

City of Capitola Agenda

Mayor: Jacques Bertrand
Vice Mayor: Kristen Petersen
Council Members: Ed Bottorff
Yvette Brooks
Sam Storey



CAPITOLA CITY COUNCIL REGULAR MEETING

THURSDAY, SEPTEMBER 12, 2019

7:00 PM

**CITY COUNCIL CHAMBERS
420 CAPITOLA AVENUE, CAPITOLA, CA 95010**

All correspondences received prior to 5:00 p.m. on the Wednesday preceding a Council Meeting will be distributed to Councilmembers to review prior to the meeting. Information submitted after 5 p.m. on that Wednesday may not have time to reach Councilmembers, nor be read by them prior to consideration of an item.

All matters listed on the Regular Meeting of the Capitola City Council Agenda shall be considered as Public Hearings.

1. ROLL CALL AND PLEDGE OF ALLEGIANCE

Council Members Sam Storey, Kristen Petersen, Yvette Brooks, Ed Bottorff, and Mayor Jacques Bertrand

2. PRESENTATIONS

Presentations are limited to eight minutes.

- A. Children's Cancer Awareness Month Proclamation
- B. Update on City Deferred Compensation 457 Plan for Employees

3. ADDITIONAL MATERIALS

Additional information submitted to the City after distribution of the agenda packet.

4. ADDITIONS AND DELETIONS TO AGENDA

5. PUBLIC COMMENTS

Oral Communications allows time for members of the Public to address the City Council 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.

6. CITY COUNCIL / STAFF COMMENTS

City Council Members/Staff may comment on matters of a general nature or identify issues for staff response or future council consideration. No individual shall speak for more than two minutes.

7. BOARDS, COMMISSIONS AND COMMITTEES APPOINTMENTS

- A. Appointment of Children's Network Cabinet Alternate
RECOMMENDED ACTION: Appoint Kristin Murphy as the City's alternate on the Children's Network Cabinet for a term through December 2020.
- B. Reappointment of Historical Museum Board Youth Member
RECOMMENDED ACTION: Reappoint Joshua Henshaw as the youth member for a one-year term as recommended by the Historical Museum Board trustees.

8. CONSENT CALENDAR

All items listed in the "Consent Calendar" 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 City Council request specific items to be discussed for separate review. Items pulled for separate discussion will be considered following General Government.

Note that all Ordinances which appear on the public agenda shall be determined to have been read by title and further reading waived.

- A. Consider the August 22, 2019, City Council Regular Meeting Minutes
RECOMMENDED ACTION: Approve minutes.
- B. Continue Discussion of the Revised Zoning Code for Coastal Commission Certification - City Attorney Review
RECOMMENDED ACTION: Continue the discussion to the meeting of October 24, 2019.
- C. Consider an Update to the Santa Cruz Metro Records System Agreement
RECOMMENDED ACTION: Approve the amended agreement adding the County of Santa Cruz to the new records system.
- D. Authorize the City To Sell Surplus Vehicles
RECOMMENDED ACTION: Declare three Police Department motorcycles as surplus property and authorize their sale/auction.

9. GENERAL GOVERNMENT / PUBLIC HEARINGS

All items listed in "General Government" are intended to provide an opportunity for public discussion of each item listed. The following procedure pertains to each General Government item: 1) Staff explanation; 2) Council questions; 3) Public comment; 4) Council deliberation; 5) Decision.

- A. Application from the Capitola Village and Wharf Business Improvement Association to Display Banners and Holiday Wreaths and Trees in the Village
RECOMMENDED ACTION: Consider two applications from the Capitola Village and Wharf Business Improvement Association to display seasonal decorative banners on streetlights and holiday wreaths and trees in the Village.
- B. Recreation Strategic Plan Group Update
RECOMMENDED ACTION: No action required. Council discretion to appoint a representative to the Recreation Strategic Plan Core Team.
- C. Introduce an Ordinance Amending Capitola Municipal Code Section 2.04.275 as Recommended by the Finance Advisory Committee
RECOMMENDED ACTION: Consider the Finance Advisory Committee recommendation to adjust Council Member compensation and approve the first reading of an Ordinance amending Capitola Municipal Code Section 2.04.275 pertaining to City Council Member salary to provide an adjusted salary of \$600 per month for members of the City Council, to be effective upon the start of new terms of office following the November 2020 General Municipal Election.
- D. Consider a Contract for an Environmental Consultant for the Capitola Mall Redevelopment Project
RECOMMENDED ACTION: Authorize the City Manager to award a contract to Dudek for \$276,470 to prepare the environmental documents related to the Capitola Mall redevelopment project.
- E. Introduce an Ordinance Adding Chapter 18.04 to the Capitola Municipal Code Pertaining to Development Agreements
RECOMMENDED ACTION: Approve the first reading.

10. ADJOURNMENT

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.

Notice regarding City Council: The City Council meets on the 2nd and 4th Thursday of each month at 7:00 p.m. (or in no event earlier than 6:00 p.m.), in the City Hall Council Chambers located at 420 Capitola Avenue, Capitola.

CAPITOLA CITY COUNCIL REGULAR MEETING AGENDA
September 12, 2019

Agenda and Agenda Packet Materials: The City Council Agenda and the complete Agenda Packet are available for review on the City's website: www.cityofcapitola.org and at Capitola City Hall prior to the meeting. Agendas are also available at the Capitola Post Office located at 826 Bay Avenue, Capitola. 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 meetings are cablecast "Live" on Charter Communications Cable TV Channel 8 and are recorded to be rebroadcasted at 8:00 a.m. on the Wednesday following the meetings and at 1:00 p.m. on Saturday following the first rebroadcast 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.cityofcapitola.org by clicking on the Home Page link "**Meeting Agendas/Videos**." Archived meetings can be viewed from the website at any time.



CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 12, 2019

FROM: City Manager Department

SUBJECT: Children's Cancer Awareness Month Proclamation

DISCUSSION: Mayor Bertrand will present a proclamation declaring September as Children's Cancer Awareness Month and honoring Jacob's Heart Children's Cancer Support Services, accepted by Jacob's Heart Family Support Specialist Mary Smith.

ATTACHMENTS:

1. Children's Cancer Awareness Month

Report Prepared By: Linda Fridy
City Clerk

Reviewed and Forwarded by:

A handwritten signature in black ink, appearing to read "JG", is written over a horizontal line.

Jamie Goldstein, City Manager

9/5/2019

City of Capitola

Mayor's Proclamation

Honoring Jacob's Heart Children's Cancer Support Services and Declaring September 2019 as Childhood Cancer Awareness Month

WHEREAS, National Childhood Cancer Awareness Month inspires us to tell the stories of the brave children who battle cancer every day and thank the loved ones, health care professionals, and communities who lift them up, and

WHEREAS, each year, 1 in 285 children in our country are diagnosed with cancer; and

WHEREAS, despite improved survival rates, cancer remains the leading cause of death by disease among children, and

WHEREAS, families of children with cancer in the City of Capitola receive essential services from Jacob's Heart Children's Cancer Support Services, a local organization that has gained national awards and recognition for improving the quality of life for hundreds of local children with cancer and their family members; and

WHEREAS, Jacob's Heart holds the memories and honors legacies of hundreds of children from our local community who have been lost to cancer, ensuring that their precious memories will never be forgotten; and

WHEREAS, the oncology department at Lucile Packard Children's Hospital at Stanford has worked closely with Jacob's Heart for the past 21 years as a trusted community partner in providing care that addresses the emotional, practical, and financial struggles of families of children with cancer in Capitola and beyond; and

WHEREAS, two-thirds of childhood cancer patients will have chronic health conditions as a result of their treatment toxicity. Let us renew our commitment to prevent, treat, and cure childhood cancer, and together ensure that all children can experience the full and healthy lives they deserve.

NOW, THEREFORE, I, Jacques Bertrand, Mayor of the City of Capitola, hereby declare September as Childhood Cancer Awareness Month in the City of Capitola and honor Jacob's Heart Children's Cancer Support Services for 21 years of outstanding support to our community.

Jacques Bertrand, Mayor
Signed and sealed this 12th day of September, 2019



CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 12, 2019

FROM: Finance Department

SUBJECT: Update on City Deferred Compensation 457 Plan for Employees

DISCUSSION: Finance Director Jim Malberg will provide an overview on efforts to enhance the City's Deferred Compensation 457 Plan offered to employees.

Report Prepared By: Jim Malberg
Finance Director

Reviewed and Forwarded by:

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Jamie Goldstein, City Manager

9/5/2019



CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 12, 2019

FROM: City Manager Department

SUBJECT: Appointment of Children's Network Cabinet Alternate

RECOMMENDED ACTION: Appoint Kristin Murphy as the City's alternate on the Children's Network Cabinet for a term through December 2020.

BACKGROUND/DISCUSSION: At the July regular City Council meeting, Council Member Brooks asked that an alternate be appointed to the Children's Network Cabinet, on which she serves as the City's representative. The position was noticed and Kristin Murphy, principal of Soquel Elementary School, applied (Attachment 1).

ATTACHMENTS:

1. Murphy alternate app public

Report Prepared By: Linda Fridy
City Clerk

Reviewed and Forwarded by:

A handwritten signature in black ink, appearing to be "J. Goldstein".

Jamie Goldstein, City Manager

9/5/2019

CITY OF CAPITOLA
CITY CLERK

AUG 19 2019



CITY of CAPITOLA

BOARDS AND COMMISSIONS APPLICATION

Application for:

- Art & Cultural Commission
[Artist; Arts Professional; At Large Member]
Please circle category above
- Architecture & Site Committee
[Architect; Landscape Architect; Historian]
Please circle category above
- Finance Advisory Committee
[Business Representative; At Large Member]
Please circle category above
- Planning Commission
- Other Committee SCC Children's Network
- Commission on the Environment
- Check if applying as youth member to any board
- Historical Museum Board

Name: Murphy Kristin
Last First

Residential Neighborhood: Scotts Valley

Occupation: Principal of Sequel Elementary.

Describe your qualifications and interest in serving on this Board/Commission/Committee:
I have been in education for 15 years. I
am currently the proud principal of Sequel El.
My passion in life is tapping into students potential
+ being an advocate for all students

(Use additional paper, if necessary)

Please Note: Appointment to this position may require you to file a conflict of interest disclosure statement with the City Clerk. This information is a public record and these statements are available to the public on request.

8/14/19
Date

[Signature]
Signature of Applicant

Mail or Deliver Application to:
Capitola City Hall
Attn: City Clerk
420 Capitola Avenue, Capitola, CA 95010

All information contained in this page of the application is public data and will be made available for public review and copying for anyone requesting it, and may be posted on the website of the City of Capitola. All information in this page will be provided to the Capitola City Council in a public forum and will be reviewed in public. It will therefore be part of the public record.

Attachment: Murphy alternate app public (Appointment of Children's Network Alternate)



CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 12, 2019

FROM: City Manager Department

SUBJECT: Reappointment of Historical Museum Board Youth Member

RECOMMENDED ACTION: Reappoint Joshua Henshaw as the youth member for a one-year term as recommended by the Historical Museum Board trustees.

BACKGROUND/DISCUSSION: The City Council adopted Administrative Policy I-38 to allow youth representation on certain City advisory bodies in 2017. In September 2018, Joshua Henshaw applied for a position on the Historical Museum Board and after interviewing with the trustees, was appointed for a one-year term. He has indicated interest in another term, and at their September 3 meeting, the Museum Trustees recommended his reappointment.

Report Prepared By: Linda Fridy
City Clerk

Reviewed and Forwarded by:

A handwritten signature in black ink, appearing to read "J. Goldstein".

Jamie Goldstein, City Manager

9/5/2019



CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 12, 2019

FROM: City Manager Department

SUBJECT: Consider the August 22, 2019, City Council Regular Meeting Minutes

RECOMMENDED ACTION: Approve minutes.

DISCUSSION: Attached for City Council review and approval are the minutes of the regular meeting of August 22, 2019.

ATTACHMENTS:

1. 8-22 draft minutes

Report Prepared By: Linda Fridy
City Clerk

Reviewed and Forwarded by:

A handwritten signature in black ink, appearing to be "JG", is written over a horizontal line.

Jamie Goldstein, City Manager

9/5/2019

**DRAFT
CAPITOLA CITY COUNCIL
REGULAR MEETING MINUTES
THURSDAY, AUGUST 22, 2019**

CALL TO ORDER

Mayor Bertrand called the meeting to order at 6:30 p.m.

No members of the public were present and the Council adjourned to the City Manager's Office with the following items to be discussed in Closed Session:

LIABILITY CLAIMS [Govt. Code §54956.95]

Claimant: James Devereaux on behalf of Spartan Recoveries LLC,
subrogee of Robin Lasser
Agency claimed against: City of Capitola

CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

[Govt. Code § 54956.9 (d)(1)]

(One case)

City of Capitola v. Water Rock Construction, Inc.
Santa Clara Superior Court Case No. 16CV295795

REGULAR MEETING OF THE CAPITOLA CITY COUNCIL – 7 PM

1. ROLL CALL AND PLEDGE OF ALLEGIANCE

Council Member Yvette Brooks: Present, Council Member Ed Bottorff: Present, Council Member Sam Storey: Present, Vice Mayor Kristen Petersen: Present, Mayor Jacques Bertrand: Present.

2. PRESENTATIONS

A. Central Fire Lifeguard Update

Fire Chief Steven Hall provided an update on supporting Capitola's Junior Guards program and working toward a partnership to provide training, which debuted this summer. Captains Scott Harway and Ernst Baum further described the open water life safety training and other emergency skills provided to the Junior Guard instructors.

3. REPORT ON CLOSED SESSION

City Manager Jamie Goldstein said the liability claim will be voted on the consent calendar and the Council provided direction on the existing case.

4. ADDITIONAL MATERIALS

A. Item 9.A – 15 public comment emails

5. ADDITIONS AND DELETIONS TO AGENDA - None

6. PUBLIC COMMENTS

Stephanie Harlan requested an investigation of illegal signs facing the lagoon. She also asked the Council to limit committee membership to city residents.

CAPITOLA CITY COUNCIL REGULAR MEETING MINUTES

August 22, 2019

Monica McGuire spoke about concerns of the effects of electromagnetic frequencies on humans and provided handouts.

Another speaker said she lives within 1000 feet of cell tower on 41st Avenue and believes it has impacted her health, and shared concerns about 5G.

Marilyn Garrett also spoke about the dangers of radiation and 5G and handed out a DVD.

Parent Marna Star spoke in support of the Junior Guards program and said she sees recent improvements in the program.

Ann Mary Reiss echoed the praised for the Junior Guards program.

7. CITY COUNCIL / STAFF COMMENTS

Council Member Bottorff noted that the ordinance change allowing non-resident appointments to advisory bodies made by Council was approved in 2000 by and current Council appointments must follow existing guidelines.

Council Member Storey requested that staff agendize the question of residency and report on best practices.

Council Member Petersen provided an update on the subcommittee of the Capitola Village Wharf and Business Improvement Association to discuss lights in the Village, saying it has met three times and is working on a solution.

Mayor Bertrand praised the well-attended recent National Night Out, thanked Lorrie Wilson in the Police Department for her leadership in organizing the event, and recognized event sponsors.

8. CONSENT CALENDAR

MOTION:	APPROVE OR DENY AS RECOMMENDED
RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Sam Storey, Council Member
SECONDER:	Kristen Petersen, Vice Mayor
AYES:	Brooks, Bottorff, Storey, Petersen, Bertrand

- A. Consider the July 25, 2019, City Council Regular Meeting Minutes and the August 1 and August 13 Special Closed Session Minutes
RECOMMENDED ACTION: Approve minutes.
- B. Planning Commission Action Minutes
RECOMMENDED ACTION: Receive minutes.
- C. Approval of City Check Registers Dated July 5, July 12, July 19, and July 26, 2019
RECOMMENDED ACTION: Approve check registers.
- D. Liability Claim of James Devereux on behalf of Spartan Recoveries LLC [Claims Binder]
RECOMMENDED ACTION: Reject liability claim.

CAPITOLA CITY COUNCIL REGULAR MEETING MINUTES
August 22, 2019

9. GENERAL GOVERNMENT / PUBLIC HEARINGS

- A. Conceptual Review for a Hotel at 120 Monterey Avenue
APN: 035-261-10, 035-262-02, 035-262-04, 035-262-11
Conceptual Review to receive guidance on a preliminary development concept for an 88-room hotel including meeting/banquet space, bar/lounge, swimming pool, and 92 onsite parking spaces in the C-V (Central Village) Zoning District. Conceptual hotel design varies in height from two to five stories
This project is a conceptual review; therefore, a Coastal Development Permit is not required.
Owner: Green Valley Corporation
Representative: Swenson Builders, Filed: 05.03.2019
RECOMMENDED ACTION: Receive the presentation by Swenson Builders of its conceptual plan for a hotel in Capitola Village and provide feedback on the project prior to submission of a formal application.

Although no permit was under consideration at this time, Council Member Petersen recused herself out of an abundance of caution since she lives within 500 feet of the site.

Associate Planner Matt Orbach presented the staff report, including previous discussions during the General Plan to address a possible hotel at the site and the process and requirements to allow additional height and expanded floor area ratio (FAR).

Jesse Bristow of Swenson Builders walked through the proposed project and potential benefits.

Council Member Storey asked for clarification on underground uses and impact on FAR, and was told non-visible areas do not count. He asked how the project planned to address flooding. Mr. Bristow acknowledged that there are concerns about where pumped water would go and said perhaps it can be filtered and sent into the sewer.

Council Member Brooks asked when flooding and traffic concerns would be addressed by specialists. Mr. Bristow said studies would be undertaken once support for a project is given. She floated the idea of working with the City to start this process and allow more informed feedback.

Council Member Bottorff questioned whether the project has sufficient water credits.

Mayor Bertrand asked if there was a way to replace parking loss. Mr. Bristow said the private parking would be replaced with hotel parking. Swenson could optimize use of the City's upper lot and charge a premium to park on site.

The following members of the public spoke during public comment:

Anne Marie Weiss
Dave Fox
Sean Fyouk
Amy Forrest
Paul Elerick
Ann Sullivan
Eric Anderson
Bruce Jaffe

CAPITOLA CITY COUNCIL REGULAR MEETING MINUTES
August 22, 2019

Bud Bartz
Larry Abitbol
Gayle Ortiz
Bruce Arthur
Stephanie Harlan
Ron Graves
Michael Clark
Shanon Grannis
Molly Ording
Marilyn Garrett
Bob Edgren
Monica McGuire
Karl Schubert
Ted Burke
Kathi Howard

Members of the public shared the following concerns about the project:

- the combined impact of hotel and event guest parking
- the number of rooms and overall size
- impact of climate change and flooding on the underground parking
- possible increased traffic
- impact of the construction time period on Village businesses and traffic
- impact of a tsunami
- impact on views, especially from El Camino Medio and the Depot Hill bluff
- project style does not match Village character
- impact on sanitation district
- water availability
- infrastructure costs to City

Members of the public expressed the following support for the project:

- would help other Village businesses
- attractive project
- provides needed meeting rooms as an off-season attraction
- provides regular income stream for city

Council Member Brooks said she supports a hotel in the village but shares the community's concerns about size, water, and flooding. She would like a transparent economic feasibility study with a consultant chosen by the City.

