issues	02/25/2011
No. Issued	Date

Project  
**Satellite Healthcare In-Center**

Location  
3801 CLARES ST.  
CAPITOLA, CA

Sheet Title  
**Floor Plan**

Sheet Number **A2** © 2011

**PROJECT DESCRIPTION**

3801 Clares St., Capitola, CA

February 25, 2011

**Purpose of the Proposal:**

We are proposing a new dialysis clinic for Satellite Healthcare to be located at 3801 Clares St, Capitola, CA. The clinic will join a network of facilities in Watsonville, San Jose, Morgan Hill, and Gilroy. Due to demographics we are planning on relocating our Santa Cruz facility to the Capitola proposed site to better serve our patients.

**Scope of Work:**

The proposed project consists of constructing new interior improvements within an existing one story retail building. Satellite Healthcare will occupy the entire 7,896 sq ft. building which was previously a Hollywood Video Store. The proposed work includes interior and exterior improvements. Exterior improvements will include creating two concrete landings at exterior doors for egress purposes, relocation of one exterior door, and removal of one exterior door that will be replaced with storefront glazing to match the existing façade of the building. New signage will be provided to replace the previous tenants signage, and new accessible parking signs will be provided to comply with Title 24.

**Proposed Use:**

The **Satellite Healthcare** space is an OSHPD 3 dialysis clinic. The facility will include a 4,243 square foot patient care area with 24 patient treatment stations and other support areas. It also includes three offices (a clinic manager, a social worker and a dietician). Additionally, there is one meeting room for conferences; a supply storage room and a water treatment equipment room in the back. The improvements will be classified as I-2.1 occupancy.

The facility will be staffed by approximately 15 employees at any one time. The clinic will provide services to a maximum of 24 patients at any one time.

Since a generator is not required by the building code, one will not be provided by Satellite Healthcare.



**Hours of Operation:**

The facility will operate approximately 15 hours a day, starting at 6:00 am and ending at 9:00 pm on Monday through Saturday. The patients will be staggered throughout the day with a maximum of 72 patients being dialyzed per day.

**Parking:**

Per code, at 1 space per 300 square feet, this building would require 27 spaces minimum and the adjacent Pier I space (at 12,300 sq ft) would require a minimum of 41 parking spaces. Therefore the entire site area should have a minimum of 68 parking spaces. However, currently there are a total of 83 standard parking spaces and 6 accessible parking spaces (3 accessible in front of each building).

For all the reasons mentioned above we would like to encourage the City of Capitola and the Planning Department to fully support this project and grant the Conditional Use Permit.

Sincerely,

A handwritten signature in black ink that reads "William Adair". The signature is fluid and cursive, with the first name "William" and last name "Adair" clearly legible.

Bill Adair

**C. 3801 CLARES STREET**

**#11-024**

**APN: 034-261-47**

Conditional Use Permit for a medical office use (dialysis clinic) in the CC (Community Commercial) Zoning District.

Environmental Determination: Categorical Exemption

Property Owner: Capitola Roth Investments, LLC, filed 3/9/11

Representative: Barry Maner, Entos Design

Senior Planner Bane presented the staff report.

The public hearing was opened.

Barry Maner, project architect, spoke in support of the application. He stated that the existing building is suitable to the proposed use. The design preserves the building exterior and blends with commercial district. The business signage will be designed in compliance with the previously approved sign program.

Frank Hagaman, project representative for Satellite Dialysis, spoke in support of the application. He stated that the current center located at Capitola Road and Soquel Avenue is overwhelmed and seeks to expand to a more convenient location for staff, patients and families. Satellite Dialysis specifically selects retail centers to locate because of the convenience of local shopping and services available in the vicinity of the dialysis center for their patients and families. Most patients are dropped off for treatment and family members stay within the area during the lengthy treatment time. This proposed site will improve the quality of life for the staff, patients, and families. This site and Capitola offers visiting patients and their families the opportunity to travel and receive treatment services.

Lee Walters spoke in support of the application.

Emily Watson spoke in support of the application.

Dr. Surinder Kumar spoke in support of the application.

The public hearing was closed.

Commissioner Graves agreed with staff's comments, but supported the proposed use. He stated that a dialysis center is not the best use in the commercial area, but that it is a good use for the building. He emphasized strict adherence to the approved sign program for the center.

Commissioner Smith concurred with staff's recommendation, noting that the growth of medical uses in the commercial areas will limit the ability to bring in retailers that will contribute to the City's economic stability.

Commissioner Newman agreed with staff's comments. He stated that it is difficult to keep the commercial building vacant, while the City has begun a long term planning process for the commercial areas.

Chairperson Ortiz stated that although she agreed that this type of use would bring in additional business to surrounding stores and restaurants, she felt strongly about Capitola's commercial area. Capitola is a small community with its' own police department, planning department, city hall and recreation department. It takes a lot of money to run the city and the only reason we still have these services in Capitola is because of 41<sup>st</sup> Avenue.

Clares Street was developed to expand Capitola's retail base. We don't receive a lot of property taxes and sales tax makes up a majority of our revenue. She was not in favor of putting a medical use in a prime retail space.

Although there are other uses on 41<sup>st</sup> Avenue and Clares Street, this particular site was built for retail and changing the use to a medical facility would have a direct impact on Pier 1 and the other businesses in the area. There have been studies done proving that when retail begins to change it may be a slow process, but it will eventually impact a much larger area.

So, although she is sympathetic to the applicant's services and the need for them she doesn't want us to take it for granted that we have our own police department and other services. We don't have to rely on the county when we want to build our homes or remodel our homes. We can come right down here and deal with people who are in our own community. This is a very expensive community to run.

**A MOTION WAS MADE BY COMMISSIONER SMITH AND SECONDED BY COMMISSIONER NEWMAN TO DENY PROJECT APPLICATION #11-024.  
THE MOTION CARRIED ON THE FOLLOWING VOTE: AYES: COMMISSIONERS NEWMAN, SMITH AND CHAIRPERSON ORTIZ. NOES: COMMISSIONER GRAVES.  
ABSENT: COMMISSIONER ROUTH. ABSTAIN: NONE.**



3801 CLARES STREET - APPLICATION #11-024

**CONDITIONS**

1. The project approval consists of a Conditional Use Permit to operate a medical office/clinic within an existing vacant commercial space located at 3801 Clares Street.
2. Any significant modifications to the size or exterior appearance of the structure must be approved by the Planning Commission.
3. The application shall be reviewed by the Planning Commission upon evidence of non-compliance with conditions of approval or applicable municipal code provisions.
4. Business hours will be limited to 6:00 a.m. – 9:00 p.m.
5. The applicant shall obtain approval for a Sign Permit through the Community Development Department.
6. The applicant shall obtain a business license prior to operating the business.
7. Prior to granting of final occupancy, compliance with all conditions of approval shall be demonstrated to the satisfaction of the Zoning Administrator or Community Development Director.

