

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 26, 2019

7:00 PM

CITY COUNCIL CHAMBERS
420 CAPITOLA AVENUE, CAPITOLA, CA 95010

CLOSED SESSION – 6 PM CITY MANAGER’S OFFICE

An announcement regarding the items to be discussed in Closed Session will be made in the City Hall Council Chambers prior to the Closed Session. Members of the public may, at this time, address the City Council on closed session items only. There will be a report of any final decisions in City Council Chambers during the Open Session Meeting.

CONFERENCE WITH LABOR NEGOTIATOR [Govt. Code § 54957.6]

Negotiator: Larry Laurent

Employee Organizations: (1) Association of Capitola Employees; (2) Capitola Police Captains, (3) Confidential Employees; (4) Mid-Management Group; and (5) Department Heads

CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Initiation of litigation pursuant to Gov't Code § 54956.9(d)(4).

(One potential case)

LIABILITY CLAIMS [Govt. Code § 54956.95]

(Two claims)

Claimant: Bruce Stamps

Agency claimed against: City of Capitola

Claimant: Madeline Chiavetta

Agency claimed against: City of Capitola

REGULAR MEETING OF THE CAPITOLA CITY COUNCIL - 7 PM

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. Junior Guards Recognition
- B. Introduce New Building Inspector

3. **REPORT ON CLOSED SESSION**

4. **ADDITIONAL MATERIALS**

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

5. **ADDITIONS AND DELETIONS TO AGENDA**

6. **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.

7. **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.

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.

CAPITOLA CITY COUNCIL REGULAR MEETING AGENDA
September 26, 2019

- A. Consider the September 12, 2019, City Council Regular Meeting Minutes
RECOMMENDED ACTION: Approve minutes.
- B. Planning Commission Action Minutes
RECOMMENDED ACTION: Receive minutes.
- C. Liability Claim of Bruce Stamps
RECOMMENDED ACTION: Reject liability claim.
- D. Liability Claim of Madeline Chiavetta
RECOMMENDED ACTION: Reject liability claim.
- E. Approval of City Check Registers Dated August 2, August 7, August 16, August 23 and August 30, 2019
RECOMMENDED ACTION: Approve check registers.
- F. Adopt an Ordinance Amending Capitola Municipal Code Section 2.04.275
RECOMMENDED ACTION: Approve the second 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.
- G. Adopt an Ordinance Adding Chapter 18.04 to the Capitola Municipal Code Pertaining to Development Agreements
RECOMMENDED ACTION: Approve the second reading.

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. Consider a Report Regarding Residency Requirements for Planning Commission and City Advisory Board Membership
RECOMMENDED ACTION: Receive report and provide direction regarding residency requirements for Planning Commission and City advisory bodies.
- B. Receive a Presentation from the Monterey Regional Waste Management District to Begin Negotiations for a Long-Term Agreement for Disposal and Recycling Processing
RECOMMENDED ACTION: Direct staff to negotiate a new Waste Disposal Agreement with Monterey Regional Waste Management District for solid waste disposal and recycling processing and to reopen the Refuse, Recycling and Yard Waste Services Franchise Agreement with Green Waste Recovery, Inc., to account for the new disposal rates.
- C. Update on the Capitola Branch Library Project
RECOMMENDED ACTION: Receive report.
- D. Consider Elimination of Art and Cultural Commission Term Limits
RECOMMENDED ACTION: Approve the Capitola Art and Cultural Commission's recommended changes to the bylaws to remove term limits of the commissioners.

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.

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 26, 2019

FROM: City Manager Department

SUBJECT: Junior Guards Recognition

BACKGROUND/DISCUSSION: The City of Capitola will acknowledge members of the 2019 Capitola Junior Lifeguard program who were selected by their instructors for recognition as examples of leadership, determination, and teamwork:

Session 1:

Iron Woman	Ella Mazurek
Iron Man	Mason Carlton
Dory Award	Logan Cardoza
Dory Award	Julia Watson

Session 2:

Iron Woman	Dagny Wallace
Iron Man	Nathan Hanson
Dory Award	Riley Tall
Dory Award	"Frosty" Bartoszek

Guard of the Year Evan Reade

Report Prepared By: Linda Fridy
City Clerk

Reviewed and Forwarded by:

Jamie Goldstein, City Manager

9/18/2019



CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 26, 2019

FROM: City Manager Department
SUBJECT: Introduce New Building Inspector

BACKGROUND/DISCUSSION: Catherine Thrasher joined the City staff on September 9, 2019, as the City's new Building Inspector. She most recently worked for the building consulting firm 4 Leaf, Inc., as a building inspector. Ms. Thrasher spent the past four years taking classes at Cabrillo College to earn her certification, and is a resident of Santa Cruz County.

Report Prepared By: Linda Fridy
City Clerk

Reviewed and Forwarded by:

A handwritten signature in blue ink that reads "Linda Fridy". The signature is written in a cursive style and is positioned above a horizontal line.