Council Member Storey focused on the General Plan and pending Zoning Code findings needed to grant the height and FAR expansions and said the current project falls short. The Spanish revival design does not meet the historical context of Capitola. He does not feel the project provides substantial public benefits. The massing toward El Camino Medio has a negative impact on the residential area. He believes parking needs to be offsite to achieve the goals and the benefits should include a parking structure in the City lot.

Council Member Bottorff supports a hotel and thinks this plan meets many General Plan goals, but does not think public benefits meet the standards for incentives yet. He would support a slight extension of two-way traffic on Monterey to allow access to the hotel entrance.

CAPITOLA CITY COUNCIL REGULAR MEETING MINUTES
August 22, 2019

Mayor Bertrand agrees that he would like to see an economic feasibility study. He is concerned about the loss of parking. He warned that the hotel cannot change the Village character and expect to succeed. He also noted that the Coastal Commission feedback expressed concern about the size.

RESULT: DIRECTION PROVIDED

- B. Report on the Draft Mid-County Groundwater Sustainability Plan
RECOMMENDED ACTION: Receive report.

Darcy Pruitt, senior planner for Mid-County Groundwater Agency, presented the report focusing on the agency's establishment along with the development and implementation of the sustainability plan. She noted that the draft plan is currently open for public comments and explained that future projects related to the plan with need to comply with the California Environmental Quality Act (CEQA). Collaboration among water providers in the basin, which serves a population of about 92,000, predates the state requirement and agency formation. Significant public participation is required, including a public advisory body. With current efforts and upcoming projects, including Pure Water Soquel, water transfers, and Santa Cruz infusion, the agency believes the basin can reach sustainability.

Council clarified that the agency works as a planning entity and does not implement the plans, only evaluates them.

In public comment, Maggie Steinbrenner noted she has challenged Soquel Creek Water District's CEQA decision for the Pure Water Soquel Project and she is worried about injecting water into the aquifer.

RESULT: RECEIVED REPORT

- C. Consider Contracts for a Planning Consultant and Economic Consultant for Capitola Mall Redevelopment
RECOMMENDED ACTION: Authorize the City Manager to award a contract to JHS Consulting for \$206,000 and Kosmont Companies for \$63,000 to establish the City's technical team to review the application to redevelop the Capitola Mall.

This item was moved and heard first on General Government ahead of 9.A.

Community Development Director Katie Herlihy presented the staff report. As part of the review process for the large redevelopment of the Mall property, the City needs to hire consultants to serve as extensions of staff. She shared the selection process for the planning and economic consultants and the services they will provide.

Council Member Storey confirmed the contract and application timing. He also asked to clarify payment on a monthly basis on a not-to-exceed amount within the contract language.

Steven Logan of Merlone Geier Partners, which will pay the consultants as part of its application, confirmed that it plans to submit its redevelopment application August 27.

In response to an audience question about outreach for the recent public forum, he said Merlone Geier bought newspaper ads, listed it on the City website, and posted flyers.

Attachment: 8-22 draft minutes (Approval of City Council Minutes)

CAPITOLA CITY COUNCIL REGULAR MEETING MINUTES
August 22, 2019

MOTION:	AUTHORIZE CONTRACTS AS RECOMMENDED
RESULT:	ADOPTED AS CORRECTED [UNANIMOUS]
MOVER:	Sam Storey, Council Member
SECONDER:	Kristen Petersen, Vice Mayor
AYES:	Brooks, Bottorff, Storey, Petersen, Bertrand

- D. Consider a Resolution To Subdivide City of Capitola Undergrounding Utilities District No. 6

RECOMMENDED ACTION: Approve **Resolution No. 4157** amending Resolution No. 3098 and subdividing a district within the boundary map for Undergrounding Utilities District No. 6.

Project Manager Kailash Mozumder presented the staff report, providing history of the underground utility district and the requested update of the district map to make two smaller sub-districts, for a total of three. The new districts will permit funding of undergrounding in the Bay/Capitola Avenue intersection area and allow engineering of that project to continue to move forward.

In public comment, in response to feedback from PG&E that lower Monterey will be very difficult to underground, resident Lynne DeSpelder said she thought pipes had been placed for future undergrounding on lower Monterey. Staff explained that utility providers have said the challenge is a number of properties are served from different locations.

MOTION:	APPROVE RESOLUTION AS RECOMMENDED
RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Ed Bottorff, Council Member
SECONDER:	Sam Storey, Council Member
AYES:	Brooks, Bottorff, Storey, Petersen, Bertrand

- E. Designation of the Voting Delegate and Alternate for the 2019 League of California Cities Annual Conference [150-50]

RECOMMENDED ACTION: Designate Capitola's voting delegate and alternate(s), if desired.

MOTION:	DESIGNATE MAYOR JACQUES BERTRAND AS THE CITY'S VOTING DELEGATE
RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kristen Petersen, Vice Mayor
SECONDER:	Ed Bottorff, Council Member
AYES:	Brooks, Bottorff, Storey, Petersen, Bertrand

- F. Consider a Contract with Burke, Williams, & Sorensen, LLP, for City Attorney Services

RECOMMENDED ACTION: Direct the City Manager to enter into a five-year, hourly-rate contract with Burke, Williams, & Sorensen, LLP, for Samantha W. Zutler to provide City Attorney services beginning September 1, 2019.

Mayor Bertrand read the required statement regarding the contract.

City Manager Jamie Goldstein presented the staff report, reviewing the selection process.

CAPITOLA CITY COUNCIL REGULAR MEETING MINUTES
August 22, 2019

The Council thanked Interim City Attorney Reed Gallogly for his service.

Ms. Zutler thanked the Council.

MOTION:	APPROVE CONTRACT AS RECOMMENDED
RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Sam Storey, Council Member
SECONDER:	Yvette Brooks, Council Member
AYES:	Brooks, Bottorff, Storey, Petersen, Bertrand

10. ADJOURNMENT

The meeting adjourned at 11:15 p.m.

Jacques Bertrand, Mayor

ATTEST:

Linda Fridy, City Clerk

DRAFT

Attachment: 8-22 draft minutes (Approval of City Council Minutes)



CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 12, 2019

FROM: Community Development

SUBJECT: Continue Discussion of the Revised Zoning Code for Coastal Commission Certification

RECOMMENDED ACTION: Continue the discussion to the meeting of October 24, 2019.

DISCUSSION: In September, City staff plans to meet with Coastal Commission staff regarding the interim City Attorney's recommended modifications to Chapter 17.44 Coastal Overlay Zone, which were presented at the June 27 City Council meeting. No new information is available at this time regarding the zoning code update. An update will be provided at the October 24, 2019, City Council meeting.

Report Prepared By: Katie Herlihy
Community Development Director

Reviewed and Forwarded by:

A handwritten signature in black ink, appearing to be "JG", written over a horizontal line.

Jamie Goldstein, City Manager

9/6/2019



CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 12, 2019

FROM: City Manager Department

SUBJECT: Consider an Update to the Santa Cruz Metro Records System Agreement

RECOMMENDED ACTION: Approve the amended agreement adding the County of Santa Cruz to the new records system.

BACKGROUND: In 2001 Santa Cruz Regional 9-1-1, a joint powers authority of which the City of Capitola is a member, entered into an agreement with the Capitola to provide system administration and maintenance of the Santa Cruz Metro Records System (SCMRS). This is a consolidated police records system that is shared with the cities of Santa Cruz and Watsonville. By consolidating the records systems, all parties benefited from reduced costs and economies of scale.

DISCUSSION: The members of SCMRS have become unsatisfied with the current records system and are in the process of purchasing a replacement system. Along with the current SCMRS members, the County of Santa Cruz expressed a similar desire to replace its police records system and asked to join SCMRS.

The proposed updated agreement adds the County into the SCMRS group (Attachment 1). This addition further enhances the group's buying power and is a financial benefit to the original members of SCMRS. Furthermore, the addition of the Santa Cruz County Sheriff's Office will improve sharing of vital intelligence information across jurisdictions and assist in the investigations of crimes.

FISCAL IMPACT: Approving the revised agreement to add Santa Cruz County to SCMRS will result in a cost savings to the City as record management costs will be shared with more agencies.

The City's Fiscal Year 2019/20 budget already includes the cost of the new SCMRS system. The added cost of the new system increased Capitola's SCMRS contribution from \$10,305 to \$34,921. The previous contribution only covered SCMRS staff support, maintenance of a wide area network, and software maintenance fees for the current infrastructure. The new contribution includes all previous services and adds the purchase of a modern records management system, which is being financed over 10 years.

ATTACHMENTS:

Updated SCMRS Agreement
September 12, 2019

1. SCMRS Agreement City of Capitola DRAFT

Report Prepared By: Linda Fridy
City Clerk

Reviewed and Forwarded by:



Jamie Goldstein, City Manager

9/5/2019

AGREEMENT BETWEEN SANTA CRUZ CONSOLIDATED EMERGENCY COMMUNICATIONS CENTER AND CITY OF CAPITOLA FOR SYSTEM ADMINISTRATION AND MAINTENANCE OF THE SANTA CRUZ METRO RECORDS SYSTEM (SCMRS)

This Agreement is entered into on SEPTEMBER 26, 2019, (“Effective Date”) between SANTA CRUZ CONSOLIDATED EMERGENCY COMMUNICATIONS CENTER (dba SANTA CRUZ REGIONAL 9-1-1), a joint powers authority organized and existing under the laws of the State of California by the County of Santa Cruz and the Cities of Capitola, Santa Cruz and Watsonville, hereinafter referred to as "Authority" and CITY OF CAPITOLA, hereinafter referred to as "Customer". Additional agencies participating in this Agreement are the Cities of Santa Cruz and Watsonville, and the County of Santa Cruz and are collectively hereinafter referred to as the "Customer Parties" or "Customers."

RECITALS

WHEREAS, it is beneficial for the Customer to participate in a consolidated law enforcement records management system serving Capitola, Santa Cruz, and Watsonville Police Departments and the Santa Cruz County Sheriff’s Office; and

WHEREAS, Customer has requested Authority to provide system procurement and implementation services for a new consolidated law enforcement records management system; and

WHEREAS, Customer has requested Authority to provide system administration and maintenance services to Customer; and

WHEREAS, Authority is willing to provide such services provided that Customer reimburses Authority for all costs incurred in purchasing a solution and providing such services and provided that all Customers participating in the consolidated records management system agree to continue participating in the system; and

WHEREAS, it is therefore necessary and desirable that the parties enter into the Agreement as set forth below;

NOW, THEREFORE, IT IS HEREBY AGREED between the Authority and the Customer as follows:

AGREEMENT

Attachment: SCMRS Agreement City of Capitola DRAFT (Updated SCMRS Agreement)

1. Term. The term of this Agreement shall be from July 1, 2019 through June 30 2022, and shall be automatically renewed unless terminated in accordance with the terms of Paragraph 5. Renewal shall be upon the same terms and conditions as set forth herein, except that the annual service charge payments by Customer as required by Paragraph 4 (a) shall be modified each year in accordance with the provisions of EXHIBIT C.

2. Powers and Duties. The Authority shall have the powers common to the powers as set forth in recitals of this agreement, to wit: the power to procure, implement, and maintain a law enforcement records management solution on behalf of parties to this agreement.

The Authority is authorized in its own name to perform all acts necessary for the exercise of common powers, including, but not limited to, any or all of the following:

- (a) to make and enter into contracts;
- (b) to employ agents and employees;
- (c) to procure, implement, manage, and maintain a law enforcement records management solution;
- (d) to incur debts, liabilities, or obligations.

3. Obligations of the Parties.

(a) Authority will provide system administration and maintenance services to Customer as set forth in EXHIBIT A, attached hereto and incorporated herein by reference.

(b) Customer shall provide personnel and facilities as set forth in EXHIBIT B, attached hereto and incorporated herein by reference.

(c) Customer shall make payments as set forth in EXHIBIT C, attached hereto and incorporated herein by reference.

4. Payment.

(a) Schedule. In February of each year, Authority shall provide Customer with a detailed statement of service charges (Budget) for the upcoming fiscal year. Customer shall make quarterly payments to the Authority for its proportionate share according to the following schedule:

July 15: 35% of total service charge

Attachment: SCMRS Agreement City of Capitola DRAFT (Updated SCMRS Agreement)

October 15: 25% of total service charge

January 15: 25% of total service charge

April 15: 15% of total service charge

(b) Payment. Service charge payments not received within thirty (30) calendar days following the scheduled dates for payment are subject to five (5%) percent late fee.

5. Termination. This Agreement shall automatically be renewed for successive three (3) year terms in accordance with Paragraph 1, unless either party notifies the other in writing of its intent to terminate this Agreement at least one (1) year prior to the expiration of the then current term. In the event that one or more of the Customer Parties notifies the Authority of its intent to terminate its agreement and thus its participation in SCMRS, the Authority and other Customer Parties shall have the authority to terminate or modify the agreement with notice to each other at least nine (9) months prior to the expiration of the then current term.

6. Disposition of Assets and Liabilities upon Termination.

(a) In the event that 1) all Customer Parties agree to terminate this agreement, or 2) the Authority exercises its independent right to terminate in accordance with Paragraph 5, the Authority shall liquidate all assets purchased through the SCMRS Operating Budget and shall distribute the proceeds to each Customer participant in accordance with the cost sharing contained in Exhibit C in effect for the fiscal year preceding the termination.

(b) In the event that one or more Customer Parties serves a notice of termination in accordance with Paragraph 5, and the remaining Customer Party(ies) continue to receive system administration and maintenance services from the Authority under a successor agreement, ownership of all assets purchased through the SCMRS Operating Budget shall be assumed by the Authority for use in servicing the remaining Customer Parties participating under a successor agreement.

(c) Upon termination of this agreement, in whole or in part, as defined in Paragraph 6, Sections (a) and (b), all Customer Parties are responsible for any and all SCMRS budget liabilities, regardless of their participation, based upon their percentage share as outlined in Exhibit C, including but not limited to 1) any and all costs associated with the separation of employment (e.g., layoffs) of budgeted SCMRS personnel due to the termination of the agreement, and 2) any and all outstanding costs for equipment, software, support contracts or other assets used exclusively for the SCMRS.

7. Notice. All notices, demands, requests, consents, approvals, waivers, or communications ("notices") that either party desires or is required to give to the other party or any other person shall be in writing and either personally served or sent by prepaid postage, first

class mail. Notices shall be addressed as appears below for each party, provided that if either party gives notice of a change of name or address, notices to the giver of that notice shall thereafter be given as demanded in that notice.

Authority: General Manager
Santa Cruz Consolidated Emergency
Communications Center, JPA
495 Upper Park Road, Santa Cruz, CA 95065

Customer: City Manager
City of Capitola
420 Capitola Ave, Capitola, CA 95010

8. Mutual Indemnification. It is agreed that the Authority shall defend, hold harmless, and indemnify Customer, its officers and employees, from any and all claims for injuries or damages to persons and/or property, which arises out of the terms and conditions of this Agreement and which results from the negligent act or omissions or intentional misconduct of the Authority, its officers, and/or employees. Authority represents and warrants that, to the best of its knowledge as of the Effective Date of this Agreement, Customer’s use of the SCRMS software and related services will not infringe the intellectual property rights of any third party. Authority shall not enter into any stipulated judgment or settlement that purports to bind Customer without Customer’s express written authorization, which shall not be unreasonably delayed or withheld.

It is further agreed that the Customer shall defend, hold harmless, and indemnify Authority, its officers and employees, from any and all claims for injuries or damages to persons and/or property, which arises out of the terms and conditions of this Agreement and which results from the negligent act or omissions or intentional misconduct of the Customer, its officers, and/or employees.

In the event of concurrent negligence of the Authority, its officers and/or employees, and Customer, its officers and/or employees, then the liability for any and all claims for injuries or damages to persons and/or property, which arises out of the terms and conditions of this Agreement shall be apportioned according to the California theory of comparative negligence.

Section 2778 of the California Civil Code shall apply to any interpretation of the agreement of indemnity between the Authority and Customer.

9. Dispute Resolution.

(a) Informal Dispute Resolution. If a dispute, controversy or claim arises between the parties relating to this Agreement, the parties shall promptly notify one another of the dispute in writing. Each party shall promptly designate a representative to resolve the dispute.

The representatives shall meet within ten (10) days following the first receipt by a party of such written notice and shall attempt to resolve the dispute within fifteen (15) days.

(b) Formal Dispute Resolution. In the event a dispute between the parties which arises under this Agreement cannot be resolved under Section 9(a) ("Informal Dispute Resolution") above, such dispute shall be submitted to a mediator agreed upon by the parties. The mediation shall be conducted in the County of Santa Cruz, California, unless the parties consent to a different location. Each party shall bear their own costs associated with the mediation. Any questions involving contract interpretation shall be resolved using the laws of California.

10. Insurance.

(a) Each party shall have in effect, during the entire life of this Agreement, Workers' Compensation and employer liability insurance providing full statutory coverage. Each party certifies that it is aware of the provisions of Labor Code Section 3700 which require every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of the code. In lieu of this insurance coverage, evidence of legally appropriate self-insured status shall suffice.

(b) Each Party shall take out and maintain during the entire life of this Agreement such bodily injury liability and property damage liability insurance as shall protect it from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from the performance of services under the Agreement. Such insurance shall be combined single-limit bodily injury and property damage for each occurrence and shall include comprehensive liability of at least \$1,000,000.00. In lieu of this insurance coverage, evidence of legally appropriate self-insured status shall suffice.

(c) In the event of a breach of any provision of this section, or in the event any notice is received which indicates any required insurance coverage will be diminished or canceled, the non-breaching party at its option may, notwithstanding any other provision of this Agreement to the contrary, immediately declare a material breach of this Agreement and suspend all further work or obligations pursuant to this Agreement.

11. Inspection of Records. All records, books, reports, and documentation maintained by Authority related to performance under the Agreement shall be open for inspection by Customer upon demand at reasonable times.

12. Non-Assignment. Authority shall not assign the work covered by this Agreement to a third party without the prior written consent of the Customer.