**FINDINGS**

- A. **The application, subject to the conditions imposed, will secure the purposes of the Zoning Ordinance and General Plan.**

Planning Staff and the Planning Commission have reviewed the application and determined that the proposed business is an allowable use in the CC Zoning District and, for reasons indicated in the Staff Report, will meet the requirements of Zoning District. Conditions of approval have been included to ensure that the medical use is consistent with the Zoning Ordinance and General Plan.

- B. **The application will maintain the character and integrity of the neighborhood.**

Planning Department Staff and the Planning Commission have reviewed the project and determined that the medical use and modifications to the building conform with the applicable provisions of the Zoning Ordinance and therefore maintain the character and integrity of this area of the City. Conditions of approval have been included to carry out these objectives.

- C. **This project is categorically exempt under Section 15301 of the California Environmental Quality Act and is not subject to Section 753.5 of Title 14 of the California Code of Regulations.**

The proposed project involves a medical use occupying an existing commercial space formerly occupied by a retail business. No adverse environmental impacts were discovered during project review by either the Planning Department Staff or the Planning Commission.

**SANTA CRUZ NEPHROLOGY MEDICAL GROUP, INC.**

---

**Surinder Kumar, M.D., F.A.C.P., F.A.S.N.**

**Maritina S. Rodriguez, M.D.**

**Diplomates American Board of Nephrology**

**1595 Soquel Drive, Suite 210**

**Santa Cruz, CA 95065**

**(831) 476-1551**

**Fax (831) 476-3241**

**40 Penny Lane**

**Watsonville, CA 95076**

**(831) 724-6676**

April 7, 2011

Capitola City Council

Dear Sir or Madam:

I am Nephrologist who has been in practice in Santa Cruz County for the past 11 years. I was excited to hear that Satellite Dialysis would be hopefully housing the new dialysis center in the Clares Street complex Capitola. This is an excellent site and will be able to

4/7/11  
SUBMITTED @ MEETING  
R

serve patients in both north and south county.

I believe that the center will bring increased foot traffic to the local stores and businesses around the area. In addition to the staff and patients, there will be family and friends and the physicians who will be frequently visiting the area. This will translate to revenues for the city. I hope that you will extend your kind consideration to their application.

If I can be of further assistance, please feel free to call.

Sincerely,

Maritina Rodriguez, M.D.

April 26, 2011

Capitola Planning Commission  
420 Capitol Ave.  
Capitola, CA 95010

RECEIVED  
MAY 03 2011  
CITY OF CAPITOLA

Ref: Satellite Dialysis Center

Dear Planning Department;

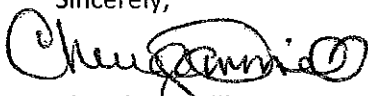
I just read in the paper that your department ruled against the idea of the dialysis center obtaining and running their health care service out of the old Block Buster building. I'm hoping that you will reconsider this request.

My dad is a patient at Satellite Dialysis Center. My mom and I take turns driving him to and from the clinic. We come from Felton and since the gas prices are so high, we usually stick around for his 3 to 4 hour – 3 days a week visits. Mr. Walters was right when he said that the caregivers welcome a place to dine and shop during this time. There is the mall right across the street and all the shops, including Great Clips, Magic Nail, Fresh Choice, and other food and specialty shops right next to the building that we will use and this will generate income.

I feel this would be a win-win situation for the patients, caregivers and the City of Capitola. The building will be in use, the patients will get quality care with updated equipment and better access, the caregivers will receive access to a lot of shopping, dining and personal care establishments to go to while they wait, and the City of Capitola will get the tax revenue.

Please reconsider and let Satellite Dialysis open their new Center in Capitola. We would all appreciate this.

Sincerely;

  
Cheryl VanMill

April/May, 27 2011

RECEIVED  
APR 28 2011  
CITY OF CAPITOLA

Capitola City Council Members  
420 Capitola Ave  
Capitola, CA 95010

Dear Capitola City Council Members:

I read Lee Walter's opinion article in the Sentinel about how Capitola doesn't want a dialysis center. I am very upset about this. Like Mr. Walters, I have to have dialysis to stay alive. And I, too, think it is very important to have a center here in Capitola.

It sounds like the city isn't happy about the center's proposed location in a busy retail shopping area. I don't understand why. Someone often accompanies me to dialysis and I know they will enjoy shopping while I have the long treatment. And I like to combine my shopping with getting my treatments, too. I may have chronic kidney disease, but I still like shopping and eating out as much as anyone else. By having the center near the retail area, it will make my life easier and my families.

When you consider Satellite's appeal, which the company submitted on April 18<sup>th</sup>, I hope you'll think of me and all the other people out there on dialysis who are excited about having a center so close to our homes. And, I hope you will also think about all the local business people who will benefit from the consistent business we will bring to them.

Thank you.

Sincerely,

Signature: Robert E. Tomlin

April/May, 2 2011

CITY OF CAPITOLA

MAY 02 2011

RECEIVED

Capitola City Council Members  
420 Capitola Ave  
Capitola, CA 95010

Dear Capitola City Council Members:

I read Lee Walter's opinion article in the Sentinel about how Capitola doesn't want a dialysis center. I am very upset about this. Like Mr. Walters, I have to have dialysis to stay alive. And I, too, think it is very important to have a center here in Capitola.

It sounds like the city isn't happy about the center's proposed location in a busy retail shopping area. I don't understand why. Someone often accompanies me to dialysis and I know they will enjoy shopping while I have the long treatment. And I like to combine my shopping with getting my treatments, too. I may have chronic kidney disease, but I still like shopping and eating out as much as anyone else. By having the center near the retail area, it will make my life easier and my families.

When you consider Satellite's appeal, which the company submitted on April 18<sup>th</sup>, I hope you'll think of me and all the other people out there on dialysis who are excited about having a center so close to our homes. And, I hope you will also think about all the local business people who will benefit from the consistent business we will bring to them.

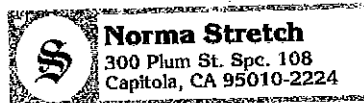
Thank you.

Sincerely,

Signature: Norma Stretch

*I go to Watsonville once a week to go to Target and stores around there. There is one going in here. I would rather spend my money here.*

*Please reconsider.*



**RECEIVED**

MAY 02 2011

CITY OF CAPITOLA

April 27, 2011

Capitola City Council Members  
420 Capitola Avenue  
Capitola CA 95010

Dear Capitola City Council Members,

I read Lee Walters' op ed piece in the Sentinel on Sunday about how Capitola's Planning Commission doesn't want a dialysis center on Clares Street. I am very upset about this.

This is not a form letter from a dialysis patient, but from someone who takes a patient for dialysis once a week. First of all, the mid-county location is better for everyone. But to be near shopping and good restaurants is an even better plus for us. We have 3 hours while waiting to pick her up so we would shop in the area. And we always go out to dinner afterward so we would be choosing restaurants in the area.