Linda Fridy, City Clerk

9/19/2019



CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 26, 2019

FROM: City Manager Department

SUBJECT: Consider the September 12, 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 September 12, 2019.

ATTACHMENTS:

1. 9-12 draft minutes

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

9/19/2019

**DRAFT
CAPITOLA CITY COUNCIL
REGULAR MEETING MINUTES
THURSDAY, SEPTEMBER 12, 2019**

Mayor Bertrand called the meeting to order at 7 p.m.

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. Children's Cancer Awareness Month Proclamation

Mayor Bertrand read the proclamation. Mary Smith of Jacob's Heart invited the community to Kidrageous in Watsonville on September 29.

B. Update on City Deferred Compensation 457 Plan for Employees

Finance Director Jim Malberg noted 26 employees and 32 retirees participate in the program, which has no cost to the City. This spring he requested proposals to reduce administrative costs paid by participants. Representatives from the hourly employees and police union and mid-management group formed the selection committee, which unanimously supported switching to Voya. Transition will begin this fall.

3. ADDITIONAL MATERIALS - None

4. ADDITIONS AND DELETIONS TO AGENDA - None

5. PUBLIC COMMENTS

Shannon Munz, Santa Cruz Regional Transportation Commission, encouraged local residents to consider applying for its Elderly and Disabled Transportation Advisory Committee.

Gail spoke about the health hazard of children's cancer caused by cell towers.

Cherrie McCoy spoke about street safety and Merlone Geier's plans for the Capitola Mall redevelopment.

6. CITY COUNCIL / STAFF COMMENTS

Council Member Brooks visited New Brighton Middle School and received positive input on the new afterschool program. She asked for a future agenda item to look into providing scholarships from the dedicated children's fund.

7. BOARDS, COMMISSIONS AND COMMITTEES APPOINTMENTS

CAPITOLA CITY COUNCIL REGULAR MEETING MINUTES
September 12, 2019

- 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.

MOTION:	APPOINT KRISTIN MURPHY AS THE CITY'S ALTERNATE
RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kristen Petersen, Vice Mayor
SECONDER:	Yvette Brooks, Council Member
AYES:	Brooks, Bottorff, Storey, Petersen, Bertrand

- 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.

MOTION:	APPOINT JOSHUA HENSHAW TO A SECOND TERM AS YOUTH MEMBER
RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Kristen Petersen, Vice Mayor
SECONDER:	Sam Storey, Council Member
AYES:	Brooks, Bottorff, Storey, Petersen, Bertrand

8. CONSENT CALENDAR

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

- 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
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

- A. Application from the Capitola Village and Wharf Business Improvement Association (BIA) to Display Banners and Holiday Wreaths and Trees in the Village
RECOMMENDED ACTION: Consider two applications from the Capitola Village and

CAPITOLA CITY COUNCIL REGULAR MEETING MINUTES
September 12, 2019

Wharf Business Improvement Association (BIA) to display seasonal decorative banners on streetlights and holiday wreaths and trees in the Village.

Public Works Director Steve Jesberg presented the staff report, noting these are the first applications under the new Village decoration policy.

Anthony Guajardo, chairperson of the BIA, confirmed that the images presented are those proposed for use on the banners. Members of the BIA marketing group reviewed existing photos for those that meet the policy standards and selected the ones presented.

There was no public comment.

Council agreed that the wreaths and trees have been attractive additions to the Village in recent years, and separated their approval from the banners.

MOTION:	APPROVE THE HOLIDAY WREATHS AND TREES AS SUBMITTED
RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Ed Bottorff, Council Member
SECONDER:	Kristen Petersen, Vice Mayor
AYES:	Brooks, Bottorff, Storey, Petersen, Bertrand

Council Member Bottorff said he did not feel qualified to evaluate the banner images and moved to submit them to the Art and Cultural Commission for review prior to Council approval.

Council Member Brooks said she finds a lack of diversity, including age, in the images and her friendly amendment to include those factors in the review was accepted.

Council Member Storey said he does not feel Art Commission review is appropriate for commercial art. City Manager Goldstein suggested asking the BIA to identify a process, perhaps using social media outreach.

The Council expressed regret for a slower approval timeline. Mr. Guajardo said that while the BIA hoped to install banners this Fall, it wants to get them right as the plan is to use them for several years.

Council Member Petersen offered a second friendly amendment to request that both the BIA and Arts Commission review the images.