Attachment: SCMRS Agreement City of Capitola DRAFT (Updated SCMRS Agreement)

13. Attachments. Should a conflict arise between the language in the body of this Agreement and any attachment to this Agreement, the language in the body of this Agreement controls. This Agreement includes the following attachments:

- Exhibit A: Provisions of Authority Services
- Exhibit B: Obligations of the Customer
- Exhibit C: Payment Plan

14. Merger Clause. This Agreement, including the attached EXHIBITS "A", "B", and "C" sets forth the entire Agreement between the parties. The parties agree that this written Agreement supersedes any previous written or oral agreements between the parties, and any modifications to this Agreement must be made in a written document signed by all parties. The unenforceability, invalidity, or illegality of any provision(s) of this Agreement shall not render the other provisions unenforceable, invalid, or illegal. Waiver by any party or any portion of this Agreement shall not constitute a waiver of any other portion thereof. This Agreement shall be governed by, and interpreted in accordance with, California law.

IN WITNESS WHEREOF, the parties hereto by their duly authorized representatives have affixed their hands on the day and year in the Agreement first above written.

Dated: _____

 Board Chairperson
 Santa Cruz Consolidated Emergency
 Communications Center

APPROVED AS TO FORM:

 Attorney for the Authority

Dated: _____

 City Manager
 City of Capitola

APPROVED AS TO FORM:

 City Attorney

 Chief of Police
 City of Capitola

Attachment: SCMRS Agreement City of Capitola DRAFT (Updated SCMRS Agreement)

EXHIBIT A

PROVISIONS OF AUTHORITY SERVICES

SCMRS System administration and maintenance services are described as:

1) Purchase, installation, and maintenance of a complete law enforcement records management solution. This includes hardware necessary for the server-side of the solution (such as servers, network switches, disk storage, etc.), records management system software (RMS), GIS data needed by the RMS, and other required server software (such as operating systems or database management software). Solution shall be deployed at Santa Cruz Regional 9-1-1. Optionally, the Customer may instruct Authority to purchase, install, and maintain a secondary RMS site at another location for purposes of redundancy and reliability.

2) Purchase of network hardware and installation and configuration of network circuits and/or routing to support operation of a wide area network (WAN) connecting Santa Cruz, Watsonville, Capitola, Santa Cruz Sheriff's Office, and the Authority.

3) Ensure that server hardware continues to meet the minimum specifications recommended by the RMS software vendor (Vendor), and coordinate replacement and upgrades as needed. Evaluate and advise Customers regarding client workstation specifications.

4) Assist Customers in setting up Customer's equipment so as to make the RMS functional at authorized Customer facilities. Assist in developing and training Customers in the customization of the RMS solution and in creation of new reports so as to take full advantage of the RMS system and its features

5) Implement customizations to the RMS, provide custom report output for the RMS, perform daily backup of Customer database files, transfer database backups to a remote site on a weekly basis, and provide assistance in setting up printers and other devices.

6) Work with Customer and Vendor and other third parties to implement interfaces as delineated in the RFP. Assist Customers with implementing additional interfaces between the RMS and other Customer technology solutions on an ad hoc basis.

7) Provide RMS System Administrator training to designated Customer employees, as defined in Section 1 of Exhibit B, on an as-needed basis.

8) Provide the staff necessary to perform the above listed functions. Provide mechanism for reporting and tracking trouble tickets. Staff the SCMRS Help Desk Monday to Friday, from 9 a.m. to 5 p.m., excluding holidays. SCMRS staff are available after hours for critical system issues. Staff shall respond via telephone or remote support within 15 minutes of being paged out and able to respond on site within 60 minutes of determining the need to be physically present. Staff shall work until the issue is resolved. After hours call out procedures defining the process for notification shall be established and provided to all Customers.

(a) Post-implementation ad hoc services for reporting, interfaces, and training should not exceed 80 hours per Customer annually.

9) Act as the single point of contact between Customer and Vendor for RMS issues of any kind and Mobile software issues.

Capitola, Santa Cruz, and Watsonville PDs Only:

10) Maintenance of the existing Alliance PD Central RMS: Manage servers, databases, and wide-area network (WAN) to support use of Alliance throughout the PDs until the new RMS is implemented. Support for the current RMS includes the Crossroads interface for Traffic Collisions and Citations, the CopLink data replication feed and its server, and Crystal Reports.

11) Provide first line maintenance and troubleshooting for PD-owned Mobile Data Computer (MDC) and Network hardware. Coordinate repair and/or replacement, if needed. Provide, deploy, and manage endpoint protection solution for MDCs. Assist City IT personnel with deployment of additional applications and resources to the MDCs. Support the Radio IP VPN server and clients.

12) Advise and support PDs on public safety related technical projects including (but not limited to) voice radio communications and frequency coordination, computer workstation and/or network system upgrades, and/or mobile police computing upgrades and enhancements.

Santa Cruz PD Only:

13) Provide first line maintenance, troubleshooting and support for additional technical systems in the police department patrol vehicles. Manage access to Mobile Office applications including the RMS and other City-applications or websites deployed through Terminal Services

or Web Browsers. Support the Mobile Audio/Video recording solution in the patrol vehicles as well as the server, network, and disk duplicator for this system. Coordinate with City vendors to implement, install, troubleshoot, and maintain all technical systems (excluding radios) within the patrol vehicles.

13) Support the Coplogic Citizen Reporting system. Assist PD in implementing new report forms, maintain interface with RMS, and user/personnel management.

14) Coordination of Police Department issues with City of Santa Cruz Information Technology Department services including assistance with budget needs and recommendations annually.

EXHIBIT B

OBLIGATIONS OF THE CUSTOMER

The Customer shall:

1) Designate at least one (1) employee to be the local Systems Administrator (SA) for their respective Agency within 10 days of signing this agreement or within 10 days of a change in personnel. The SA will act as the initial point of contact for local system issues and will be responsible for coordinating with Authority staff to resolve issues related to the RMS and the services provided by the Authority or the Vendor under this Agreement.

a) Implementation Team – Major upgrades or replacement of the RMS will require Customer participation to ensure project success. Customers shall support system upgrades or implementations as recommended by the SCMRS project manager and/or Vendor project manager. Customer shall provide personnel resources including the Customer's SA

b) Records Administrator (RA) – Designate at least one (1) employee to be the local RA for their respective Agency within 10 days of signing this agreement or within 10 days of a change in personnel. The RA must have a comprehensive understanding of the internal structure and workflow of the RMS, departmental policies and procedures as well as how the records department interacts with dispatch and field operations personnel.

2) If any systems exist local to each Customer, Customer shall be responsible for backing up individual databases and files residing on local servers.

3) Be responsible for maintenance of any software programs residing on local Customer workstation or MDC, other than those covered under this Agreement. Customer IT personnel shall work with SCMRS personnel to verify compatibility of any additional software.

4) Be responsible for maintenance of local agency printers, workstation PC hardware, and other individual Customer computer component equipment.

5) Be responsible for installation of Mobile Data Computer hardware units and related equipment such as Cradlepoint routers.

6) Participate in an advisory entity, subordinate to the Parties, known as the SCMRS Executive Group. Membership will be comprised of the Chief of Police, or their designee, the Sheriff, or their designee, of each Customer receiving service and the Authority General Manager. The Executive Group will meet regularly to review and approve programs and operating policies. The Executive Group will also review the annual SCMRS budget and staffing plan as proposed by Authority staff and otherwise make recommendations to the Authority Board regarding SCMRS fiscal matters.

7) Participate in an advisory entity, subordinate to the Parties and the SCMRS Executive Group, known as the SCMRS Mid-Managers/Users Group. Membership will include each Customer's Systems Administrator, or their designee, the Customer's Records Administrator, or their designee, the Customer's information technology representative (if that person is not the Systems Administrator), and the Authority's Systems Administrator (normally the SCMRS Systems Supervisor), or their designee. The SCMRS Mid-Managers/Users Group will meet regularly to consider and approve modifications to the RMS configuration, prioritize technical support issues, collaborate on projects and reports, and otherwise make recommendations to the Executive Group regarding SCMRS operations.

EXHIBIT C

PAYMENT PLAN

1) Actual Annual Costs. In order to ensure full recovery of Authority costs, the Customer shall reimburse the Authority for its proportionate share of the Authority's actual annual costs associated with staffing, maintaining, and administering RMS and the P1 Mobile system including any and all hardware, software, network connections, vendor maintenance agreements, and other budgeted expenditures as specified in the SCMRS budget each fiscal year.

2) Indirect Overhead Costs. Customer agrees to pay their proportionate share of annual Indirect Management Overhead charges to compensate the Authority for staff time and costs not itemized under paragraph 1 of this Exhibit, that are expended to support the administration of this Agreement, supervision of the SCMRS staff, and provide a facility for SCMRS operations. Initial charges are established as follows and will be annually reviewed by the Controller for the Authority and the SCMRS Executive Group and modified as approved by the Authority Board of Directors:

(a) 11.49% of budgeted SCMRS Salary and Benefits, and

(b) 1.93% of budgeted Authority building maintenance costs including debt service, insurance, maintenance of structure/grounds, and utilities.

3) Cost Sharing Formula. Pursuant to Authority Policy 334 –*Revenue – Records Management System*, Customer is subject to a cost-sharing formula based on population of their respective jurisdiction and the number of cases written annually. The cost sharing percentages for each Customer receiving service shall be re-calculated in February and implemented in the upcoming fiscal year (the following July 1st), every three (3) years as stated in Policy 334 section 5.1.

(a) As indicated in Exhibit A, Santa Cruz County Sheriff does not participate in MDC Hardware support and maintenance so a separate cost-sharing formula based solely on population shall prevail for costs directly related to MDC Hardware support and maintenance for Capitola, Santa Cruz, and Watsonville Police Departments. The basis for adjusting each Customer's population percentage is the provisional population estimates compiled annually by

the State of California, Department of Finance, adjusted to the publication date which is published before, but nearest each first (1st) day of January prior to the July 1 adjustment date.

(b) Santa Cruz Police Department receives additional services as outlined in Exhibit A. Charges for these services were implemented in 2007 at \$66,579 and are subject to an annual cost of living adjustment, using the United States Department of Labor, Bureau of Labor Statistics Consumer Price Index for All Urban Consumers (CPI-U), San Francisco, Sub-group, "All Items."

4) The Authority will establish a separate SCMRS Budget (including staff task time documentation) in support of this Agreement which will ensure full cost recovery and accurately determine a SCMRS annual budget surplus/deficit amount to be carried over or reconciled for each fiscal year. The SCMRS budget, and any mid-year adjustments will be first presented to the SCMRS Executive Group and then must be approved by the Board of Directors of the Authority.

5) The Authority shall notify each Customer Party no later than February 28 of any changes to 1) their costs of operation, 2) the indirect overhead costs as described within paragraph 2 of this Exhibit, and 3) their cost sharing percentage resulting from changes in the annual provisional population estimates as described within paragraph 3 of this Exhibit.



CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 12, 2019

FROM: Capitola Police Department
SUBJECT: Authorize the City to Sell Surplus Vehicles

RECOMMENDED ACTION: Declare three Police Department motorcycles as surplus property and authorize their sale/auction.

BACKGROUND: City Council authorization is required for the sale and purchase of City vehicles. City staff is recommending the sale of the following vehicles:

- 1) 2012 Honda NC700X (VIN JH2RC6352CK000171) police motorcycle with 21,852 miles.
- 2) 2014 Honda NC700X (VIN JH2RC6352EK200194) police motorcycle with 21,415 miles.
- 3) 2003 BMW R1200 RT (VIN WB10499A03ZE90704) police motorcycle with 51,665 miles.

DISCUSSION: In order to assure proper response times, preserve our efficiency levels, ensure officer safety, and maintain a professional appearance, the Police Department works with the Public Works Department to replace police vehicles as needed. Currently, two Honda NC700 X police motorcycles and the 2003 BMW R1200 RT are recommended for surplus.

The above-listed police emergency vehicles have been deployed for traffic enforcement and patrol purposes in the City for many years. All three motorcycles have recurring mechanical problems that make them cost-ineffective and unreliable for daily patrol use. The Honda NC700X model motorcycles were originally purchased in 2012 and 2014 an effort to try a smaller sized and less expensive motorcycle for law enforcement operations. The "civilian" version of the NC700X, outfitted for police operations at staff's request, proved to be deficient for patrol purposes causing frequent maintenance and performance concerns as well as unforeseen expenses. The Police Department no longer needs these motorcycles as part of its fleet due to their limited use and the fiscal impact related to mechanical upkeep, service costs, and labor/maintenance. Additionally, the department recently purchased a new police motorcycle.

In order to maintain our police motorcycle fleet, staff has pre-negotiated the purchase of two police motorcycles from the Scotts Valley Police Department for \$1 per motorcycle. The offered units are two 2007 BMW R1200 RT police equipped motorcycles. Each motorcycle is in excellent condition and can easily be transitioned for immediate use by the Capitola Police Department. The City of Scotts Valley is offering these motorcycles to reduce its current inventory. BMW has been making police motorcycles for many years. BMW motorcycles are of high quality and are used by many law enforcement agencies for the effective deployment of police personnel. By purchasing these motorcycles, our police motorcycle fleet will maintain a


Authorize the City to Sell Surplus Vehicles
September 12, 2019

professional image and allow motor officers a consistent riding platform for training and patrol operations.

FISCAL IMPACT: It is estimated the sale(s) of these motorcycles will result in a gain of approximately \$500 per vehicle. The proceeds from these sales will be deposited in the Equipment Replacement Fund.

Report Prepared By: Andrew Dally
Police Captain

Reviewed and Forwarded by:



Jamie Goldstein, City Manager

9/5/2019



CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 12, 2019

FROM: Public Works Department

SUBJECT: Application from the Capitola Village and Wharf Business Improvement Association to Display Banners and Holiday Wreaths and Trees in the Village

RECOMMENDED ACTION: Consider two applications from the Capitola Village and Wharf Business Improvement Association to display seasonal decorative banners on streetlights and holiday wreaths and trees in the Village.

BACKGROUND: In May 2019 the City Council adopted Administrative Policy V-16 regarding decorations placed in public areas within Capitola Village. Pursuant to this policy the Capitola Village and Wharf Business Improvement Association (BIA) has submitted two applications for decorations. The first is to display seasonal banners and wreaths on various street lights in the Village. The second is to place three holiday trees at key locations. The BIA's applications, which include location maps and pictures of the proposed banners, is included as Attachment 1. The policy is included as Attachment 2.

DISCUSSION: The proposed banners display pictures throughout Capitola Village and do not promote any specific businesses or products consistent with the policy. The proposal includes different banners for spring, summer, and fall. During the winter holidays, the banners would be replaced with wreaths. The banners would be installed by Public Works crews and it is anticipated the wreaths would be installed by a third party. In discussing this application with Carin Hanna of the BIA, she has indicated that banners may be hung on a street by street basis, with the emphasis along Capitola Avenue and the wreaths would be installed throughout the Village. The three holiday trees would be placed in their traditional locations.

FISCAL IMPACT: The costs to have Public Works crews install the banners can be covered within the existing budgeted staffing costs.

ATTACHMENTS:

1. BIA Applications
2. V-16 Village Streetscape Decoration policy

Report Prepared By: Steve Jesberg
Public Works Director

BIA Streetlight Banner Request
September 12, 2019

Reviewed and Forwarded by:



Jamie Goldstein, City Manager

9/6/2019

August 5, 2019

To: Steve Jesberg, City of Capitola

From: Carin Hanna, CVWBIA

The CVWBIA would like to put banners on various light poles in Capitola Village. The CVWBIA would purchase the banners and hardware, the city would install.

The banners are 18" by 36", full color, double sided / 18oz Blockout Vinyl / 2" pole pocket top/bottom.

Some poles would have two banners; some, one depending on location.

I have included a rough sketch of pole location and examples of what some of the graphic might be.

We would have three to four seasonal themes:

Spring – installed in April

4th of July installed late June

Summer/Beach Festival Installed in late July

Fall – installed in October (most likely not to happen for a few years)

In November we would install the Holiday Wreaths as was done last year. We would hope to continue to have a volunteer install and remove the wreaths if possible.

Please let me know if you need further details for this request.