So-----your argument about the dialysis center NOT creating sales taxes is bogus. Isn't there a discrimination situation going on here?

Thank you.

Sincerely, 

Patricia Blanchette  
2724 Borregas Drive  
Aptos CA 95003  
[patblan@comcast.net](mailto:patblan@comcast.net)



## CITY COUNCIL AGENDA REPORT

MEETING OF MAY 12, 2011

FROM: COMMUNITY DEVELOPMENT DEPARTMENT

DATE: MAY 4, 2011

SUBJECT: PUBLIC HEARING TO CONSIDER APPLICATIONS TO STATE OF CALIFORNIA  
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM FOR TWO  
PLANNING AND TECHNICAL ASSISTANCE GRANTS OF \$70,000 EACH

---

**Recommended Action:** By motion and roll call vote, that the City Council take the following actions:

- 1) Conduct a public hearing to solicit public input on the City's application to the State CDBG Program for two \$70,000 Planning and Technical Assistance (PTA) grants for the Capitola Village Hotel Design Alternatives and City Hall/Pacific Cove Area Plan; and
  - 2) Adopt the proposed Resolution Approving an Application for Funding and the Execution of a Grant Agreement and any Amendments thereto from the Planning and Technical Assistance Allocation of the State Community Development Block Grant (CDBG) Program for the Capitola Village Hotel Design Alternatives and City Hall/Pacific Cove Area Plan, thereby approving \$17,500 from the General Plan Maintenance Fee Fund to be used as the Cash Match for the City Hall Area Plan, and \$17,500 in private funds from Barry Swenson Builders to be used as the Cash Match for the Capitola Village Hotel Alternatives; and
  - 3) Approve the attached "Cooperative Agreement regarding Village Hotel Planning & Parking Structure Financing Costs" between the City and Barry Swenson Builders accepting \$30,000 in funds for the Capitola Village Hotel Design Alternatives Study.
- 

### **BACKGROUND**

Each year, the City of Capitola is eligible to apply for grant funding from the State CDBG Program to assist with affordable housing and economic development programs. In August 2010, the City held the first of two required public hearings in order to apply for the 2010/2011 year.

On August 12, 2010, the City Council directed staff to prepare a CDBG Planning and Technical Assistance (PTA) grant application to fund a review of design alternatives for the Capitola Village Hotel at the old Capitola Theatre site. The CDBG Notice of Funding Availability (NOFA) was expected to be released in September 2010. However, due to federal and state funding issues, the state of California Department of Housing and Community Development suspended release of all NOFA's through early 2011. The PTA NOFA was released in late March 2011, and applications will be accepted by CDBG beginning May 25, 2011.



At the April 28, 2011 City Council meeting, given the March flood events and the damaged infrastructure at Pacific Cove Mobile Home Park, the Council directed staff to prepare the necessary documents to begin the process of closing the Park. The Council also directed staff to begin preparation of a Relocation Plan for the residents and also to prepare funding applications to consider appropriate reuse of the site. This public hearing is the second required hearing in order to submit a CDBG application. PTA funds are awarded on a first-come, first-served basis. Because these funds are very popular, time is of the essence in preparing and submitting an application.

## **DISCUSSION**

### **Capitola Village Hotel Conceptual Site Design/Parking Plan**

The owner of the Capitola Theatre site in Capitola Village, Barry Swenson Builders, has proposed the development of a new Capitola Village Hotel at the site. The proposed project would include meeting facilities and commercial retail space. This development has the potential to alter off- and on-season business activity in the Village, which has attractive and unique small businesses that struggle with the seasonal economic nature of the Village. The Capitola Village Hotel could serve as an anchor for a new and revitalized business area which could retain the overall feel of Capitola Village, while bringing year-round visitors and an upswing for current and expanded retail.

The grant-funded work will include:

- Public outreach meetings with residents, the local business community, the Village Business Assistance Association, and the Chamber of Commerce to gather local input on design approaches, as part of the General Plan Public Outreach process.
- Identification of a series of design alternatives addressing options regarding number of rooms, square footage, parking spaces, amount of retail space, and meeting facilities.
- Schematic site design tools for 3 to 4 alternatives, including preliminary architectural/site design, streetscape design, access improvements, visual simulations and site massing models.
- Presentation of conceptual design information at community meetings, and identification of a community consensus on preliminary design for the Village Hotel.
- Development of a Parking Plan for the identified design, with an analysis of on-site and off-site parking requirements, access improvements and parking financing approaches, including a Parking Financing Plan for off-site parking at the City Hall Parking Structure.
- Preparation of background planning documents, Local Coastal Plan amendments, General Plan and Zoning Code modifications necessary for the identified site alternative.
- Preparation of Final Report and analysis of jobs that would be created by the development for Targeted Income Group (TIG) Persons (earning less than 80% of median income.)

### **Cooperative Agreement**

The purpose of the cooperative agreement is to provide the financial match for the CDBG grant and ensure that both the City and BSB are clear about the scope of work and expectations of the planning process. It has been staff's experience that incorporating the consideration of the hotel project into the General Plan process will ensure compatibility with the future vision for the Capitola Village, and to generate a high degree of public involvement in planning process. While the agreement requires BSB to provide \$30,000, only \$17,500 is needed for the CDBG grant match and therefore the resolution reflects this amount.

### **City Hall/Pacific Cove Area Plan**

This grant will fund a community process to develop and review schematic design alternatives for the City Hall site and the adjacent Pacific Cove Mobile Home Park. The approach will be to develop conceptual design alternatives for possible mixed-uses (i.e. retail, housing, commercial, parking, park and a City Hall/Police Department). The study will entail public outreach in coordination with the

General Plan Update, schematic design alternatives, Environmental Review, and the required Local Coastal Plan and zoning amendments. In order to best coordinate with the General Plan Update the City Hall/Pacific Cove site will become one of several Focus Area in the General Plan itself, and will thus become part of the City's process to envision its long-term future.

The grant-funded work will include:

- Public meetings with City residents, businesses, civic leaders and local organizations.
- Identification of conceptual design alternatives such as retail, hotel, civic uses, parking structure and/ or housing.
- Schematic site design tools for 3 to 4 alternatives, including preliminary architectural/site design, streetscape design, access improvements, visual simulations and site massing models.
- Presentation of conceptual design information at community meetings, and identification of a community consensus on preliminary design for the City Hall/Pacific Cove Area Plan.
- Development of required state and federal environmental review documents.
- Preparation of background planning documents, Local Coastal Plan amendments, General Plan and Zoning Code modifications necessary for the identified site alternative.
- Preparation of Final Report and analysis of jobs that would be created by the development for Targeted Income Group (TIG) Persons (earning less than 80% of median income.)

### **FISCAL IMPACT**

If awarded, these grants would require a total of \$17,500 in matching funds from the General Plan Maintenance Fee Fund, and would bring in a total of \$140,000 in CDBG funds and \$30,000 in matching funds from Barry Swenson Builders.

### **ATTACHMENTS**

- 1) Draft Resolution
- 2) Cooperative Agreement with Barry Swenson Builders Regarding Village Hotel

**Report Prepared By:** Carolyn Flynn

**Approved by:** Derek Johnson  
Community Development Director

**Reviewed and Forwarded  
By City Manager:** \_\_\_\_\_

**RESOLUTION NO.**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA  
APPROVING AN APPLICATION FOR FUNDING AND THE EXECUTION OF A  
GRANT AGREEMENT AND ANY AMENDMENTS THERETO FROM THE PLANNING  
TECHNICAL ASSISTANCE ALLOCATION OF THE STATE COMMUNITY  
DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM FOR THE CAPITOLA VILLAGE  
HOTEL DESIGN ALTERNATIVES AND CITY HALL/PACIFIC COVE AREA PLAN**

BE IT RESOLVED by the City Council of the City of Capitola as follows:

SECTION 1

The City Council has reviewed and hereby approves an application under the Economic Development Allocation for \$70,000 for the Capitola Village Hotel Design Alternatives, and \$70,000 for the City Hall/Pacific Cove Area Plan.

SECTION 2

The City Council has determined that federal Citizen Participation requirements were met during the development of this application.

SECTION 3

For Cash Match, the City Council hereby approves the use of private matching funds from Barry Swenson Builders in the amount of \$17,500 to be used as the City's Cash Match for the Capitola Village Hotel Design Alternatives Study; and use of the General Plan Maintenance Fee Fund in the amount of \$17,500 to be used as the City's Cash Match for the City Hall/Pacific Cove Area Plan.

SECTION 4

The City Manager is hereby authorized and directed to act on the City's behalf in all matters pertaining to this application.

SECTION 5

If the application is approved, the City Manager is authorized to enter into and sign the grant agreement and any subsequent amendments with the State of California for the purposes of this grant.

I HEREBY CERTIFY that the above and foregoing resolution was passed and adopted by the City Council of the City of Capitola at its regular meeting held on the 12<sup>th</sup> day of May, 2011, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

\_\_\_\_\_  
Dennis R. Norton, Mayor  
City of Capitola

ATTEST:

\_\_\_\_\_, MMC  
Pamela Greeninger, City Clerk  
City of Capitola

**COOPERATIVE AGREEMENT REGARDING  
VILLAGE HOTEL PLANNING  
&  
PARKING STRUCTURE FINANCING COSTS**

**THIS AGREEMENT** is made by and between the CITY OF CAPITOLA, a California municipal corporation, hereinafter referred to as "City," and Green Valley Corporation, dba Barry Swenson Builder, hereinafter referred to as "Developer," with reference to the following:

**WHEREAS**, in 1989, the City Council adopted the City of Capitola General Plan ("General Plan"); and

**WHEREAS**, the General Plan sets forth certain Goals, Policies, Programs, Actions and Development Standards which provide the framework for all development in Capitola; and

**WHEREAS**, many factors have changed that prompted the City of Capitola to fund the update of the General Plan, Local Coastal Plan, City zoning ordinance and environmental review; and

**WHEREAS**, The Developer is interested in incorporating a proposed Village Hotel ("Proposed Development") on the Site located at APN: 03526209 (Theater), APN: 03526209 (Theater Lot), APN: 03526109 (Theater Lot), APN: 03526110 (Theater Lot), APN: 03526110 (Theater Lot), APN: 03526202, (Theater Lot), APN: 03526207 (Esplanade Park), APN: 03526210 (Esplanade Park) into the General Plan process; and

**WHEREAS**, approval of the Proposed Development would likely require changes to the current General Plan, Local Coastal Plan, City zoning ordinance, and environmental review; and

**WHEREAS**, good planning principles including the importance of community involvement and the desire to proceed in an orderly fashion, are forwarded by the review of community defining

development projects through a comprehensive process and through periodic updates to existing General Plans; and

**WHEREAS,** the City desires to incorporate consideration of the Proposed Development into the General Plan process to ensure compatibility with the future vision for the Capitola Village, and to ensure a high degree of public involvement in planning process for the Development Project; and

**WHEREAS,** the City's ability to solely fund site design, massing studies, Local Coastal Plan, General Plan, and zoning ordinance is limited by available funding committed to the current General Plan update effort; and

**WHEREAS,** Each year the City of Capitola is eligible to apply for grant funding from the State Community Development Block Grant Program ("CDBG") Program to assist with affordable housing and economic development programs; and

**WHEREAS,** the City Council provided authority for City Staff to proceed with the preparation of a grant application for site design for a Village Hotel and the development of a financing plan for a village serving parking structure on August 12, 2010; and

**WHEREAS,** the City Council authorized the submittal of a CDBG grant application for purposes of site design and massing studies and other associated design planning related to the Village Hotel and associated parking structure financing plan; and

**WHEREAS,** In order to proceed with citizen consideration of an update to the Capitola General Plan, including the Proposed Project, at this time, the Developer is willing to provide matching funds to facilitate consideration of the Proposed Development within the General Plan process, on the terms and conditions set forth below, if the above-referenced CDBG grants are

awarded to the City; and

**WHEREAS** it is the intent of the parties that this agreement shall not be construed or applied to impose upon the City any obligation to approved or proceed with the Proposed Development or adoption of the General Plan; and

**WHEREAS**, the purpose of this Agreement is to set forth the terms of a cooperative relationship between Developer and City for purposes of (1) providing matching funding so that the Village Hotel planning can be considered by the community concurrent with the General Plan update (2) allowing for the Developer's grant to assist in financing the General Plan update so that the update will address the proposed Village Hotel; (3) establishing the parameters of the roles and responsibilities of the Developer and City relative to the subject General Plan update; and

**NOW, THEREFORE**, in consideration of the mutual covenants and conditions contained herein, it is mutually agreed and understood as follows:

1. The parties hereby find and agree that the above recitals are true and correct and incorporated into this agreement.
2. Within 10 calendar days of City execution of this Agreement and the successful award of the CDBG grant funding and the receipt of such awarded funds (the "CDBG Grant Funds"), whichever is later, for tasks generally outlined in this agreement related to Hotel Village design and plan amendments and parking structure financing plan, , Developer shall deposit with the City the sum of \$30,000 of Matching Funds (the "Matching Funds") solely to be used for tasks outlined in Exhibit B. In the event that costs to complete the tasks outlined in Exhibit B exceed CDBG Grant Funds and Matching Funds, the City and Developer agree to adjust the scope of work so that it can be

completed with available CDBG Grant Funds and Matching Funds. Matching funds may be used only to pay actual direct and indirect costs and expenses incurred by City by payment to third parties in the performance of the tasks outlined Exhibit B, after expenditure of the CDGB Grant Funds. City agrees that City will perform or cause to have performed only work that is, in its determination, reasonable and necessary to accomplishing the tasks identified in Exhibit B.