SHOP | DINE | PLAY | STAY



Explore
**CAPITOLA
VILLAGE**

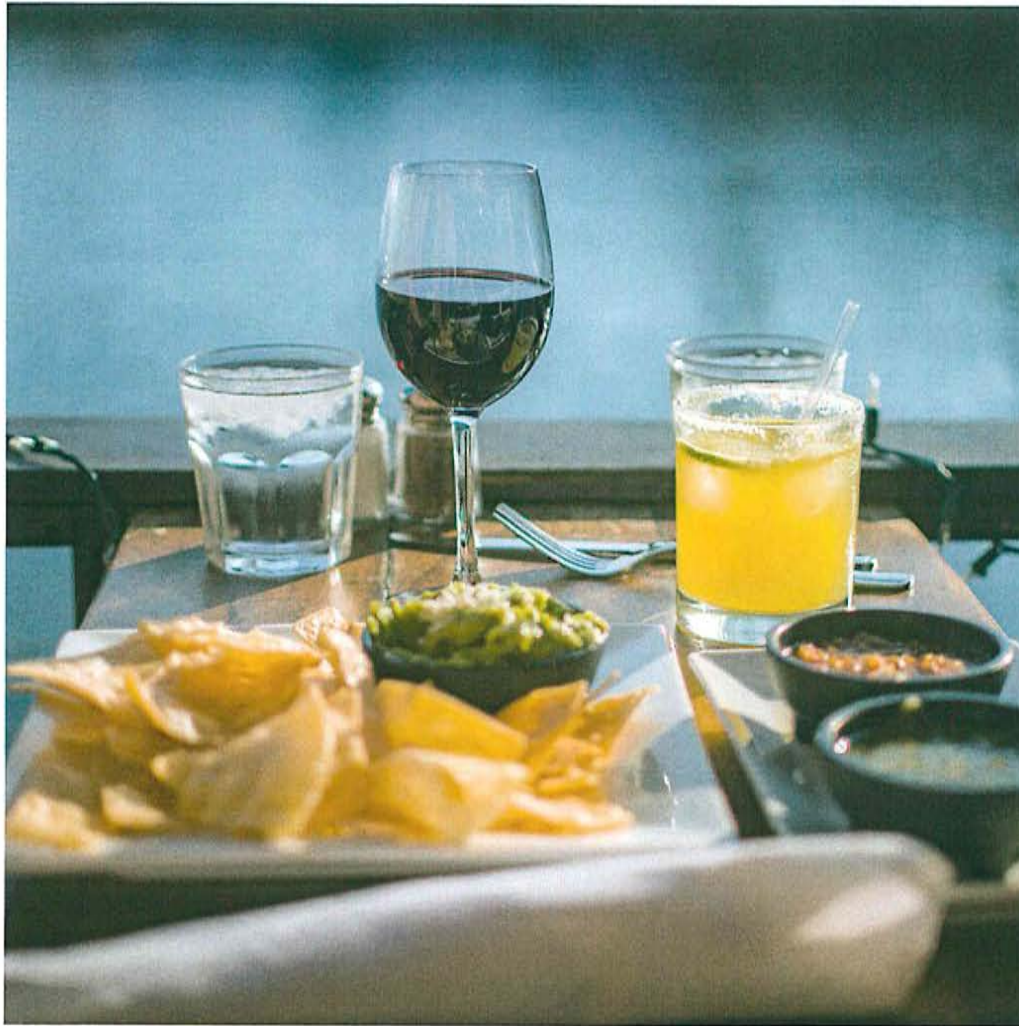


CAPITOLAVILLAGE.COM




Attachment: BIA Applications (BIA Streetlight Banner Request)

SHOP | DINE | PLAY | STAY



Explore
**CAPITOLA
VILLAGE**



CAPITOLAVILLAGE.COM



Attachment: BIA Applications (BIA Streetlight Banner Request)

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Explore
**CAPITOLA
 VILLAGE**

CAPITOLAVILLAGE.COM



Attachment: BIA Applications (BIA Streetlight Banner Request)

SHOP | DINE | PLAY | STAY



Explore

CAPITOLA VILLAGE



CAPITOLAVILLAGE.COM




Attachment: BIA Applications (BIA Streetlight Banner Request)

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**CAPITOLA
VILLAGE**



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Attachment: BIA Applications (BIA Streetlight Banner Request)

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Attachment: BIA Applications (BIA Streetlight Banner Request)

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Attachment: BIA Applications (BIA Streetlight Banner Request)

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Explore
**CAPITOLA
 VILLAGE**

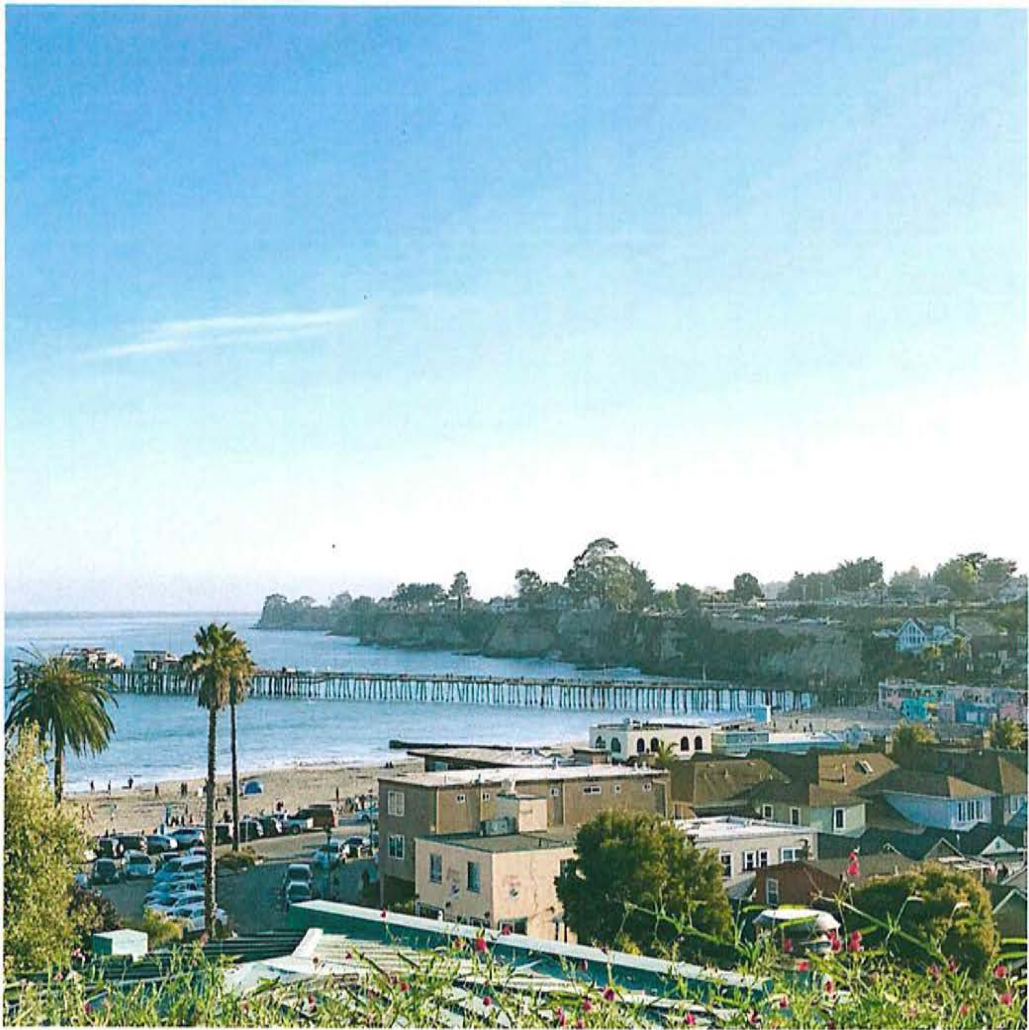


CAPITOLAVILLAGE.COM




Attachment: BIA Applications (BIA Streetlight Banner Request)

SHOP | DINE | PLAY | STAY



Explore
**CAPITOLA
VILLAGE**

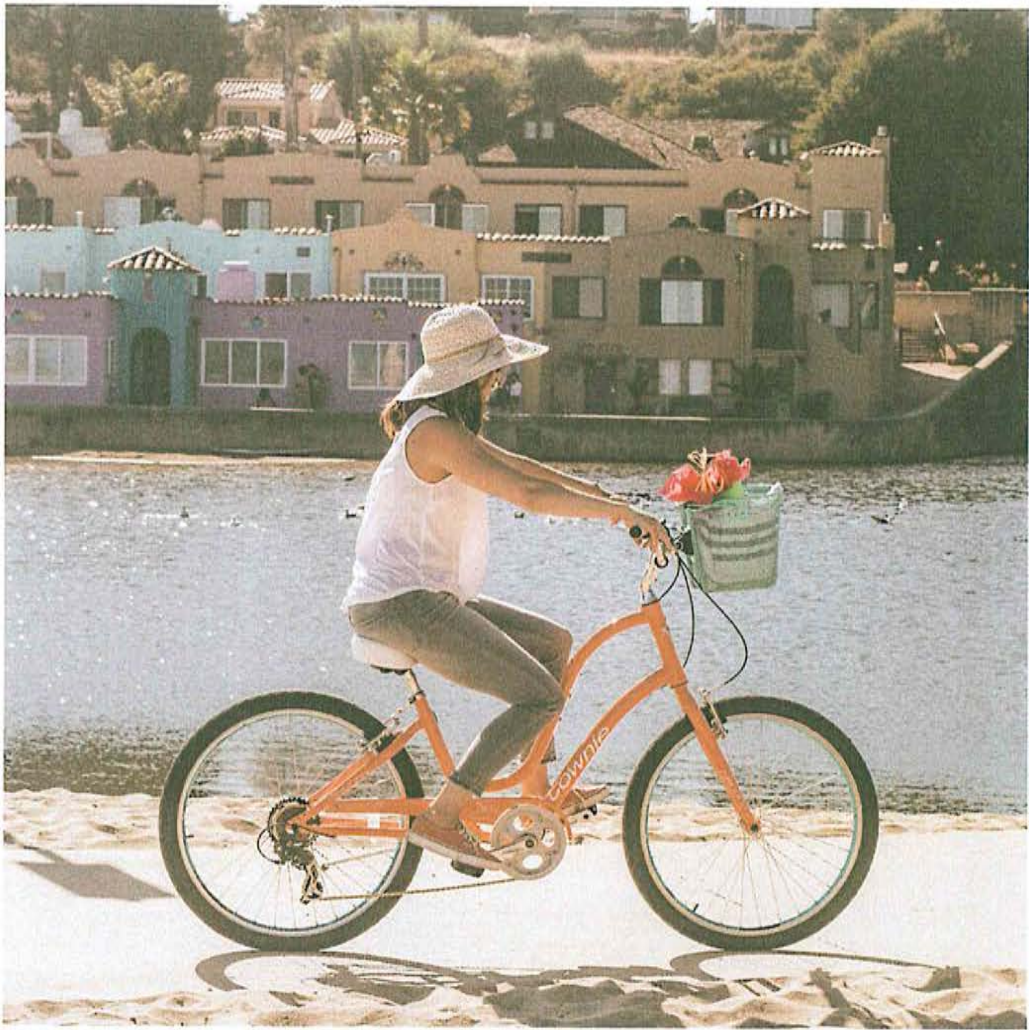


CAPITOLAVILLAGE.COM



Attachment: BIA Applications (BIA Streetlight Banner Request)

SHOP | DINE | PLAY | STAY

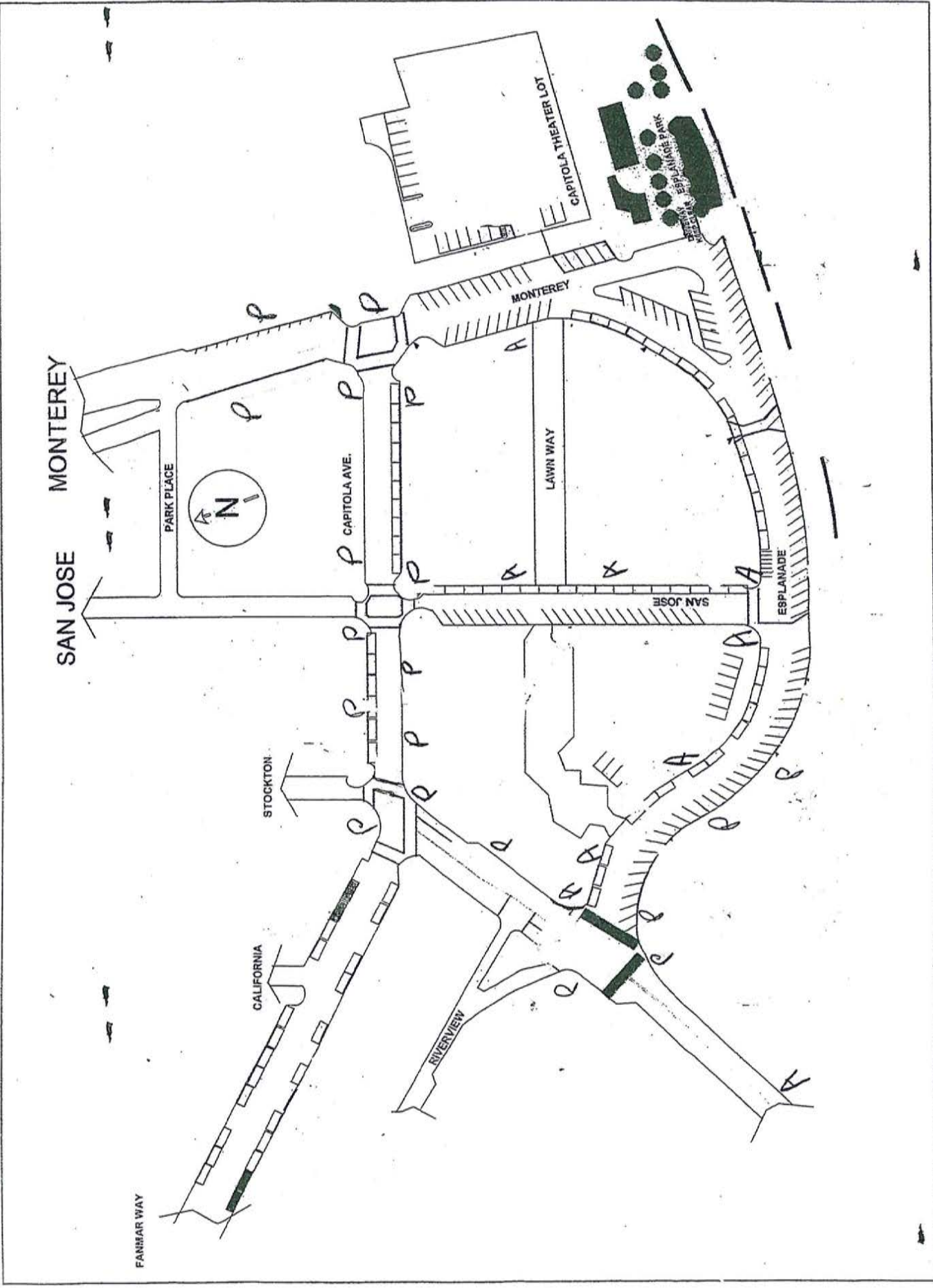


Explore
CAPITOLA VILLAGE

CAPITOLAVILLAGE.COM



Attachment: BIA Applications (BIA Streetlight Banner Request)



BANNER POLES - TOTAL 28

A = aggregate poles

Created using ScenePD. Licensed customer CPD

www.sceneand.com

Attachment: BIA Applications (BIA Streetlight Banner Request)

September 3, 2019

Steve Jesberg
City of Capitola
420 Capitola Ave.
Capitola, CA 95010

Dear Steve,

The BIA is applying for the following Christmas Decorations:

3 Trees between 12' & 18' located at 200 Monterey Ave, the intersection of Stockton Ave and Capitola Ave, and in the plaza on the Esplanade side of the Capitola Mercantile. Trees to be lit with LED twinkle lights and a combination of ornaments in red, green, silver, aqua blue, gold.

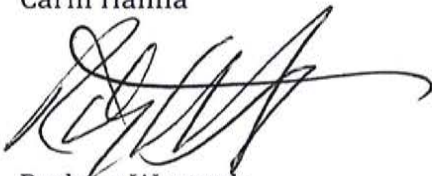
The light poles will be hung with a 20" wreath and red bow.

Attached is diagram with the location of the three trees. Also attached is an improved diagram of the poles we are asking to have banners for the September 12th hearing.

Thank you,



Carin Hanna



Rodney Wartzok

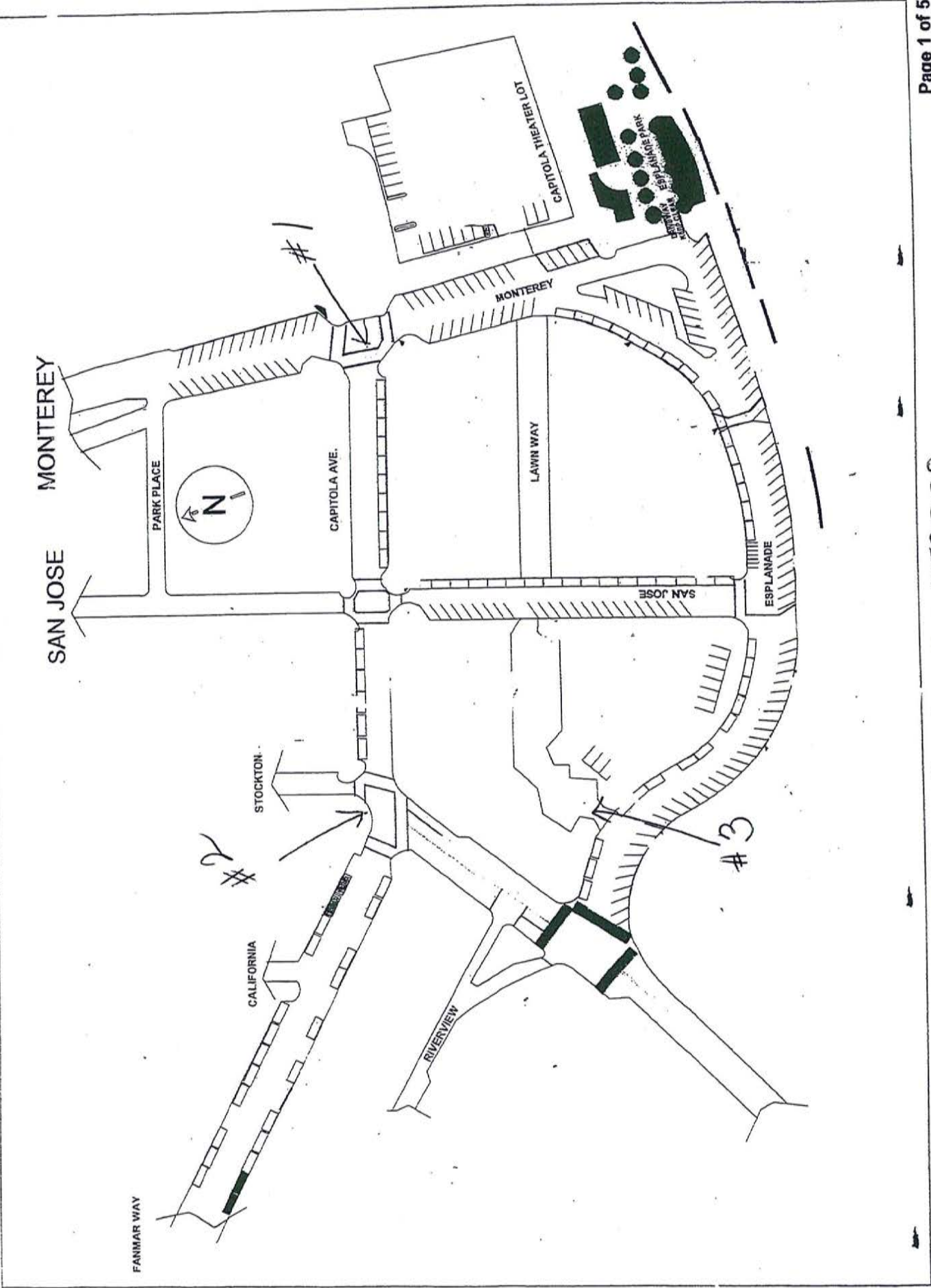
RECEIVED

SEP 04 2019

CITY OF CAPITOLA

CAPITOLA VILLAGE & WHARF BUSINESS IMPROVEMENT AREA
P.O. BOX 806, CAPITOLA, CA 95010

Attachment: BIA Applications (BIA Streetlight Banner Request)



3 HOLIDAY TREES

Created using ScenePD. Licensed customer CPD

www.scenepd.com

Attachment: BIA Applications (BIA Streetlight Banner Request)



ADMINISTRATIVE POLICY

Number: V-16
Issued: 5/9/19

Jurisdiction: City Council

VILLAGE STREETScape DECORATIONS

I. PURPOSE

The purpose of this policy is to provide a process for the review and authorization of decorations placed in public spaces within Capitola Village. Decorations may include tree lighting, banners hung from streetlights, and any temporary placement of decorative items such as a seasonal décor or holiday celebrations.

This policy is intended to regulate the placement of decorations independent from approved Special Events. Any decorations proposed as part of a Special Event shall be reviewed and approved through the Special Event process.

For the sole purpose of this policy, the term “Village streetscape” includes all public road rights-of-way in the CV (Central Village) zoning district including streets, sidewalks, green belts (Lawn Way), and Esplanade Park.