3. ROLES AND RESPONSIBILITIES OF THE DEVELOPER AND CITY.

A. City shall complete the appropriate procurement process to select and contract with consultants for the completion of the work tasks outlined in Exhibit B. The City shall have the sole authority in the hiring, determination of scope of work, supervision, and review of work products of all consultants. The City shall ensure that the work of these consultants is coordinated with the work products of other consultants involved in the Update of the General Plan.

B. Developer shall provide background information on the site for use by the consultants and will be available for consultation as needed while the tasks outlined in Exhibit B are being prepared. Developer will review draft reports in a timely manner. All written communication from the Developer to the City or Consultant shall be public documents.

C. The Developer shall have the right to submit an alternative Proposed Development for the Site to the City for consideration by the City, at the Developer's sole discretion.

D. The City shall commit no less than 75% of the total project budget for work related to the Proposed Development on the Site.

4. **CITY NOT OBLIGATED TO CONTINUE WITH, COMPLETE OR ADOPT GENERAL PLAN UPDATE.** The City may at any time in its sole and absolute discretion elect to discontinue work on the General Plan update, on environmental review for the General Plan Update, to decline to consider or adopt the General Plan Update, or to substantially revise the General Plan.

5. **TERMINATION AND REIMBURSEMENT.**

A. Termination by City. In the event that the City in its discretion elects to discontinue work on the General Plan Update and there are remaining matching funds on deposit, after payment of all outstanding costs set forth in Exhibit B, the City shall refund remaining matching funds to Developer and upon such payment City and Developer shall have no further obligations under this Agreement.

B. Completion of Exhibit B Tasks – Remaining Funds. Once the tasks identified on Exhibit B have been completed should there be any unexpended balance of matching funds on deposit the City shall refund such remaining funds to Developer.

D. Other than as specifically set forth in this Section 4, once Developer has provided matching funding as stipulated in this agreement, Developer shall be entitled to no reimbursement unless the City elects to discontinue work on as set forth in this agreement.



6. **EXERCISE OF DISCRETION.** Nothing in this Agreement shall obligate or bind the City, the General Plan Advisory Committee, the Planning Commission, the City Council, or any City agencies, departments, commissions, agents, officers, or employees to exercise its/his/her discretionary authority in any particular way or fashion, take or consider a particular legislative action, or to delegate any discretionary authority, to issue any City discretionary land use entitlement, or issue any City approvals in regard to any project of the Developer or other project, or in any proceedings related to such project or on any application for such project.
7. **ACCOUNTING.** City shall provide Developer with periodic accountings of (1) funds applied from the CDBG Grant Funds, (2) funds withdrawn from Deposit, and (2) funds remaining on Deposit, with City. City shall provide Developer an accounting no less frequently than once per fiscal quarter. The accountings shall identify the work performed by or on City's behalf, the application of the CDBG Grant Funds and the Deposit, and shall contain sufficient specificity to indicate the nature of the work performed.
8. **SUPPLEMENTAL DOCUMENTATION.** Each party hereto shall execute or cause to be executed any and all documents and perform such acts as are reasonably necessary to carry out the terms of this Agreement.
9. **NOTICES.** Any notice to be given to either party, by the other, shall be in writing and shall be served, either personally or by mail to the following:

CITY: CITY OF CAPITOLA  
City Manager  
420 Capitola Avenue

Capitola, CA 95010

and

John G. Barisone, City Attorney  
Atchison, Barisone, Condotti & Kovacevich  
333 Church Street  
Santa Cruz, CA 95060

DEVELOPER: Jesse L. Nickell III  
Vice President  
Barry Swenson Builder  
2400 Chanticleer Avenue, Suite H  
Santa Cruz, CA 95062

and William A Van Roo, Esq.  
13863 Quarterhorse Dr.  
Grass Valley, CA 95949

or at such other address the respective party may designate in writing. Such notices shall be served by depositing them addressed as set out above, postage prepaid, in the U.S. mail or by personal delivery. The date three (3) days after the date of mailing, or in the event of personal delivery the date of delivery, shall constitute the date of service.

10. **DEFAULT AND REMEDIES.**

A. Events of Default. The occurrence of any one or more of the following events shall constitute an "Event of Default" for purposes of this Agreement: (1) failure of Developer to fund the Deposits within the time periods required under Sections 2 above, (2) failure of City to provide timely accounting to Developer as set forth in Section 6 above.

- B. Notice of Default and Opportunity to Cure. For all Events of Default (as the term is defined in this Agreement), the non-defaulting party shall give written notice to the defaulting party of the event by specifying the following: (1) the nature of the event or deficiency giving rise to the default, (2) the action required to cure the deficiency, and (3) a date which shall not be less than 5 calendar days, by which such action to cure must be taken.
11. **SEVERABILITY.** If any one (1) or more of the provisions contained herein shall for any reason be held to be invalid, illegal, or unenforceable in any respect, then such provisions or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality, or unenforceability shall not affect any other provisions hereof, and the Agreement shall be construed as if such invalid, illegal, or unenforceability provision had never been contained herein.
12. **ENTIRE CONTRACT.** In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreement, warranties, or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives its future right to claim, contest or assert that this Agreement was modified, canceled, superseded, or changed by any oral agreements, course of conduct, waiver, or estoppel.
13. **NO WAIVER OR DEFAULT.** No delay or omission of either party to exercise any right or power arising upon the occurrence of any event of default shall impair any such right or

power or shall be construed to be a waiver of any such default or an acquiescence therein; and every power and remedy given by this Agreement to the parties shall be exercised from time to time and as often as may be deemed expedient in the sole discretion of the parties.

14. **CONFLICT OF INTEREST.** Developer agrees at all times in performance of this Agreement to comply with the law of the State of California regarding conflicts of interests or appearance of conflicts of interests, including, but not limited to Government Code Section 1090 et seq., and the Political Reform Act, Government Code Section 81000 et seq. and regulations promulgated pursuant thereto by the California Fair Political Practices Commission. Developer agrees that if any facts come to its attention that raise any questions as to the applicability of conflicts of interests laws, it will immediately inform the City designated representative and provide all information needed for resolution of this question.
15. **TIME OF ESSENCE.** Time is of the essence of this Agreement. Each of the parties will diligently and faithfully carry out all of the terms and conditions of this Agreement and will take all necessary action in order that the transactions contemplated by this Agreement may be consummated in a timely and efficient manner.
16. **CONSTRUCTION.** This Agreement has been reviewed and revised by legal counsel for both Developer and City, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement, which shall be interpreted and enforced according to the plain meaning thereof.

17. **NO THIRD PARTY BENEFICIARY.** This Agreement is made and entered into for the sole protection and benefit of the parties hereto. No other party shall have any right of action based upon any provisions of this Agreement.
  18. **RELATIONSHIP OF PARTIES.** It is understood that Developer is not an agent of the City and City is not an agent of Developer.
  19. **CERTIFICATION OF SIGNATORY(IES).** Developer represents and warrants that the person(s) signing this Agreement on that party's behalf has the authority to execute this Agreement and that no additional signatures are required to bind that party to obligations contemplated herein.
  20. **AGREEMENT APPROVAL.** This Agreement is subject to the approval of the City's City Council. Execution of this Agreement by the Mayor, or other designee of the City Council, shall evidence said approval by the City Council.
  21. **GOVERNING LAW.** This Agreement shall be interpreted and governed under the laws of the State of California without reference to California conflicts of law principles. The parties agree that this Agreement is made in and shall be performed in the Santa Cruz County.
  22. **EXECUTION IN SEVERAL COUNTERPARTS.** This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute but one and the same instrument.
  23. **ASSIGNABLE BY DEVELOPER.** This Agreement is not assignable by Developer.
- IN WITNESS WHEREOF,** City and Developer have executed this Cooperative

Agreement by the respective authorized officers as set forth below to be effective as of the date executed by the City.

“CITY”:

CITY OF CAPITOLA, a municipal corporation


By: \_\_\_\_\_

Name: Jamie Goldstein

Its: City Manager

“DEVELOPER”:

Green Valley Corporation  
a California corporation  
doing business as Barry Swenson Builders,

By:  \_\_\_\_\_

Name: JESSE L. NICKERSON III

Its: VCR PRESIDENT

## EXHIBIT B

### 1. **Task 1: Develop Hotel Site Alternatives**

Working with the local community, the developers, business and civic leaders and technical consultants, a series of program and design alternatives will be developed and reviewed. They will address a variety of options regarding number of rooms, square footage, site massing, amount of retail space, meeting facilities, etc. Three or four final site alternatives will be identified.

### **Task 2: Develop Site Design Tools**

The identified site alternatives will be studied in detail, with site design, streetscape design, access improvements, visual stimulations and site massing models. These will be presented at community meetings for the Village businesses, community leaders and city residents. City staff and consultants will work with the community, Developer, and local leaders to identify a community consensus on the overall site design and approach for the Village hotel development.

### **Task 3: Identify and Quantify Parking Requirements and Code Modifications**

Once a preferred site alternative has been identified, a detailed analysis of parking requirements, access improvements and parking approaches will be performed. This task will provide data that will be used in environmental review analysis, and also in Tasks 4-6 below. This task will also include any code modifications within the update of the General Plan, Local Coastal Plan, and zoning ordinance which are necessary for the development of the identified site alternative for the Village Hotel.



## **VILLAGE PARKING FINANCING PLAN**

Once a preferred alternative has been successfully identified for the Village Hotel, the next step will be to address how to finance parking requirements for the proposed hotel. It is unlikely that the current Capitola Theatre site will accommodate all of the required parking. In addition, there is currently a parking deficit in Capitola Village as a whole (quantified by a previous CDBG PTA grant). This parking deficit significantly impedes development in the Village and constrains plans for business expansion. The proposed approach is to build a new parking structure at the site of the Pacific Cove Parking lot, behind the current City Hall, three blocks from the Village Hotel site. This parking structure would provide spaces for valet parking at the new Capitola Village Hotel, and would also meet the need for additional parking for new businesses and other expansion needs for the Village. A parking structure design feasibility study and cost analysis has been completed.

### **Task 4: Data Collection and Analysis**

This task will analyze the parking requirements for the identified Hotel site alternative from Task 3, combined with parking demand for potential new development at currently under-developed sites in Capitola Village. A parking demand model will be updated so that proposed parking facilities will accommodate the proposed hotel project. This data will be summarized, and the overall number of parking spaces for the new structure will be calculated for purposes of cost estimating and financing.

### **Task 5: Develop Parking Structure Financing Plan**

This task would develop a series of proposed financing options for the parking structure, including: the potential for user fees, parking assessment district, regulatory fees, grants, loans and/or development impact fees. These would be reviewed with local community leaders,

businesses, the Chamber of Commerce, Barry Swenson Developers and elected officials, in order to identify an actionable Financing Plan that all parties are prepared to bring to fruition.

**Task 6: Prepare Final Report and TIG Analysis**

A Final Report will be prepared outlining the findings from Tasks 1-6. The identified site design for the Hotel will be summarized, along with technical drawings and reviews. The parking financing plan will be outlined, along with required implementation steps for the City to take. The Final Report will include an analysis of the employment impact of a new Capitola Village Hotel, including new jobs for Targeted Income Group (TIG) households from the new Village Hotel as well as other proposed Village expansion due to the new parking structure.



Item #: **5.A.**

## CITY COUNCIL AGENDA REPORT

MEETING OF MAY 12, 2011

FROM: DEPARTMENT OF CITY MANAGER

DATE: MAY 6, 2011

SUBJECT: CONSIDER SB 568 STATEWIDE BAN ON POLYSTYRENE TAKE OUT FOOD CONTAINERS

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**Recommended Action:** Council direction.

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### **BACKGROUND**

The City has a long history of locally limiting polystyrene use. In 1989, the City adopted a food packaging ordinance which required restaurants to voluntarily comply with a prohibition of the use of disposable food service ware composed of polystyrene foam (styrofoam). That ordinance was repealed in December of 2006 and a new chapter was enacted which eliminated the voluntary aspect of the old ordinance. That ordinance was updated in 2009 to strengthen the requirements to use biodegradable or compostable products.

SB 568 (Lowenthal) would create a state-wide ban on foam take-out food packaging.

This item is on the agenda at the request of Mayor Norton.

### **FISCAL IMPACT**

None

### **ATTACHMENTS**

1. Draft letter of support
2. SB 668 text

**Report Prepared By:** Jamie Goldstein  
City Manager

**Reviewed and Forwarded  
By City Manager:** \_\_\_\_\_

SAMPLE LETTER

DATE: (by May 6th)

Senator Alan Lowenthal  
State Capitol, Room 2032  
Sacramento, CA 95814

**SB 568 (Lowenthal) Ban On Polystyrene Take Out Food Containers ----Support**

Dear Senator Lowenthal:

Our organization (insert name) strongly urges your support for SB 568 (Lowenthal)- a state-wide ban on foam take out food packaging. Polystyrene (also known as Styrofoam™) packaging is light weight and breaks easily into small pieces that escape litter cleanup efforts and are widely distributed in the environment. Hundreds of wildlife species mistake foam pieces for food. Neighborhoods, beaches, and parks are degraded by foam litter.

Polystyrene comprises 15% of street and storm drain litter, according to several cities and counties in California and the Department of Transportation (Cal Trans). Local jurisdictions currently spend millions of taxpayer dollars annually cleaning litter. Many have banned polystyrene because it clogs storm drains and causes flooding.