II. POLICY

All proposals for the installation or placement of decorations shall be submitted to the Public Works Department a minimum of sixty (60) days prior to the desired date of installation. All proposals will be reviewed by Public Works staff who will consult with other City departments as needed.

Village streetscape decorations must promote the Village or City. Decorations cannot advertise any specific business or product.

All new proposed Village decorations must be approved by the City Council. Applicants are advised not to purchase any decorations until City approval is granted.

Previously approved Village decorations may be approved by the City Manager provided the City Manager can make all of the following findings:

1. The decorations were previously approved by the City Council.
2. The decorations were installed the previous year.
3. There are no significant modifications or variations to the decorations as compared to prior years.
4. There were no major issues with the decorations in recent prior years.
5. The decorations, as proposed, can function safely.
6. The decorations will not cause undue interference with previously approved or ongoing activities, construction, road maintenance, public transit systems, or traffic.
7. The decorations provide a benefit to the Village or City.

If the City Manager cannot make the above findings, the proposal shall be denied, or the City Manager may refer the proposal to the City Council. The City Manager’s approval/denial of a decorating proposal is appealable to the City Council. All appeals must be made pursuant to Chapter 2.52 of the Capitola Municipal Code.

The City Manager may refer any recurring decorating proposal to the City Council for consideration. Any Council Member may require that any recurring decorating plan be brought to the City Council for consideration by making such a request prior to the City Manager’s approval.

III. INSURANCE

All entities installing decorations on Village streetscape must provide proof of general liability insurance that names the City of Capitola as an additional insured. Insurance coverage must be maintained for the duration that the decorations are installed. The insurance requirements shall meet the levels stipulated in the most current contract between the City and the Capitola Village and Wharf Business Improvement Association

IV. INSTALLATION

Installation of all decorations must be coordinated with the Department of Public Works.

All decorations to be installed by the City must be delivered to the City Public Works Corporation Yard located at 430 Kennedy Drive, Capitola CA 95010 at least one (1) week prior to the installation date.

If the applicant proposes to self-install decorations, the Public Works Department must be notified 72 hours in advance of the installation date. Any corrective action to applicant-installed decoration must be remedied immediately by the applicant upon notice from the City. Failure by the applicant to take required corrective actions may result in removal of the decoration by the Public Works Department. Applicant will be charged for any costs associated with removal due to failure by the applicant to take corrective action.

The City reserves the right to remove Village streetscape decorations at any time for any or no reason.

V. PROCEDURE

- A. Submit Village Streetscape proposals to Public Works 60 days prior to desired installation. Repeat plans may be submitted 30 days in advance. Plan shall include the following:
 - 1) Description of decoration purpose and theme
 - 2) Date of installation and date of removal
 - 3) Description of decorations including:
 - a. Description of individual elements
 - b. Pictures or sketches required for all elements
 - c. Manufacturer or supplier and color of any lights
 - d. Size of elements if applicable
 - 4) Placement (use of a plan sheet is encouraged)

Attachment: V-16 Village Streetscape Decoration policy (BIA Streetlight Banner Request)

- 5) Insurance certificate
- B. Initial review by applicable Public Works Department
- C. Public Works will route to City Departments
- D. Approval by the City Manager or City Council
- E. Public Works Department will issue notice of approval

This policy is approved and authorized by:



Jamie Goldstein, City Manager

Attachment: V-16 Village Streetscape Decoration policy (BIA Streetlight Banner Request)



CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 12, 2019

FROM: City Manager Department
SUBJECT: Recreation Strategic Plan Group Update

RECOMMENDED ACTION: No action required. Council discretion to appoint a representative to the Recreation Strategic Plan Core Team.

BACKGROUND: On February 28, 2019, City Council approved funding for a Recreation Strategic Plan and in June authorized staff to enter into a contract with BluePoint Planning for the project.

With the assistance of a Core Team comprised of staff and other community stakeholders, BluePoint Planning will gather data and conduct a program review then provide a needs and opportunities assessment.

DISCUSSION: Staff is assembling the Core Team of Capitola community stakeholders and City staff. This group will provide a review of existing conditions, identify recreation needs and gaps, and develop a vision and goals for the plan facilitated by BluePoint Planning.

Members of the Core Team will need to commit to participating in several orientation conference calls in September, and between two and three meetings between Oct and Dec to review existing conditions, set goals, and develop recommendations and strategies. Core Team members will also be asked to support the initiative by sharing relevant information with the larger membership of the groups they represent.

The following stakeholder groups that have been invited to the Core Team:

- Junior Guard Staff
- Junior Guard Parents Club
- School District Staff
- School District Board
- Camp Capitola Staff
- Former Recreation Staff
- Central Fire Staff
- Class Instructors
- Class Participants
- Community Youth
- Santa Cruz Public Library
- BIA
- Sports Renter

Recreation Strategic Plan Group
September 12, 2019

City Council may want to designate a member to participate on the Core Team to assist in the development of the Recreation Strategic Plan. Alternatively, Council may want the Core Team to work independently and prepare a recommended Strategic Plan for the full Council to consider.

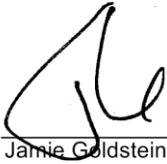
FISCAL IMPACT: None.

ATTACHMENTS:

1. Capitola Rec Timeline

Report Prepared By: Nikki Bryant LeBlond
Recreation Supervisor

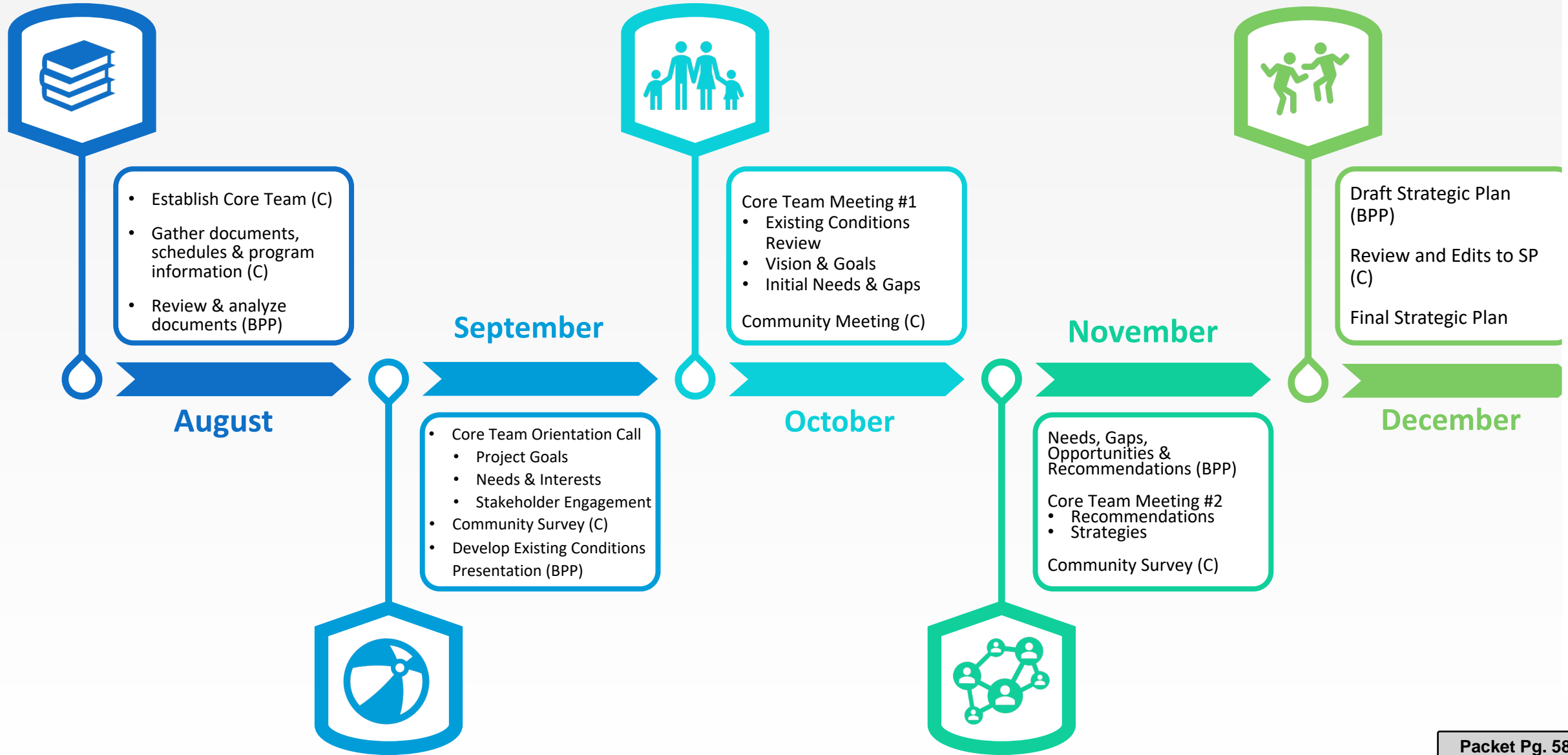
Reviewed and Forwarded by:



Jamie Goldstein, City Manager

9/5/2019

Capitola Recreation Strategic Plan



Attachment: Capitola Rec Timeline (Recreation Strategic Plan Group)



CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 12, 2019

FROM: Finance Department

SUBJECT: Consider an Ordinance Amending Capitola Municipal Code Section 2.04.275 as Recommended by the Finance Advisory Committee

RECOMMENDED ACTION: Consider the Finance Advisory Committee recommendation to adjust Council Member compensation and approve the first reading of an Ordinance amending Capitola Municipal Code Section 2.04.275 pertaining to City Council Member salary to provide an adjusted salary of \$600 per month for members of the City Council, to be effective upon the start of new terms of office following the November 2020 General Municipal Election.

BACKGROUND: On March 14, 2019, the City Council requested that the Finance Advisory Committee (FAC) review City Council Member compensation and make a recommendation to the City Council.

Historically in 2006 the City Council adopted Ordinance No. 901 adding section 2.04.275 to the Capitola Municipal Code pertaining to City Council Member Salary. The ordinance and municipal code section set the salary for Council Members at \$500 per month effective upon the start of new terms following the November 2006 General Municipal Election.

City Council Member salaries were initially established at \$75 per month by Ordinance No. 283 adopted February 14, 1966. Salaries were subsequently increased to \$150 per month by adoption of Ordinance No. 418 on July 11, 1977, \$300 per month by Ordinance No. 716 adopted July 11, 1991, and \$500 per month by Ordinance No. 901 adopted March 23, 2006.

California Government Code Section 36516 allows the City Council to increase its compensation by an amount equal to 5 percent for each calendar year from the operative date of the last adjustment, provided that the City Council approves the increase by Ordinance and the increase does not go into effect until after the next General Municipal Election when new terms of office begin. For purposes of Government Code Section 36516, the operative date of the last salary adjustment was December 2006.

DISCUSSION: At the FAC meeting on May 22, 2019, the committee discussed City Council Member compensation. That discussion included a review of the compensation history listed above and compared the current salary to other cities within Santa Cruz, Monterey, and San Benito counties. The 11 cities that were used as comparable cities are the same cities that are being used for the employee compensation study currently underway: Santa Cruz, Watsonville, Scotts Valley, Marina, Seaside, Carmel, Pacific Grove, Monterey, Pismo Beach, Gilroy, and Hollister.

City Council Compensation
September 12, 2019

Along with the salary of the mayor and council members for each city, the FAC also considered the population, the overall revenue, and revenue per capita (Attachment 1). Government Code Section 36516 permits an increase of 5 percent for each calendar year from December 2006. The maximum adjusted salary permitted by law in December 2020 is \$989.97 per month.

Following a lengthy discussion, the FAC unanimously approved recommending an increase to Council Member compensation of 20 percent to \$600 per month. FAC members Mayor Jacques Bertrand and Vice Mayor Kristen Petersen abstained from voting on the recommendation.

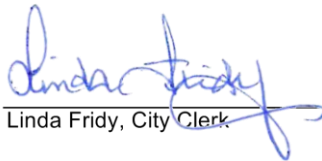
FISCAL IMPACT: Increasing Council Member salaries to \$600 per month would not have a fiscal impact until Fiscal Year 2020-21 when the increase would become effective. At that point the fiscal impact would be approximately \$7,000 more annually, which includes \$6,000 in salaries and \$1,000 in benefits and employer payroll taxes.

ATTACHMENTS:

1. 2019 City Council Compensation Comps (PDF)

Report Prepared By: Jim Malberg
Finance Director

Reviewed and Forwarded by:


Linda Fridy, City Clerk

9/5/2019

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAPITOLA AMENDING CAPITOLA MUNICIPAL CODE SECTION 2.04.275 AND APPROVING AN ADJUSTED SALARY OF \$600 PER MONTH FOR MEMBERS OF THE CITY COUNCIL UPON THE START OF NEW TERMS OF OFFICE FOLLOWING THE NOVEMBER 2020 GENERAL MUNICIPAL ELECTION

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

Section 1. FINDINGS

A. The City Council initially established City Council Member at \$75 per month by Ordinance No. 283 adopted February 14, 1966. City Council Member salaries were subsequently increased to \$150 per month by adoption of Ordinance No. 418 on July 11, 1977, increased to \$300 per month by Ordinance No. 716 adopted July 11, 1991, and increased to \$500 per month by adoption of Ordinance No. 901 on March 23, 2006. Each increase was in conformance with Government Code Section 36516, subdivision (c), which permits the City Council to increase its compensation by an amount equal to 5 percent for each calendar year from the operative date of the last adjustment, provided that the City Council approve the increase by Ordinance and the increase does not go into effect until after the next general municipal election when new terms begin.

B. For purposes of Government Code Section 36516, the operative date of the last adjustment of salary was December 2006.

C. Government Code Section 36516 permits an increase of 5 percent for each calendar year from December 2006. The adjusted salary permitted by law is \$989.97 per month.

Section 2. Capitola Municipal Code Section 2.04.275 is hereby amended to read as follows:

“2.04.275 City Council Member Salary

Pursuant to California Government Code Section 36516, commencing December 2020 the salary for City Council Members shall be six hundred dollars (\$600) per month and may be adjusted in accordance with state law. Such salary shall be payable in the same manner as salaries are paid to other officers and employees of the City.”

Section 3. COMPLIANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT.

The City Council hereby finds that the action to adopt this ordinance will not result in any change in the environment and thus is not a project subject to the requirements of CEQA.

Section 4. SEVERABILITY.

The City Council hereby declares every section, paragraph, sentence, cause and phrase of this ordinance is severable. If any section, paragraph, sentence, clause or phrase of this ordinance is for any reason found to be invalid or unconstitutional, such invalidity, or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses or phrases.

City Council Compensation
September 12, 2019

Section 5. EFFECTIVE DATE.

This ordinance shall be in full force and take effect after the next general municipal election when new terms begin in December 2020.

This ordinance was introduced on the 12th day of September 2019, and was passed and adopted by the City Council of the City of Capitola on the ___ day of ____ 2019, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

APPROVED:

Jacques Bertrand, Mayor

ATTEST:

Linda Fridy, City Clerk

	Capitola	Santa Cruz	Watsonville	Marina	Seaside	Carmel	Pacific Grove
Mayor Salary	\$ 500.00	\$ 3,420.00	\$ 656.00	\$ 266.00	\$ 750.00	\$ 160.00	\$ 500.00
Council Salary	\$ 500.00	\$ 1,710.00	\$ 551.00	\$ 266.00	\$ 750.00	\$ 160.00	\$ 500.00
Population	10,158	63,993	53,452	21,227	34,259	3,876	15,617
Overall Revenue (2018 CAFR)	\$ 18,000,000	\$ 117,000,000	\$ 58,000,000	\$ 30,000,000	\$ 32,000,000	\$ 19,000,000	\$ 22,000,000
Revenue Per Capita	\$ 1,772	\$ 1,828	\$ 1,085	\$ 1,413	\$ 934	\$ 4,902	\$ 1,409
	Scotts Valley	Pismo Beach	Monterey	Gilroy	Hollister	Average	Median
Mayor Salary	\$ 488.00	\$ 772.20	\$ 676.00	\$ 1,297.00	\$ 400.00	\$ 959	\$ 578
Council Salary	\$ 488.00	\$ 1,072.20	\$ 430.00	\$ 865.00	\$ 400.00	\$ 656	\$ 526
Population	11,892	11,892	28,671	54,159	37,182	\$ 32,071	\$ 27,743
Overall Revenue (2018 CAFR)	\$ 13,000,000	\$ 29,000,000	\$ 75,000,000	\$ 83,000,000	\$ 36,000,000	\$ 46,333,333	\$ 31,000,000
Revenue Per Capita	\$ 1,093	\$ 2,439	\$ 2,616	\$ 1,533	\$ 968	\$ 1,929	\$ 1,411

Attachment: 2019 City Council Compensation Comps (City Council Compensation)



CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 12, 2019

FROM: Community Development

SUBJECT: Consider a Contract for an Environmental Consultant for Capitola Mall Redevelopment

RECOMMENDED ACTION: Authorize the City Manager to award a contract to Dudek for \$276,470 to prepare the environmental documents related to the Capitola Mall redevelopment project.

BACKGROUND: On August 27, 2019, the Capitola Mall owners, Merlone Geier Partners, submitted an application to redevelop the Mall. The project includes 637 residential units and approximately 600,000 square feet of commercial space.

To manage the project review process, the City is assembling a team of technical experts including a planning consultant, environmental consultant, and economic consultant. On August 22, 2019, the City Council authorized contracts for a planning consultant and economic consultant. The planning consultant will function as an extension of the Capitola planning staff and serve as the lead planner on the project. The economic consultant will analyze the financial impacts to the City of the proposed project in the near and long term and assist with the development agreement negotiations.

DISCUSSION: The proposed contract with Dudek is for environmental review services. The environmental consultant will review the application and ensure compliance with the California Environmental Quality Act (CEQA).

The City posted a request for qualifications (RFQ) for 30 days on the City website. On June 17, 2019, the RFQ closed with six responses for the environmental consultant. Staff reviewed the submittals and the top three firms were invited to interview.

On July 17, the City interviewed three environmental consultants. The interview panel consisted of two local environmental planners and two City staff members. Dudek was selected due to a successful record of preparing high quality environmental impact reports and experience in the Santa Cruz region.

In the RFQ Dudek provided billing rates with the qualification statements. Following selection, the City worked with Dudek on a project scope and budget. The project scopes and pricing are included as attachments to the contract. The Dudek contract includes a not-to-exceed budget of \$276,470. Two optional items are incorporated in the cost, including a construction health risk assessment (\$6,840) and a historic resources evaluation report (\$8,320).