Polystyrene food containers threaten human health. Styrene leaches from foam containers into the food when heated, or in contact with acids, or grease and oil. U.S. EPA scientists found Styrene in 100 percent of all human tissue samples in a 1986 study. Styrene is a probable human carcinogen and a known lab animal carcinogen. Workers exposed to styrene may suffer increased risk of leukemia and lymphoma and neurological problems such as loss of hearing, balance, and spatial orientation.

Food contaminated foam containers can't be recycled- they have to be washed first. Therefore, recycling is not economically feasible and it does not address the litter problem.

**Polystyrene bans work!** In San Francisco, two years after the passage of the polystyrene food-ware ban, a litter study showed a 36% decrease in polystyrene litter. Of the 47 jurisdictions that have enacted bans on polystyrene food ware, none have reported that businesses have claimed any economic hardship related to the bans. Many businesses throughout California already provide take-out food and beverages in non-foam containers. There are many comparably-priced alternative containers out in the marketplace- some are even cheaper than polystyrene foam.

Our members support SB 568 and thank you for introducing this important measure.

Sincerely,

AMENDED IN SENATE APRIL 14, 2011

**SENATE BILL****No. 568**

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**Introduced by Senator Lowenthal**  
(Coauthor: Assembly Member Wieckowski)

February 17, 2011

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An act to add Chapter 6.6 (commencing with Section 42391) to Part 3 of Division 30 of the Public Resources Code, relating to recycling.

## LEGISLATIVE COUNSEL'S DIGEST

SB 568, as amended, Lowenthal. Recycling: polystyrene food containers.

Existing law requires all rigid plastic bottles and rigid plastic containers sold in the state to be labeled with a code that indicates the resin used to produce the rigid plastic bottle or rigid plastic container. The California Integrated Waste Management Act of 1989, administered by the Department of Resources Recycling and Recovery, requires every rigid plastic packaging container, as defined, sold or offered for sale in this state to generally meet one of specified criteria.

This bill would prohibit a food vendor, on and after January 1, ~~2013~~ 2014, from dispensing prepared food to a customer in a polystyrene foam food container and would define related terms. *The bill would provide that a food vendor that is a school district is not required to comply with the bill's requirements until July 1, 2015.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Chapter 6.6 (commencing with Section 42391)  
2 is added to Part 3 of Division 30 of the Public Resources Code, to  
3 read:

4  
5 CHAPTER 6.6. POLYSTYRENE FOAM FOOD CONTAINERS  
6

7 42391. For the purposes of this chapter, the following terms  
8 have the following meanings:

9 (a) “Customer” means a person obtaining prepared food from  
10 a food vendor.

11 (b) (1) “Polystyrene foam food container” means a container  
12 made of thermoplastic petrochemical material utilizing the styrene  
13 monomer, that meets all of the following conditions:

14 (A) Polystyrene is the sole resin used to produce the rigid plastic  
15 packaging container.

16 (B) The container is required to be labeled with a “6” pursuant  
17 to subdivision (a) of Section 18015.

18 (C) The container is used, or is intended to be used, to hold  
19 prepared food.

20 (2) A polystyrene foam food container may be processed by a  
21 number of techniques, including, but not limited to, fusion of  
22 polymer spheres or expandable bead polystyrene.

23 (3) Polystyrene foam may also be referred to as Styrofoam™,  
24 a Dow Chemical Company trademarked form of polystyrene foam  
25 insulation.

26 (4) A polystyrene foam food container includes, but is not  
27 limited to, a cup, bowl, plate, tray, or clamshell container that is  
28 intended for single use.

29 (c) (1) “Food vendor” means a food facility, as defined in  
30 Section 113789 of the Health and Safety Code, including, but not  
31 limited to, a restaurant or retail food and beverage vendor located  
32 or operating within the state.

33 (2) A food vendor also includes, but is not limited to, an itinerant  
34 restaurant, pushcart, vehicular food vendors, a caterer, a cafeteria,  
35 a store, a shop, a sales outlet, or other establishment, including a  
36 grocery store or a delicatessen.

37 (3) A food vendor does not include a correctional facility,  
38 including, but not limited to, a state prison, county jail, facility of

1 the Division of Juvenile Justice, county or city-operated juvenile  
2 facility, including juvenile halls, camps, or schools, or other state  
3 or local correctional institution.

4 (d) “Prepared food” means food, as defined in Section 109935  
5 of the Health and Safety Code, including a beverage, that is served,  
6 packaged, cooked, chopped, sliced, mixed, brewed, frozen,  
7 squeezed, or otherwise prepared for consumption. Prepared food  
8 includes “ready-to-eat food,” as defined in Section 113881 of the  
9 Health and Safety Code.

10 (1) “Prepared food” does not include raw, butchered meats, fish,  
11 or poultry that is sold from a butcher case or a similar retail  
12 appliance.

13 (2) “Prepared food” may be eaten either on or off the premises,  
14 and includes takeout food.

15 42392. ~~On and after January 1, 2013~~ *(a) Except as provided*  
16 *in subdivision (b), on and after January 1, 2014*, a food vendor  
17 shall not dispense prepared food to a customer in a polystyrene  
18 foam food container.

19 *(b) A food vendor that is a school district, as defined in Section*  
20 *80 of the Education Code, is not required to comply with*  
21 *subdivision (a) until July 1, 2015.*

22 42393. This chapter does not preempt the authority of a county,  
23 city, or city and county to adopt and enforce additional single-use  
24 takeout food packaging ordinances, regulations, or policies that  
25 are more restrictive than the applicable standards required by this  
26 chapter.

27 42394. The provisions of this chapter are severable. If any  
28 provision of this chapter or its application is held invalid, that  
29 invalidity shall not affect other provisions or applications that can  
30 be given effect without the invalid provision or application.



Item #: 5.B.

## CITY COUNCIL AGENDA REPORT

MEETING OF MAY 12, 2011

FROM: DEPARTMENT OF CITY MANAGER

DATE: MAY 6, 2011

SUBJECT: MEMORANDUM OF UNDERSTANDING FOR THE USE OF THE JADE STREET COMMUNITY CENTER IN THE EVENT OF ACTIVATION OF THE COUNTY'S ALTERNATE CARE SITE (ACS) PLAN

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**Recommended Action:** By motion and roll call vote:

1. Approve the MOU, subject to approve by Soquel Union Elementary School District, with the Santa Cruz County for an alternative care site in the event of a serious emergency overwhelming our existing hospitals and nursing homes; and
2. Direct the City Manager to sign the MOU subject to any required approval of the Soquel Union Elementary School District.

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### **BACKGROUND**

As required by State law, the County of Santa Cruz has developed a draft plan to respond to a natural disaster, bio-terrorism event or outbreak of significant disease that may result in a situation in which our county's hospitals are overwhelmed by patients needing care that cannot be provided in their homes.