For these types of third-party technical studies, the City typically charges applicants the direct

Contract for Mall Redevelopment EIR Consultant
September 12, 2019

cost of the study plus 21 percent overhead to cover the City costs associated with project management and contract administration. Since the environmental consultant will be managed by the contract Planning Consultant, who's costs are also being paid by the applicant, the overhead cost for the Dudek contract will be decreased to 5 percent.

The applicant will also be billed hourly for the City Attorney, Architectural Review, and Stormwater Review. The Community Development Director time for tasks not associated with the management or oversight of three contracts will also be billed hourly.

The City required a \$100,000 deposit with the application submittal. Billing to the applicant will occur monthly. Upon approval by the City Council, the City Manager will execute the consultant contract.

FISCAL IMPACT: Funding for the contract will be covered by the applicant, Merlone Geier.

ATTACHMENTS:

1. Dudek - Fixed Fee Contract - 09.13.2019
2. Capitola Mall EIR Dudek Scope of Work
3. Capitola Mall Cost Estimate

Report Prepared By: Katie Herlihy
Community Development Director

Reviewed and Forwarded by:



Jamie Goldstein, City Manager

9/6/2019

CITY OF CAPITOLA
PROFESSIONAL SERVICES AGREEMENT
 Environmental Consulting Services
 Dudek

THIS AGREEMENT is entered into on September 13, 2019, by and between the City of Capitola, a Municipal Corporation, hereinafter called "City" and Dudek, 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 for environmental consulting and further detailed 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 performance of the work, it is necessary to conduct field operations, security and safety of the job site will be the Consultant's responsibility, excluding 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 the Community Development Director, called "Director," or other City personnel, or third parties as necessary, on all matters connected with carrying out 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, in 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). Consultant shall immediately notify City if 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**

This Agreement will become effective when signed by both parties and will terminate on the earlier of:

- The date Consultant completes the services required by this Agreement, as agreed by the City; or
- The date either party terminates the Agreement as provided below.

Work shall begin on or about September 16, 2019.

In the event that major changes are ordered or 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 provided that to do so would not frustrate the City's objective for entering into this Agreement. Consultant must submit all claims for adjustments to City within thirty calendar days of the time of occurrence of circumstances necessitating the adjustment.

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 and for 2 years thereafter, 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 General 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, and Employer's Liability Insurance.
- 4. Professional (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: **\$1,000,000** per occurrence and **\$2,000,000** in aggregate (including operations, products and completed operations)
- 2. Automobile Liability: **\$1,000,000** per accident for bodily injury and property damage.
- 3. Employer's Liability Insurance **\$1,000,000 per accident for bodily injury and property damage.**
- 4. Errors and Omissions Liability: **\$1,000,000** per claim and **\$2,000,000** in the Limits aggregate.

Attachment: Dudek - Fixed Fee Contract - 09.13.2019 (Contract for Mall Redevelopment EIR Consultant)

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 insured's 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 except after prior written notice has been given to the City.

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.

Waiver of Subrogation

Contractor hereby agrees to waive rights of subrogation which any insurer of Contractor may acquire from Contractor by virtue of the payment of any loss. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation. **The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City of Capitola** for all work performed by the Contractor, its employees, agents and subcontractors.

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

For General Services: To the fullest extent permitted by law, Consultant agrees to indemnify, defend, and hold harmless the City, its directors, officers, and employees from and against any and all claims, demands, actions, liabilities, damages, judgments, or expenses (including attorneys' fees and costs) arising from the acts or omissions of Consultant's employees or agents in any way related to the obligations or in the performance of services under this Agreement, except for design professional services as defined in Civil Code § 2782.8, and except where caused by the sole or active negligence or willful misconduct of the City.

For Design Professional Services under Civil Code §2782.8: To the fullest extent permitted by law, Consultant agrees to indemnify, defend, and hold harmless the City, its directors, officers, and employees

from and against any and all claims, demands, actions, liabilities, damages, or expenses (including attorneys' fees and costs) arising from the negligence, recklessness, or willful misconduct of the Consultant, Consultant's employees, or agents in any way related to the obligations or in the performance of design professional services under this Agreement as defined in Civil Code §2782.8, except where caused by the sole or active negligence, or willful misconduct of the City. The costs to defend charged to the Consultant relating to design professional services shall not exceed the Consultant's proportionate percentage of fault per Civil Code §2782.8 and against all claims, damages, losses, and expenses including attorney fees arising out of the performance of the work described herein, caused in whole or in part by any negligent act or omission of the Consultant, Consultant's employees, agents or subcontractors, except where caused by the active negligence, sole negligence, or willful misconduct of the City.

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 attorneys' fees in addition to any other relief to which he or she may be entitled. The laws of the State of California shall govern all matters relating to the validity, interpretation, and effect of this Agreement and any authorized or alleged changes, the performance of any of its terms, as well as the rights and obligations of Consultant and the City.

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 this 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:

Professional Services Agreement 09/13/2019
Environmental Consulting Services
Dudek
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CITY
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By: _____
Benjamin Goldstein, City Manager

By: _____
Joe Monaco, President

Dated: _____

Dated: _____

Approved as to Form:

Samantha W. Zutler, City Attorney

Attachment: Dudek - Fixed Fee Contract - 09.13.2019 (Contract for Mall Redevelopment EIR Consultant)

APPENDIX TWO Fees and Payments

Consultant will provide invoices to the City for all services and expenses on a monthly basis. City will endeavor to pay all invoices within 30 days of receipt. The total amount billed by Consultant and paid by City pursuant to this agreement shall not exceed \$276,470 without written advance authorization from the City.

Payment will be made at the rates set forth in the attached fee schedule for all time charged to the project.

In no event shall the total fee charged for the scope of work set forth in Appendix One exceed the total budget of \$276,470 (Two Hundred Seventy-Six Thousand Four Hundred Seventy Dollars and Zero Cents), without specific, written advance authorization from the City.

Payments shall be made monthly by the City, based on itemized invoices from the Consultant which list actual costs and expenses. 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 Dudek, that the charge of \$276,470 as summarized above and shown in detail on the attachments is fair and reasonable, is in accordance with the terms of the Agreement dated September 13, 2019, and has not been previously paid."

Scope of Services

Task 1. Project Initiation and Management

Dudek's Project Manager and Deputy Project Manager will attend the Project kickoff meeting with City staff and key EIR staff members to discuss the Project and status of the Project application. The meeting will also include a review of the expectations for the CEQA process, environmental issues, overall schedule and communication protocols. Existing studies and data available from the City will be identified and requested. A detailed Project schedule will be prepared after this meeting once the schedule is established for receipt of the Project application and Applicant studies.

This task provides for ongoing Project management throughout the CEQA process, including oversight of all aspects of work, quality assurance/quality control of work products, budget oversight and schedule management. This includes brief weekly status emails to the City's designated representative to identify work in progress, schedule or budget variations, and unanticipated issues to be resolved. In addition, bi-monthly phone calls with the City will be scheduled for the duration of the EIR contract (estimated 16 months) in order to review the Project and EIR status and any issues that may arise.

Deliverables

- Preparation for and attendance at Project kickoff meeting
- Refined Project schedule
- Preparation for and attendance at bi-monthly status calls with City

Task 2. EIR Scoping: Notice of Preparation / Scoping Meeting

Notice of Preparation

Dudek will prepare a draft Notice of Preparation (NOP) pursuant to CEQA Guidelines section 15082. The NOP will include an overview of the Project and the issues to be addressed in the EIR. A full project description will be prepared as part of the EIR, as described in "Project Description" in Task 3. The NOP will include Project location maps, lead agency contact information, and information on the public scoping meeting for the EIR. The scope does not include preparation of an Initial Study as it is anticipated that the majority of the topical issues identified in the CEQA Guidelines will be included in the EIR. Dudek will revise the draft NOP in response to one round of City staff comments. A "screencheck" version will be provided to the City for review prior to final production of electronic and hard copies of the NOP for distribution.

A NOP distribution list will be prepared and reviewed with City staff. Dudek will distribute the NOP for a 30-day period to the State Clearinghouse, County Clerk, other responsible and trustee agencies and local agencies/organizations of interest. It is expected that distribution will be by certified mail, regular mail and email. For email distribution, Dudek will provide the City with an email template for distribution from the City's computer. Dudek will prepare the Notice of Completion and submit the NOP to the State Clearinghouse. The scope assumes that the City will post the NOP on the City's website.

As part of this task, meetings with key agencies and/or stakeholders will be conducted in conjunction with City staff to obtain early feedback on environmental issues and the EIR scope, such as Santa Cruz County and the City of Santa Cruz Water Department. The Water Department will be contacted to initiate discussions on the process/scope for preparation of a Water Supply Assessment.

Public Scoping Meeting

Dudek will assist the City with conducting a public scoping meeting in the Project area. The scoping meeting will be held during the 30-day NOP public review period to introduce the community and interested agencies to the Project, provide an overview of the program EIR process, and obtain input on the EIR scope of work. The scoping meeting format will be an open-house style meeting to allow for informal discussion at stations throughout the meeting room. Stations will be established using posters (up to six) depicting the key elements of the Project, steps in the CEQA process, anticipated scope of the EIR for review, and helpful hints on how to provide scoping comments. Dudek will also provide a PowerPoint presentation that can be played during the public scoping meeting to further facilitate public comments and questions about the scope of the Project's environmental analysis. Comment forms will be provided for submission of comments; no oral comments will be recorded.

Scoping Comments Summary and Revised Scope of Work/Cost

Dudek will prepare a summary of comments received during the NOP/scoping process and include all comments as an appendix to the EIR. This EIR appendix will include a matrix indicating where comments are addressed in the EIR.

At the conclusion of the EIR scoping period, Dudek will refine and revise the scope of work, budget, and schedule, in response to public and agency comments. This process will be accomplished in collaboration with City staff.

Deliverables

- Administrative Draft NOP (electronic copy in Word)
- Screencheck Draft NOP (electronic copy in Word)
- Final NOP (30 hard copies and electronic copy in PDF suitable for posting on the City's website)
- Posters for the scoping meeting
- Scoping meeting PowerPoint presentation
- NOP-scoping comments summary matrix
- Revised scope of work, budget, and schedule, if needed

Task 3. Prepare Administrative Draft EIR (ADEIR)

Dudek will prepare the Administrative Draft EIR (ADEIR) for internal review by the City. The (ADEIR) will address each topic in Appendix G of the State CEQA Guidelines as amended in 2018. The environmental setting sections and impact analyses will be based on technical reviews prepared for the EIR and in some cases, a peer review of technical studies provided by the Project Applicant. Relevant federal, state, and local regulations applicable to each topic will be summarized and considered in the impact analyses. Potential direct and indirect impacts of the Project will be addressed based on clear thresholds of significance developed for the EIR and reviewed with the City. The emphasis of the analyses will be on careful documentation of existing conditions, thorough assessment of probable

impacts, and identification of feasible mitigation measures for any identified significant impacts that can be incorporated into the Project. The pre- and post-mitigation levels of significance will be identified for each impact.

The scope of work is presented based on our understanding of the Project at this time. The scope and cost will be refined as part of Task 2.

Executive Summary

The EIR will include an executive summary that provides a clear, concise overview of the Project; a summary of the Project's environmental impacts, mitigation measures, and level of significance without and with mitigation for each topic analyzed in the EIR; potential areas of controversy; a brief description of Project alternatives evaluated in the EIR; and issues to be resolved.

Introduction

The introduction will provide an overview of the CEQA process, including the EIR scoping process, Project background and purpose, CEQA process specific to the proposed Project, intended uses of the EIR, areas of known controversy, and scope and organization of the EIR. The organization and format of the EIR will be described.

Project Description

Prior to beginning work on the ADEIR, Dudek will prepare a concise project description that thoroughly and accurately describes all of the proposed Project components. A draft project description will be submitted to the City for review and approval. Dudek will revise the project description based on one round of City staff comments and prepare the final project description for use in the EIR. As required by the CEQA Guidelines, the project description will describe the Project objectives, which will be developed in consultation with City staff, taking into account any information provided by the Applicant. Dudek assumes that this version of the project description will remain stable throughout the CEQA process to avoid any delay in preparing and processing the environmental document.

Environmental Setting, Impacts, and Mitigation Measures

Aesthetics. A general overview of the visual character of the Project area will be provided, including scenic views and resources, although no significant existing scenic views appear to be present in the Project area. The EIR will evaluate potential impacts to scenic resources, e.g., trees, and changes in the visual character of the surrounding area, taking into account local regulations. Photo simulations provided by the Project Applicant will be peer-reviewed by Dudek staff for accuracy and for use in the impact analysis. Dudek will perform a peer review of the 3-dimensional (3D) simulation prepared by the as part of the application submittal. This scope assumes that the Applicant will provide to Dudek the following data.

1. Background photos used in the 3D simulations. These photos should be un-edited and contain the EXIF info for the camera settings. If GPS data is not included with the photo, a site plan showing the camera locations shall be included.
2. 3D simulations. These shall be the same resolution and aspect ratio as the background photos.
3. AutoCAD site plan and existing topography. If AutoCAD drawings are not available, a PDF version of the site plan and existing topo will be adequate.

4. The name and version of the software used to create the 3D renderings.
5. Screenshots of all 3D camera settings. This shall include the 3D camera field of view.

As the Project entails the demolition of existing buildings and development of new retail and mixed-use buildings, additional nighttime lighting sources may be installed on site. Due to addition of on-site residential uses and in response to concerns expressed at the community meeting, nighttime lighting may be a concern to the residential neighborhood located west of Clares Street. The Aesthetics section will address night lighting, including a description of existing on-site lighting sources, a discussion of relevant local and state regulations pertaining to lighting and glare, and an assessment of lighting sources associated with Project components. Night lighting (and potential for substantial light trespass onto sensitive residential land uses) will be assessed qualitatively using the significance thresholds in CEQA Guidelines Appendix G and will primarily entail a comparison of existing and proposed onsite lighting sources.

Air Quality. Dudek will assess the air quality impacts of the Project utilizing the significance thresholds in Appendix G of the CEQA Guidelines and the Monterey Bay Air Resources District¹ (MBARD) emissions-based thresholds. After reviewing all available Project materials, Dudek will prepare a request for any outstanding data needed to conduct the analysis. If precise information on a particular factor is not available from the City or its representatives, Dudek will make every effort to quantify these items using the best available information for comparable data sources, but in all cases will consult first with the City regarding the information needed.

The Air Quality section will include a discussion of local and regional climate, meteorology, and topography as they affect the accumulation or dispersal of air pollutants. Current air quality conditions and recent trends in the North Central Coast Air Basin will be described on the basis of California Air Resources Board (CARB) and U.S. Environmental Protection Agency (EPA) annual air quality monitoring data summaries. Federal, state, and local regulatory agencies responsible for air quality management will be identified, and applicable federal, state, and local air quality policies, regulations, and standards will be summarized.

Dudek will estimate construction emissions associated with implementation of the Project using the California Emissions Estimator Model (CalEEMod). Short-term emissions resulting from demolition of the existing structures and construction of the proposed structures will be based on scheduling information (e.g., overall construction duration, phasing and phase timing) and probable construction activities (e.g., construction equipment type and quantity, workers, and haul trucks) developed by the City, the Project Applicant, and/or standardized approaches. Dudek will then evaluate the significance of the emissions based on the MBARD significance criteria.

The Project would generate toxic air contaminant (TAC) emissions during construction of the Project from construction equipment and diesel vehicles. Dudek understands that sensitive receptors (i.e., residences to the west and south) are located in close proximity to the Project site. As such, Dudek recommends conducting a formal construction health risk assessment (HRA) to evaluate impacts to sensitive receptors proximate to the Project, which is included as an optional task below.

CalEEMod will be used to estimate criteria air pollutant emissions generated by mobile, energy, and area sources for operation of the residential and retail land uses. Estimated mobile emissions will be based on the data presented in the traffic study prepared for the Project. Energy and area source emissions (e.g., natural gas combustion and consumer products) will be estimated using the default values in CalEEMod for the proposed land uses, or use

¹ Formerly referred to as the Monterey Bay Unified Air Pollution Control District.

Project-specific data if available. In addition to operational emissions for the Project, emissions associated with operation of the existing site will be estimated using CalEEMod. Dudek will estimate the net change in mobile, energy, and area source criteria air pollutant emission between the existing site and the proposed Project, and compare the net change to the MBARD significance thresholds.

Dudek will evaluate whether traffic associated with the Project could lead to potential exposure of sensitive receptors to substantial localized concentrations of air pollutant emissions, specifically carbon monoxide “hot spots.” The qualitative assessment will be based on the traffic analysis prepared for the Project and applicable screening criteria recommended by the MBARD and/or Caltrans. For budgetary purposes, it is assumed that the study intersections would not exceed the applied screening criteria and a quantitative carbon monoxide hotspots analysis would not be required.

Based on the proposed land use, this scope assumes that operation would not require use of a stationary source (i.e., steam and hot water boilers or emergency generators) that would require a permit from the MBARD. However, Dudek can evaluate stationary source emissions and/or an associated operational HRA under a separate scope and budget if determined to be required. In addition, Dudek assumes that an operational HRA to evaluate the potential impacts of the existing sources of TACs on the proposed residences is not required.

All Appendix G thresholds will be evaluated, including the potential for the Project to expose sensitive receptors to substantial pollutant concentrations, to result in other emissions such as odors, or to impede attainment of the applicable air quality management plan. Details of the analysis (e.g., daily criteria air pollutant emission calculations) will be included in an appendix to the EIR.

Optional Task: Construction HRA. Due to the proximity to sensitive receptors (i.e., residences) to the Project site, a construction HRA is recommended. During construction, the primary TAC of concern would be diesel particulate matter (DPM) from on-site off-road equipment and heavy-duty trucks. Dudek will use the American Meteorological Society/U.S. Environmental Protection Agency Regulatory Model (AERMOD), which is required by the MBARD to conduct dispersion modeling, and CARB’s Hot Spots Analysis and Reporting Program Version 2 (HARP2) to calculate the health impacts. Notably, the health impact calculations in HARP2 are based on the Office of Environmental Health Hazard Assessment’s (OEHHA) Air Toxics Hot Spots Program Risk Assessment Guidelines – Guidance Manual for Preparation of Health Risk Assessments. The dispersion of DPM and associated health risk impacts on sensitive receptors will be determined using AERMOD, HARP2, local meteorological data obtained from the MBARD, and the estimated annual average DPM emissions. The maximum cancer risks at the appropriate receptors (e.g., proximate residential receptors) will be tabulated. The assessment will also include the estimated chronic (long-term) hazard indices due to non-cancer health effects associated with DPM. If the health impacts exceed the thresholds of significance, we will suggest appropriate mitigation measures to reduce the health impacts. A summary of the methodology and results will be provided in the Air Quality section of the EIR and details of the analysis will be included in an appendix to the EIR.

Biological Resources. The Project site is located within a previously developed area and no sensitive biological resources are expected to occur. Dudek biologists will conduct a literature and database review, as well as a site visit, to confirm existing conditions and identify biological resources. Potential impacts to biological resources associated with the Project are generally not expected to occur, except for potential impacts to nesting birds and/or roosting bats due to tree removals and demolition of buildings, which would be addressed by standard pre-construction surveys and construction measures identified in the EIR.

A Dudek ISA Certified Arborist will conduct a site assessment and will document size, species, and condition information for regulated trees, as defined by the Capitola Municipal Code (Section 12.12). Based on an evaluation of site aerial photographs, it is anticipated that there are up to 800 trees on the Project site. Dudek arborists will then prepare an arborist report summarizing our methods and observations, providing a discussion of the site and its trees, discussing expected tree impacts from proposed site development, and containing a tree information matrix outlining individual tree attributes and impact status. The arborist report will also address tree preservation and maintenance recommendations for trees that are to be retained on site and will identify mitigation requirements for trees to be removed, consistent with the City's Municipal Code. The Arborist Report findings and recommendations will be utilized in the EIR analysis.

Cultural Resources. Dudek archeologists will conduct a California Historical Resources Information System records search of the defined development/growth areas, focused on the SSCC; the area subject to the records search will be reviewed with City staff. The records search will include cultural resource sites and reports, as well as a review of historical maps of the Project area, ethnographies, the National Register of Historic Places, the California Register of Historical Resources, the California Historic Property Data File, and the lists of California State Historical Landmarks, California Points of Historical Interest, and Archaeological Determinations of Eligibility. The information will be used to help identify general areas of archaeological sensitivity. Additionally, Dudek will contact the Native American Heritage Commission for a Sacred Lands File search. Dudek assumes that the City will handle Native American consultation pursuant to Assembly Bill (AB) 52 if any Native American tribes have requested notification pursuant to State legislation. A letter report will be prepared documenting investigation methods and results, which will be used in the EIR analysis

The Cultural Resources EIR section will include a brief overview of the City's history, including the Native American, Spanish/Mexican, and American periods. Based on the records search results, background research, and NAHC outreach described above, the EIR section will assess the potential for the Project to have direct and indirect impacts on cultural resources. No resources are anticipated to be encountered requiring evaluation for CRHR eligibility. Should resources be identified within the Project site, Dudek will work with the City to develop a scope and cost for the required evaluation efforts.

Optional Task: Historic Resources Evaluation Report. Research indicates that Capitola Mall was constructed in 1976. As such, the building complex is 43 years old as of 2019. Best practices for identifying historical resources for CEQA compliance in consideration of historical resources is to evaluate buildings or structures 45 years or older that could be impacted by the proposed Project. Considering that the mall will be 45 years of age in less than two years and before Project construction begins, Dudek suggests preparation of a Historic Resource Evaluation Report (HRER) to evaluate the Capitola Mall for historical significance. This report would evaluate the mall as a complex of buildings and structures under all applicable national, state, and local historical significance criteria. Work under this optional task would include a built environment survey that would entail taking detailed notes and photographs of all applicable buildings located within the Project area. This includes documentation of character defining features, spatial relationships, landscaping, alterations, and the overall existing conditions of the buildings. Dudek will also conduct archival research to develop the appropriate historic context for the property significance evaluation. Dudek assumes preparation of a Department of Recreation (DPR) 523 form set for the mall complex will be necessary. Survey results, historic context of the property, evaluation summary, impact assessment, and mitigation recommendations (if necessary) will be presented in the HRER.

Energy. Dudek will prepare an energy assessment for the Project per Appendix G of the CEQA Guidelines. The analysis will briefly summarize electricity, natural gas, and petroleum energy sources and the relevant regulatory

framework. Based on Appendix G of the CEQA Guidelines, the impact analysis will assess if the project would (1) result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during Project construction or operation, and (2) conflict with or obstruct a state or local plan for renewable energy or energy efficiency. The Project will be assessed in regards to construction and operational energy consumption, which will be quantified to the extent estimation methods and Project-specifics are available. Project electricity (kilowatt-hours, kWh) and natural gas (British thermal units, BTU) usage will be estimated based on Project specifics; CalEEMod default values will be used, as appropriate, when Project specifics are not available. Petroleum consumption will be estimated using CalEEMod and based on the same equipment and vehicle assumptions assumed in the air quality and GHG emissions analysis. Proposed Project elements that would reduce the Project's energy demand will be identified in the analysis and quantified as available. Dudek assumes that the City will provide a list of the Project's proposed sustainable design and energy conservation measures prior to initiating air quality and GHG emissions modeling, as the energy analysis will be prepared consistent with the emissions modeling assumptions.

Geology and Soils. Dudek will prepare the Geology and Soils section based on a geotechnical report prepared by the Applicant's consultant. Existing seismic and geologic conditions and hazards will be identified. Potential paleontological resources will be addressed based on existing data. It is assumed that recommendations in the geotechnical report will be adequate as CEQA mitigation should any significant impacts be identified.

Greenhouse Gas Emissions. The GHG emissions assessment will include a setting and background discussion consisting of a summary of the greenhouse effect and global climate change, potential changes to the global climate system and to California, and emission inventories at the national, state, and local levels. It will also include a summary of the key federal, state, and local regulatory actions and programs to reduce GHG emissions. Dudek will estimate the GHG emissions associated with demolition and construction of the Project using CalEEMod based on the same construction scenario used in the air quality analysis. Project-generated operational GHG emissions that will be estimated will include those associated with area sources, mobile sources, natural gas usage, electrical generation, water supply, wastewater treatment, and solid waste disposal. The emissions estimates will be based on information provided by the City or CalEEMod default values for the proposed land uses. As with the air quality analysis, the GHG emissions analysis will also estimate emissions associated with operation of the existing site using CalEEMod. The estimated net change in GHG emissions from baseline and the Project will then be calculated. Details of the analysis (e.g., annual GHG emission calculations) will be included in an appendix to the EIR.

The impact analysis will reflect Appendix G of the State CEQA Guidelines; specifically, whether a Project would (a) generate GHG emissions, either directly or indirectly, that may have a significant impact on the environment and (b) conflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emissions of GHGs. The City adopted a Climate Action Plan (CAP) in 2015, which identifies GHG reduction targets for years 2020 and 2035. The Project's consistency with the CAP will be the basis to determine GHG impact significance. Dudek will also provide a qualitative analysis that will evaluate whether or not the Project-generated GHG emissions would impede the attainment of the 2030 and 2050 reduction goals identified in Senate Bill 32 and Executive Order S-3-05 and any other applicable plan or regulation.

Hazards and Hazardous Materials. The Hazards and Hazardous Materials section of the EIR will review potential issues related to exposure to hazardous materials based on a Phase 1 Environmental Site Assessment to be prepared by the Project Applicant, as well as potential use of hazardous materials, which is expected to be limited given the proposed uses. Given that the Project site is not located in or near state responsibility areas or lands classified as very high fire hazard severity zones, preparation of a separate Wildfire section is not proposed. Wildfire

hazards will therefore be discussed in the Hazards and Hazardous Materials section of the EIR, consistent with the current CEQA Guidelines.

Hydrology and Water Quality. This section will discuss potential impacts to surface water, groundwater, flooding, stormwater, and water quality associated with any changes in conditions resulting from the Project, including stormwater drainage. The EIR section will be primarily based on the Applicant's stormwater plan that will be peer-reviewed by the City's stormwater consultant.

Land Use and Planning. The Land Use and Planning EIR section will provide an overview of existing land uses. Division of neighborhoods by any Project improvements will also be considered. The section will review the proposed Project for potential conflicts with adopted plans and policies adopted for the purpose of mitigating an environmental impact pursuant to CEQA Guidelines Appendix G questions.

Noise. Dudek will conduct a technical noise and vibration assessment of the proposed Project for the EIR. The EIR section will present pertinent background information on the existing noise environment and surrounding land uses. The existing environment will be characterized through an ambient noise level survey performed by Dudek. Definitions of acoustical terminology used in describing the noise environment will be provided to aid the reader's understanding of the Noise section. The section will also identify and explain applicable noise exposure standards at the local (City of Capitola General Plan and Capitola City Code), State and Federal levels. Potential temporary and permanent noise impacts associated with the proposed Project at nearby sensitive receptors will be predicted and evaluated against the applicable thresholds.

Dudek will develop and execute a noise level monitoring program to quantify the existing ambient acoustical conditions in the Project vicinity. The existing ambient noise monitoring program is anticipated to include noise level measurements at up to six (6) locations; incorporating short-term (i.e. 10-15 minutes) measurements at up to four (4) locations and long-term (i.e., 24-hour) monitoring at up to two (2) locations.

Potential construction noise (temporary noise) at nearby noise-sensitive land uses will be predicted using construction activity information provided by the Project Applicant and application of the Federal Highway Administration's Roadway Construction Noise Model (RCNM) or alternative methods at Dudek discretion. Construction-related vibration will be predicted using appropriate guidance and methodologies recommended by the US Department of Transportation, Federal Transit Administration (FTA) and the California Department of Transportation (Caltrans).

Long-term (operational) noise effects in relation to existing and Project-related vehicle trips along selected nearby roadways will be predicted using the Federal Highway Administration's Traffic Noise Model (TNM) version 2.5 algorithms, which will rely on traffic data and other input parameters supplied by the Project Applicant or contained in the project's Traffic Impact Analysis. On-site operational (a.k.a., stationary) noise associated with mechanical equipment or other noise-generating project features will be discussed and calculated based on available equipment data and siting information provided by the Project Applicant. The significance of noise and vibration impacts will be assessed based on the relevant City of Capitola, state, and federal thresholds in accordance with current CEQA guidelines. Mitigation measures will be provided for identified significant impacts.

Optional Task: Project Land Use Compatibility Study. As an optional add-on to the above scope-of-services, Dudek can provide an evaluation of on-site noise level exposure and land use compatibility within the existing and future noise environments. This optional analysis would be performed to evaluate the proposed Project for compliance with the City of Capitola General Plan Noise Element land use planning criteria; and intended for the Project planning submittal with the City. Additional long-term (approximately 24-hours in duration) ambient monitoring would be performed at up to two

(2) locations to quantify the diurnal noise exposure patterns at the noise-sensitive receptors included with the proposed Project. Traffic noise exposure at on-site sensitive receptors on the Project site would be analyzed based on available traffic data, through further implementation of the FHWA TNM version 2.5 algorithms. The results of the project land use compatibility assessment would be incorporated into a stand-alone Technical Memorandum, with further mitigation measures included as necessary to achieve compliance with the City of Capitola land use planning criteria.

Population and Housing. The Population and Housing EIR section will analyze population and housing growth with addition of residential units at the site. Regional population, employment, and housing forecasts established in AMBAG's 2018 *Regional Growth Forecast* will be reviewed to assess the significance of population growth resulting from the Project. The analysis will review the Project's consistency with AMBAG's regional growth projections.

Public Services. The Project would facilitate an increase in population to the 2040 forecast developed by AMBAG, which would increase demand for police protection, fire protection, parks and recreation, and other services such as schools and libraries. This section will consider the demand for public services resulting from the Project. Based on State CEQA Guidelines, the analyses will focus on potential increases in demand that could result in the need for expanded or new public facilities that may result in a significant environmental impact.

Recreation. The EIR will discuss existing parks and recreational facilities in the City and describe the demand that growth facilitated by the proposed would have on recreational facilities as a result of growth accommodated by the Project. If needed, the EIR will identify additional parks and recreational facilities acreages that may be needed to support City service standards. The analysis will consider the effect of the Project on parks and recreational facility use that could result in a substantial deterioration of park facilities.

Transportation. Dudek's in-house Transportation group will peer review the Applicant's traffic impact analysis report, and prepare the Transportation section of the EIR based on the Applicant's traffic report. Existing roadways, pedestrian facilities, bicycle network, and transit circulation systems, including known resident and employee travel modes, will be summarized. Planned improvements to existing transportation facilities will be summarized based on existing regional plans. The Transportation section will include an analysis of the potential impacts on the transportation system as provided in the traffic report. Because of recent changes in the State CEQA Guidelines, the level of service (LOS) metric will no longer be used to determine impact significance in the future; instead, vehicle miles traveled (VMT) will be the new metric that will be used. However, for consistency with the City's Mobility Element of their General Plan, which still requires a level of service standard to be maintained throughout the City, the Transportation section will also discuss changes in intersection operations related to LOS. Where VMT and LOS impacts are found, the Transportation section will provide appropriate and feasible mitigation measures, where possible. Dudek's Transportation staff will also be available to provide support for Transportation-related items of the EIR through attendance at meetings and conference calls with staff and the Project EIR team.

Tribal Cultural Resources. Defined in Public Resources Code section 21074(a), a tribal cultural resource is a site, feature, place, cultural landscape, sacred place, or object, which is of cultural value to a California Native American tribe and is either listed in or eligible for listing in the California Register of Historical Resources or a local historic register, or the lead agency, at its discretion, chooses to treat the resource as a tribal cultural resource. The results of the City's Native American outreach pursuant to AB 52 will be summarized, if consultation is required. Any identified tribal cultural resources with potential to be impacted by activities related to the General Plan/LCP and County Code amendments will be addressed in EIR mitigation measures, as applicable.

Utilities and Service Systems. This section will consider the demand for public utilities resulting from Project growth with a focus in the affected urbanized areas, including water, wastewater, and solid waste generation. Storm drainage will be considered in the Hydrology and Water Quality EIR section. The analyses will be based on information requested from the key service/utility providers. Dudek will work with the City and the City of Santa Cruz Water Department regarding preparation of a Water Supply Assessment pursuant to state regulations. Preparation of a Water Supply Assessment is not included in this scope of work or cost estimate.

Other CEQA Considerations

Impacts Found Not Significant. This section of the EIR will identify and describe those topics where no impacts are expected, such as agricultural, forest and mineral resources.

Significant Unavoidable Impacts. Pursuant to CEQA Guidelines section 15126.2(c), this section will discuss impacts considered to be significant and unavoidable that were identified in the EIR.

Significant Irreversible Impacts. Significant irreversible physical environmental changes that would result from the Project will be discussed, including the consumption of non-renewable resources.

Growth-Inducing Effects. This section will discuss the ways in which the Project could be growth inducing, including a discussion of the Project's potential to foster economic or population growth or the construction of additional housing, either directly or indirectly, as well as the Project's potential to remove obstacles to population growth. Population and housing growth will be addressed in the Population and Housing EIR section as described above and will be summarized in this section.

Cumulative Impacts. The EIR will describe CEQA requirements for cumulative impact analysis in clear and straightforward terms. Dudek will define the cumulative scenario in consultation with City staff. Because the Project would be developed within the next 5+ years, the focus will be on other cumulative development projects. The EIR will identify potential cumulative impacts to which the Project would contribute and identify whether or not the cumulative impact would be significant. The EIR will then evaluate the degree to which the Project would contribute to any significant cumulative effects, and determine whether that contribution is cumulatively considerable in accordance with CEQA and CEQA Guidelines requirements.

Alternatives to the Proposed Project

Project Alternatives. Project alternatives will be developed based on the outcome of the environmental analyses and in consultation with City staff in order to provide a reasonable range of alternatives as required by CEQA to avoid or substantially reduce identified significant impacts while reasonably attaining project objectives. The section will include the No Project alternative and up to three other alternatives developed with the City. Typical alternatives could include reduced project, i.e., reduced growth or land use intensity and/or alternative sites for new designations. An environmentally superior alternative must be identified as part of the CEQA process.

Deliverables

- Draft and final project description (electronic copies in Word)
- Cultural Resources Report
- Arborist Report
- Administrative Draft EIR (5 hard copies; electronic copy in Word and PDF)

Task 4. Draft EIR

Dudek will revise the ADEIR to incorporate comments provided by City staff. This proposal assumes that one set of unified comments is provided to Dudek with internal questions resolved. Dudek will provide a Screencheck Draft EIR to the City for final internal review and approval prior to production of the public review Draft EIR.

Dudek will incorporate final edits received from the City on the Screencheck Draft EIR and will produce hard copies and CDs, including appendices, for distribution to the State Clearinghouse, other public agencies, and interested parties for public review. Dudek will also prepare the Notice of Availability and Notice of Completion.

Dudek will update the EIR distribution list and review the City. Dudek will distribute limited hard copies of the Draft EIR to responsible and trustee agencies; copies will be made for City staff, Planning commissioners, and Council members as required by the City. Other agencies and public will be provided either CDs or an email with the Notice of Availability and link to the City's website to download the EIR. Dudek will submit 15 CD copies and Summary to the State Clearinghouse in accordance with their procedures.

Attendance at one community meeting during the public review period is included in the scope of work, including preparation of a simple PowerPoint presentation that explains the Project and EIR process. Posters used for the scoping meeting will also be used. The budget includes a maximum two-hour meeting, and it is assumed that this meeting will be for informational purposes and not to take comments on the Draft EIR. However, forms to provide written comments will be available.

Deliverables

- Screencheck Draft EIR (2 hard copies; electronic copy in Word and PDF)
- Public Review Draft EIR (40 hard copies and 30 CD-ROMs with electronic, internet-ready version)

Task 5. Final EIR

After the close of the extended public review period, Dudek will catalog and categorize all comments received on the Draft EIR and prepare responses to comments for inclusion in the Final EIR. Master responses can be developed as necessary to respond to repeat comments. Pursuant to State CEQA Guidelines, the focus will be responses to comments on environmental issues and analyses in the EIR. Up to 80 hours of Dudek staff time are included for responses to comments. Should the volume and/or extent of comments exceed this work effort, the estimated budget may need to be adjusted. The Administrative Draft Final EIR will contain all written and verbal public comments received on the Draft EIR, responses to comments, and a chapter that includes Draft EIR text revisions resulting from the comments, if applicable. This scope of work assumes that comments will not result in any substantive revisions to the EIR or technical analyses.

Dudek will revise the Administrative Draft Final EIR to incorporate comments provided by City staff and will prepare the Screencheck Final EIR. Dudek will provide the Screencheck Final EIR to the City for final internal review and approval prior to final production and distribution. Dudek will provide hard copies of the Final EIR to the City for distribution to City decision-makers. CDs will be sent to agencies commenting on the EIR, and an electronic will be provided other organizations and individuals that commented on the EIR.

Upon the City's adoption of the EIR and Project approval, Dudek will prepare the Notice of Determination for City staff review and approval.