The County's plan identifies alternate care site(s) in which clinical care can be provided. A system of alternate care sites is part of the County's emergency-planning grant from the federal government. The plan would be activated only after a declared emergency and in a situation in which all hospital and nursing home beds are filled to their surge capacity. The plan, once activated, is the responsibility of the County, and would be operated in partnership with and with the support of the American Red Cross (ARC) and the Medical Reserve Corps (MRC).

### **DISCUSSION**

**Basic Concept:** Following an emergency declaration and the hospitals and nursing homes filling to surge capacity, the County Health Officer orders activation of the ACS. The County requests the ARC to support the ACS by providing volunteers to open and run the non-medical aspects of the facility, similar to what they do in establishing a shelter in non-medical events. The County Health Department activates the MRC, and the MRC volunteers provide medical care to patients in the ACS under the direction of the County Health Department and following standing orders provided by the Health Officer.

**Level and Limitation of Care:** The level of care that can be provided will be determined by resource and volunteer availability. The ACS will provide acute care but is not expected to fully replace the care offered by a licensed acute care facility such as a hospital. Rather, the ACS is designed to relieve the existing hospitals by providing shelter and care for less ill patients,



reserving hospital capacity for more seriously ill patients. The intermediate level of acute care provided by the ACS will include oxygen delivery via nasal cannula, intravenous and oral hydration and medication, and basic nursing care. The facility will be able to manage patients with a limited range of co-morbidities such as asthma, diabetes, heart failure, and pregnancy.

The facility will not provide triage services. All patients must be referred for admission, and referrals will be accepted from hospitals, clinics, and private physician offices, following a protocol for assessment and triage. Due to infection control concerns, self-referrals cannot be permitted.

The ACS will not provide outpatient care. In the event of a natural or other disaster that results in the need for outpatient triage and/or care, hospitals, clinics and others will provide necessary care, with the support of the Health Department and the MRC volunteers in those settings. The ACS would most likely not be activated in such an event.

Given the unlikelihood of an ACS being necessary to triage victims in a natural disaster, it is highly unlikely the use of the site as an ACS would coincide with the City's need to use the Community Center for an emergency shelter. However, activation of the ACS would disrupt typical Community Center uses. To date, Santa Cruz County has never activated an ACS.

Site: The site for the ACS for any specific event will be determined by the size of the event and the number of beds needed for the ACS. At present, the draft plan includes three potential sites: the Live Oak Community Room at the Simpkins Swim Center, which is County owned, the County Fairgrounds, and the City's Community Center at Jade Street Park.

The attached Memorandum of Understanding (MOU) between the County, the City, and the School District gives the County the authority to use the Jade Street Community Center as an ACS in the event of a declared medical emergency.

### **FISCAL IMPACT**

None

### **ATTACHMENTS**

MOU

**Report Prepared By:** Jamie Goldstein  
City Manager

**Reviewed and Forwarded  
By City Manager:**

\_\_\_\_\_

## County of Santa Cruz

### **Memorandum of understanding (MOU) for use of the Capitola Community Center in the event of activation of the County's Alternate Care Site Plan**

**Santa Cruz County (County), the City of Capitola (City), and the Soquel Union Elementary School District (District) agree that:**

In the event of a catastrophic medical emergency in the County, resources will be quickly committed to providing the necessary healthcare services. Such an event may require a facility to support the activation of an Alternate Care Site. The Alternate Care Site would be activated only after the declaration of an emergency, and after all local hospitals and skilled nursing facilities have reached and/or exceeded their capacity to provide inpatient care to additional persons. The Alternate Care Site would serve as a site where patient care can be provided to medically fragile individuals too ill to be cared for at home, but not so ill as to require services provided by a hospital.

**Santa Cruz County, City of Capitola, and Soquel Union Elementary School District enter into this partnership as follows:**

1. Facility Space: County accepts designation of the Capitola Community Center located at 4400 Jade Street, Capitola, CA as an Alternate Care Site, in the event the need arises.
2. Use of the Facility: Request to use facility as an Alternate Care Site will occur as soon as possible through the local Emergency Operations Center. The City Manager of the City of Capitola, and the Superintendent of the Soquel Union Elementary School District are hereby authorized by each official's respective governing board to consent to a request to make use of the facility under the terms of this MOU.
3. Suspension of Normal Facility Business Activities: City and District agree to suspend or alter normal operations of the Capitola Community Center in support of the Alternate Care Site as needed. Normal operations would be suspended for the duration of the emergency, and the facility would be dedicated to use as an

alternate care site. This would most likely be for a period of six to eight weeks, and could be longer.

4. Use of Facility Resources: City and District agree to authorize the use of Capitola Community Center facility equipment such as forklifts, buildings, communications equipment, computers, Internet services, copying equipment, fax machines, etc. Facility resources and associated systems will only be used with facility management authorization and oversight to include appropriate orientation/training as needed.

5. Costs: All reasonable and eligible costs associated with the emergency and the operation of the Alternate Care Site that include modifications or damages to the facility structure, equipment and associated systems directly related to their use in support of the Alternate Care Site facility operations will be submitted for consideration and reimbursement through established disaster assistance programs.

6. Liability: The Emergency Services Act, Government Code 8550 et seq. addresses immunity from liability for services rendered voluntarily in support of emergency operations during an emergency or disaster declared by the Governor.

7. Contract Information: The Capitola Community Center will provide County the appropriate 24 hour/7 day facility contact information, and update this information as necessary.

8. Duration of Agreement: The term of the MOU is five years from the date of the initial agreement. Subsequent terms may be longer with the concurrence of all parties.

9. Agreement Review: A review will be initiated and conducted by County following a disaster event or within five years after the effective date of this agreement. At that time, this agreement may be negotiated for renewal. Any changes at the facility that could impact the execution of this agreement will be conveyed to the identified primary contacts or their designees as soon as possible. All significant communications between the Parties shall be made through the primary contacts or their designees.

10. Amendments: This agreement may be amended at any time by signature approval of the parties' signatories or their respective designees.

11. Termination of Agreement: Any party may withdraw at any time from this MOU by transmitting a signed statement to that effect to the other Parties. This MOU and the partnership created thereby will be considered terminated thirty (30) days from the date the non-withdrawing Parties receive the notice of the withdrawal from the withdrawing Party.

12. Capacity to Enter into Agreement: The persons executing this MOU on behalf of their respective entities hereby represent and warrant that they have the right, power, legal capacity, and appropriate authority to enter into this MOU on behalf of the entity for which they sign.

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Facility/City of Capitola Official Date

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Soquel Union Elementary School District Official Date

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County Official Date

**To authorize Facility use, call:**

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Name

---

Daytime phone number

After-hours/emergency phone number

**To open facility, call:**

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Name

---

Daytime phone number

After-hours/emergency phone number

**Alternate contact to open facility:**

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Name

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Daytime phone number

After-hours/emergency phone number