Deliverables

- Administrative Final EIR (2 hard copies and 1 CD-ROM; electronic copies in Word and PDF)
- Screencheck Final EIR (2 hard copies; electronic copies in Word and PDF)
- Final EIR (20 hard copies and 20 CD-ROMs with electronic, internet-ready version)

Task 6. Mitigation Monitoring and Reporting Program

CEQA requires the lead agency to adopt a program to monitor and report on mitigation measures as part of the Project approval process. Dudek will prepare the Mitigation Monitoring and Reporting Program (MMRP) for the City. The MMRP will include each mitigation measure identified in the EIR, including the agency/department responsible for ensuring compliance, the method of implementation, and the compliance report.

Deliverables

- Draft and final MMRP (electronic copies in Word and PDF)

Task 7. CEQA Findings and Statement of Overriding Considerations

If needed, Dudek will prepare the Statement of Overriding Considerations and Findings, required by CEQA Guidelines section 15091 prior to approval of a project for which the EIR identifies one or more significant effects. In addition, should the EIR identify one or more significant and unavoidable effects, section 15093 requires that the lead agency must state in writing the economic, legal, social, technological, or other benefits that would outweigh the environmental effects. Dudek will work with City staff to prepare the Statement of Overriding Considerations and Findings. Dudek will revise the document in response to one set of City staff comments.

Deliverables

- Draft and final Statement of Overriding Considerations and Findings (electronic copies in Word and PDF)

Task 8. Meetings and Hearings

Dudek has budgeted for the attendance two public hearings (Planning Commission and City Council) and up to 6 other meetings not otherwise described in this scope of work. The public hearings would be attended by the Project Manager and Dudek's Transportation Services Manager. If it is determined that additional technical specialists from our Project team should attend any of these meetings and/or hearings, they would attend meetings on a time-and-materials basis, or could participate in conference calls at little additional cost.

CAPITOLA MALL REDEVELOPMENT PROJECT EIR COST ESTIMATE

A time-and-materials cost estimate for each work task is provided below. Invoices will be submitted only for actual time and expenses incurred.

The cost estimate reflects our understanding of the project scope and environmental issues known at this time. The cost can be refined upon completion of Task 2, the scoping process. The scope of work and cost estimate assumes that the Project Description is not substantially changed or no new issues arise. Changes in the Project Description, anticipated one-year schedule, and/or scope by the City after contract initiation or identification of new issues may require amendment of the EIR scope of work and/or cost estimate.

Estimated Cost		
1	Project Initiation and Management	\$ 34,720
2	EIR Scoping - NOP and Scoping Meeting	11,830
3	Prepare Administrative Draft EIR	158,330
	Construction Health Risk Assessment	6,840
	Historic Resources Evaluation Report	8,320
4	Draft EIR	14,940
5	Final EIR	26,140
6	Mitigation Monitoring and Reporting Program	2,090
7	CEQA Findings	5,160
8	Public Hearings	8,100
	Total	\$ \$276,470



CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 12, 2019

FROM: Community Development

SUBJECT: Introduce an Ordinance Adding Chapter 18.04 to the Capitola Municipal Code Pertaining to Development Agreements

RECOMMENDED ACTION: Approve the first reading.

BACKGROUND: The City anticipates a development agreement in conjunction with the Capitola Mall redevelopment application. However, the City does not currently have an ordinance to outline the process and requirements for such agreements. City staff drafted a development agreement ordinance to outline the requirements and steps while provide transparency in the process. This process would apply to the mall project, and other potential future development agreement applications.

DISCUSSION: A development agreement is typically a detailed contract between a city and a developer that spells out the rules for a particular project in very specific terms. For developers, the advantage of a development agreement is that they can lock in entitlements and obtain certainty regarding the local rules and regulations that will govern their project. For cities, the advantage is that the developer will usually agree to conditions that go beyond what a city could require through the normal development review process.

California's Planning Zoning Law authorizes cities to enter into development agreements and establishes general rules governing development agreements. (Government Code § 65864 through 65869.5). One of those rules requires a city to establish procedures and requirements for consideration of development agreement applications if requested by an applicant. To date, the city has not received a request to establish development agreement procedures. Nonetheless, staff believes it would be prudent for the City Council to adopt the basic procedures and requirements for consideration of development agreements contained in the proposed ordinance. Having a set of procedures will provide applicants, City staff, the Planning Commission, and City Council with a clearly defined process to follow, and will provide greater transparency and understanding for the public of the development agreement application review process.

FISCAL IMPACT: None.

Report Prepared By: Katie Herlihy
Community Development Director

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Reviewed and Forwarded by:



Jamie Goldstein, City Manager

9/6/2019

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAPITOLA AMENDING TITLE 18 OF THE CAPITOLA MUNICIPAL CODE TO HOUSING AND DEVELOPMENT ADMINISTRATION AND ADDING CHAPTER 18.04 OF THE CAPITOLA MUNICIPAL CODE TO AUTHORIZE DEVELOPMENT AGREEMENTS BETWEEN THE CITY OF CAPITOLA AND REAL PROPERTY OWNERS.

WHEREAS, the State of California adopted Section 65864, et seq. of the Government Code which authorizes any city, county or city and county to enter into development agreements with an applicant for development projects, establishing certain development rights in the property which is the subject of the development project application; and

WHEREAS, the City Council of Capitola does hereby find the overarching objectives of a development agreement are to strengthen the public planning process, encourage private participation in comprehensive planning and facilitate creative approaches to development projects; and

WHEREAS, the City Council of Capitola does hereby find the purpose of a development agreement is to facilitate the development of complex multi-phase development, low-income housing developments, and developments involving public services and facilities installations which may require several years to complete, and

WHEREAS, large redevelopment and housing applications are anticipated by the Capitola General Plan, including redevelopment of the 46-acre Capitola Mall site.

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

Section 1. Title 18. Title 18 is hereby amended to read as follows:

Title 18 Housing and Development Administration

Section 2. Chapter 18.040. Section 18.040 is hereby added to read as follows:

“Chapter 18.04 – DEVELOPMENT AGREEMENTS

Sections:

- 18.04.010 Purpose
- 18.04.020 Applications
- 18.04.030 Contents of Development Agreements
- 18.04.040 Consideration of Proposed Development Agreements

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- 18.04.050 Execution and Recordation of Development Agreement
- 18.04.060 Annual Review
- 18.04.070 Cancellation or Modification
- 18.04.080 Miscellaneous Provisions
- 18.04.010 Purpose

A. This chapter establishes procedures for the processing of Development Agreements in compliance with the Government Code Sections 65864 through 65869.5. Development Agreements are intended to:

1. Strengthen the public planning process, encourage private participation and comprehensive planning, and facilitate creative approaches to development projects;
2. Facilitate the development of complex multi-phase developments, low income housing developments, and developments involving public service and facilities installations which may require several years to complete; and
3. Promote orderly growth and development, economic welfare, and adequate circulation, utilities and services.

B. This chapter incorporates by reference the provisions of California Government Code Section 65864 et seq. and any successor statute(s). In the event of any conflict between the applicable statutory provisions and this chapter, the statutory provisions shall control.

18.04.020 Applications

An applicant for a development project may request that the City review a Development Agreement application in accordance with the following procedures.

A. Forms and Information. The applicant shall submit a Development Agreement application on a form prescribed by the Community Development Director. The Director shall identify submittal requirements for Development Agreement applications, and may require an applicant to submit additional information and supporting data to process the application.

B. Fees. At the time of initial filing of the application, the applicant shall pay fees, deposits and charges required to file and process the Development Agreement applications and to administer the approved Development Agreement, including annual reviews, in such amounts as established by resolution of the City Council. Prior to staff acting on the application, the developer must have a signed Developer Pass Through Agreement on file with the City.

C. Authority to File Application. An applicant shall have a legal or equitable interest in the real property which is the subject of the proposed Development Agreement. The Community Development Director may require an applicant to submit proof of interest in the real property and/or of the authority of any agent to act for the applicant. Such proof may include a title report,

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policy or guarantee, issued by a title company licensed to do business in the state, which demonstrates the required interest of the applicant in the real property.

18.04.030 Contents of Development Agreements

The City Manager, and/or his or her designee(s), shall negotiate specific components and provisions of the Development Agreement with the applicant. The negotiated Development Agreement shall comply with the following requirements:

A. The Development Agreement shall specify its duration; the permitted uses of the subject property; the density or intensity of uses; the maximum height and size of proposed buildings; and provisions for reservation or dedication of land for public purposes.

B. The Development Agreement shall contain an indemnity clause requiring the applicant to indemnify, defend, and hold the City, its officers, officials, agents, and employees harmless against claims arising out of or related to the actions of the applicant in connection with the application or the development process, including all legal fees and costs.

C. The Development Agreement shall outline the benefits provided to the City from entering into the Development Agreement. Such benefits may include:

1. Construction of public facilities beyond those required as a condition of approval;

2. Covenants to operate and maintain the private project at higher levels than would otherwise be required;

3. Proposals to achieve General Plan goals not directly associated with the private project; and

4. Other proposals which, in the judgment of the Planning Commission and City Council, provide public benefits sufficient to justify a Development Agreement.

D. The Development Agreement may also contain the following:

1. Requirements for construction and maintenance of onsite and off-site improvements or payment of fees in lieu of such dedications or improvements.

2. Conditions and restrictions imposed by the City with respect to the project, including conditions and restrictions proposed in the environmental review document prepared under the California Environmental Quality Act (CEQA), in order to eliminate or mitigate potential adverse environmental impacts of the project.

3. Requirements for the timing of project construction, including project phasing.

4. Conditions, terms, restrictions, and requirements for subsequent discretionary actions.

5. Terms relating to subsequent reimbursement over time for applicant financing of public facilities.

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6. Other provisions necessary to guarantee performance of obligations stated in the agreement.

E. A Development Agreement is a contract that is negotiated and voluntarily entered into by City and applicant and may contain any additional or modified conditions, terms or provisions agreed upon by the parties.

18.04.040 Consideration of Proposed Development Agreements

A. Initial Review of Application. The Community Development Director, or the Director's designee, shall review the Development Agreement application to determine whether it is complete. If the application is found to be incomplete, the Community Development Director shall inform the applicant of the items or steps necessary to complete the application.

B. Negotiations. After the application is deemed complete, the City Manager and/ or his or her designee(s) shall negotiate the specific components and provisions of the Development Agreement on behalf of the City.

C. Planning Commission Recommendation.

1. Following negotiation of the Development Agreement, the Planning Commission shall consider the Development Agreement for recommendation to the City Council.

2. The Planning Commission shall consider the proposed Development Agreement at a public hearing noticed in conformance with Zoning Code Chapter 17.148 (Public Notice and Hearing).

3. The Planning Commission hearing may be held concurrently with the public hearing on other land use approvals for the project.

4. The Planning Commission shall make a recommendation to the City Council. The recommendation shall include the Planning Commission's determination and supporting reasoning as to whether or not the findings in Section 1.06.E (Findings) can be made for the proposed Development Agreement.

D. City Council Action.

1. After the Planning Commission makes its recommendation, the City Council shall review and act on the proposed Development Agreement at a public hearing noticed in conformance with Zoning Code Chapter 17.148 (Public Notice and Hearing).

2. The City Council hearing may be held concurrently with the public hearing on other land use approvals for the project.

3. The proposed Development Agreement shall be executed by the applicant before it is placed before the City Council for consideration at a public hearing.

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4. The City Council shall consider the Planning Commission recommendation and may accept, accept with modification, or reject the proposed Development Agreement based on the findings in Section 1.60.040.E (Required Findings).

E. Required Findings. To approve a proposed Development Agreement, the City Council must make the following findings:

1. The Development Agreement is consistent with the General Plan, any applicable specific plan, and the Local Coastal Plan if within the coastal zone. This finding may be satisfied by a determination that the Development Agreement is consistent with amendments to the General Plan, the Local Coastal Plan, and any applicable specific plan to be adopted concurrently with the Development Agreement.

2. The Development Agreement will provide Capitola with tangible benefits beyond those that may be required by the City through project conditions of approval.

3. Environmental impacts related to the development agreement have been reviewed and considered in accordance with the California Environmental Quality Act.

F. Approval of Development Agreement. The City Council has the exclusive authority to approve the Development Agreement. Approval of a Development Agreement shall be by ordinance.

G. Failure to Receive Notice. The failure of any person to receive notice required by law or this chapter shall not affect the authority of the City to enter into, modify or terminate a Development Agreement, nor invalidate a Development Agreement entered into by the City under this chapter.

18.04.050 Execution and Recordation of Development Agreement

A. Within ten days after the ordinance approving the Development Agreement takes effect, the City Manager shall execute the Development Agreement on behalf of the City, and the City Clerk shall record the Development Agreement with the Santa Cruz County Recorder.

B. If the parties to the agreement or their successors in interest amend or cancel the Development Agreement, or if the City terminates or modifies the Development Agreement for failure of the applicant to fully comply with the provisions of the Development Agreement, the City Clerk shall record notice of such action with the Santa Cruz County Recorder.

18.04.060 Annual Review

A. Time for and Initiation of Review.

1. The City Manager shall review an approved Development Agreement at least once a year, at which time the applicant shall demonstrate compliance with the Development Agreement.

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2. The applicant shall initiate the required annual review by submitting a written request at least sixty days prior to the review date specified in the Development Agreement. The applicant shall provide evidence as determined necessary by the City Manager to demonstrate good faith compliance with the Development Agreement. The burden of proof by substantial evidence of compliance is upon the applicant.

B. Finding of Compliance. If the City Manager, on the basis of substantial evidence, finds compliance by the applicant with the Development Agreement, the City Manager shall issue a finding of compliance, which shall be in recordable form and may be recorded with the County Recorder after conclusion of the review.

C. Finding of Noncompliance.

1. If the City Manager finds the applicant has not complied with the Development Agreement, the City Manager may issue a finding of noncompliance which may be recorded by the City with the County Recorder after it becomes final. The City Manager shall specify in writing to the applicant the respects in which applicant has failed to comply, and shall set forth terms of compliance and specify a reasonable time for the applicant to meet the terms of compliance.

2. If applicant does not comply with any terms of compliance within the prescribed time limits, the Development Agreement shall be subject to termination or modification pursuant to Section 1.60.070 (Cancellation or Modification).

D. Appeal of Determination. The City Manager's finding of compliance or noncompliance may be appealed in accordance with Municipal Code Chapter 2.52 (Appeals to the City Council).

18.04.070 Cancellation or Modification

A. Cancellation or Modification by Mutual Consent. A Development Agreement may be canceled or modified by mutual consent of the parties. A Development Agreement may also specify procedures for administrative approval of minor amendments by mutual consent of the applicant and the City Manager. The process to cancel or modify a Development Agreement is the same as the procedure to establish the Development Agreement.

B. Termination or Modification after Finding of Noncompliance.

1. If applicant does not comply with the terms of compliance within the prescribed time limits, the City Manager may refer the Development Agreement to the City Council for termination or modification.

2. The City Council shall conduct a public hearing to consider the finding of noncompliance and termination or modification. The burden of proof shall be on the applicant to establish at the public hearing that it has complied with the Development Agreement.

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3. The City Council may terminate the Development Agreement, modify the Development Agreement, modify the finding of noncompliance, or rescind the finding of noncompliance and issue a finding of compliance.

C. Rights of the Parties after Cancellation or Termination.

1. If a Development Agreement is canceled or terminated, all rights of the applicant, property owner or successors in interest under the Development Agreement shall terminate.

2. If a Development Agreement is terminated following a finding of noncompliance, the City may, at its sole discretion, determine to return any and all benefits, including reservations or dedications of land, and payments of fees, received by the City.

18.04.080 Miscellaneous Provisions

A. Effect of Development Agreement.

1. Unless otherwise specified in the Development Agreement, the City's rules, regulations and official policies governing permitted uses of the property, density and design, and improvement standards and specifications applicable to development of the property shall be those City rules, regulations and official policies in force on the effective date of the Development Agreement. The applicant shall not be exempt from otherwise applicable City ordinances or regulations pertaining to persons contracting with the City.

2. A Development Agreement shall not prevent the City, in subsequent actions applicable to the property, from applying new rules, regulations and policies which do not conflict with those rules, regulations and policies applicable to the property as set forth in the Development Agreement. A Development Agreement shall not prevent the City from denying or conditionally approving any subsequent land use permit or authorization for the project on the basis of such existing or new rules, regulations, and policies.

3. Unless otherwise specified in the Development Agreement, a Development Agreement shall not exempt the applicant from obtaining future discretionary land use approvals.

B. Rules Affecting Development Agreement. In the event that any regulation or law of the State of California or the United States, enacted or interpreted after a Development Agreement has been entered into, prevents or precludes compliance with one or more provisions of the Development Agreement, the Development Agreement may be modified or suspended in the manner and pursuant to the procedures specified in the Development Agreement as may be necessary to comply with such regulation or law.

C. Enforcement of a Development Agreement. The procedures for enforcement, amendment, modification, cancellation or termination of a Development Agreement specified in this section and in California Government Code Section 65865.4 are non-exclusive. A Development Agreement may be enforced, amended, modified, canceled or terminated by any manner otherwise provided by law or by the provisions of the Development Agreement.

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D. Judicial Review – Time Limitation.

1. Any judicial review of an ordinance approving or amending a Development Agreement shall be by writ of mandate pursuant to Section 1085 of the California Code of Civil Procedure. Judicial review of any City action taken pursuant to this chapter, other than approval or amendment of a Development Agreement, shall be by writ of mandate pursuant to Section 1094.5 of the California Code of Civil Procedure.

2. Any action or proceeding to attack, review, set aside, void or annul any decision of the City taken pursuant to this chapter shall not be maintained by any person unless the action or proceeding is commenced within 90 days after the effective date of the decision.

E. Irregularity in Proceedings. No action, inaction or recommendation regarding a proposed Development Agreement shall be held void or invalid or be set aside by a court by reason of any error, irregularity, informality, neglect or omission ("error") as to any matter pertaining to the petition, application, notice, finding, record, hearing, report, recommendation or any matter of procedure whatever, unless the error complained of was prejudicial and that by reason of the error, the complaining party sustained and suffered substantial injury, and that a different result would have been probable if the error had not occurred or existed. There is not a presumption that an error is prejudicial or that injury was done if an error is shown."

Section 3. COMPLIANCE WITH CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).

The City Council hereby finds that the action to adopt this ordinance will not result in any change in the environment and thus is not a project subject to the requirements of CEQA.

Section 4. SEVERABILITY.

The City Council hereby declares every section, paragraph, sentence, cause, and phrase of this ordinance is severable. If any section, paragraph, sentence, clause, or phrase of this ordinance is for any reason found to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses, or phrases.

Section 5. EFFECTIVE DATE.

This Ordinance shall be in full force and effect thirty (30) days from its passage and adoption.

This ordinance was introduced on the 12th day of September, 2019, and was passed and adopted by the City Council of the City of Capitola on the ___ day of _____, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

APPROVED:

Jacques Bertrand, Mayor

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ATTEST:

Linda Fridy, City Clerk