MOTION:	REQUEST THE BIA TO CONSIDER DEVELOPING A REVIEW PROCESS AND INCLUDE BANNER PHOTOS WITH GREATER AGE AND CULTURAL DIVERSITY AND ASK IF THE ART AND CULTURAL COMMISSION WILL REVIEW THE IMAGES AND PROVIDE COUNCIL WITH A RECOMMENDATION
RESULT:	ADOPTED AS AMENDED [UNANIMOUS]
MOVER:	Ed Bottorff, Council Member
SECONDER:	Jacques Bertrand, Mayor
AYES:	Brooks, Bottorff, Storey, Petersen, Bertrand

Attachment: 9-12 draft minutes (Approval of City Council Minutes)

CAPITOLA CITY COUNCIL REGULAR MEETING MINUTES
September 12, 2019

B. Recreation Strategic Plan Group Update

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

Recreation Supervisor Nikki Bryant LeBlond presented the staff report, outlining the identified stakeholder groups asked to provide members to the core team working on the strategic plan. She asked if Council wishes to have representation.

There was no public comment.

Mayor Bertrand expressed interest in serving on the team and suggested the possibility that two Council Members join the group.

Council Member Bottorff said he felt two members could feel "top heavy" and influence the group.

MOTION:	APPOINT MAYOR BERTRAND AS THE COUNCIL REPRESENTATIVE ON THE CORE TEAM
RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Ed Bottorff, Council Member
SECONDER:	Kristen Petersen, Vice Mayor
AYES:	Brooks, Bottorff, Storey, Petersen, Bertrand

C. 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.

Finance Director Malberg presented the staff report on the Finance Advisory Committee's review of and recommendation regarding an increase in Council compensation to \$600 following the next election.

There was no public comment.

Council members noted that the salary does not and is not intended to compensate for the amount of work, but the proposed increase acknowledges that the time is valued.

MOTION:	APPROVE THE FIRST READING AS RECOMMENDED
RESULT:	FIRST READING PASSED [UNANIMOUS]
MOVER:	Ed Bottorff, Council Member
SECONDER:	Sam Storey, Council Member
AYES:	Brooks, Bottorff, Storey, Petersen, Bertrand

CAPITOLA CITY COUNCIL REGULAR MEETING MINUTES
September 12, 2019

- D. 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.

Community Development Director Katie Herlihy presented the staff report recommending the environmental consultant that will work with other consultants and staff on the Capitola Mall redevelopment. Dudek was identified early as the top choice, and staff and Merlone Geier then spent time focusing on the pricing and scope of work. She also noted that the City reduced its usual fee since other consultants will be handling much of the oversight.

There was no public comment.

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

- E. Introduce an Ordinance Adding Chapter 18.04 to the Capitola Municipal Code Pertaining to Development Agreements
RECOMMENDED ACTION: Approve the first reading.

Director Herlihy presented the staff report, including an explanation of a development agreement's use and benefits to clarify expectations for both the City and developer.

Council Member Brooks asked about language referencing low-income housing and whether it can limit the City's options. City Attorney Samantha Zutler suggested amending the language to read "Facilitate the development of complex projects, such as multi-phase developments, income-restricted housing developments ..."

There was no public comment.

MOTION:	APPROVE THE FIRST READING AS AMENDED
RESULT:	FIRST READING PASSED [UNANIMOUS]
MOVER:	Yvette Brooks, Council Member
SECONDER:	Kristen Petersen, Vice Mayor
AYES:	Brooks, Bottorff, Storey, Petersen, Bertrand

10. ADJOURNMENT

The meeting adjourned at 8:34 p.m.

CAPITOLA CITY COUNCIL REGULAR MEETING MINUTES
September 12, 2019

Jacques Bertrand, Mayor

ATTEST:

Linda Fridy, City Clerk

DRAFT

Attachment: 9-12 draft minutes (Approval of City Council Minutes)



CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 26, 2019

FROM: City Manager Department
SUBJECT: Planning Commission Action Minutes

RECOMMENDED ACTION: Receive minutes.

DISCUSSION: Attached for Council review are the action minutes of the September 5, 2019, Planning Commission regular meeting.

ATTACHMENTS:

1. 9-5-19 Action

Report Prepared By: Chloe Woodmansee
Records Coordinator

Reviewed and Forwarded by:

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

Jamie Goldstein, City Manager

9/18/2019



**ACTION MINUTES
CAPITOLA PLANNING COMMISSION MEETING
THURSDAY, SEPTEMBER 5, 2019
7 P.M. – CAPITOLA CITY COUNCIL CHAMBERS**

1. ROLL CALL AND PLEDGE OF ALLEGIANCE

Commissioners Christiansen, Newman, Routh, Wilk and Chair Welch were all present.

2. ORAL COMMUNICATIONS

A. Additions and Deletions to Agenda

B. Public Comments – none

C. Commission Comments – none

D. Staff Comments – none

3. APPROVAL OF MINUTES

A. Planning Commission - Regular Meeting - Jul 18, 2019 7:00 PM

MOTION: Approve the minutes.

RESULT:	APPROVED
MOVER:	Mick Routh
SECONDER:	Courtney Christiansen
AYES:	Newman, Welch, Routh, Christiansen
RECUSED:	Peter Wilk

B. Planning Commission - Regular Meeting - Aug 1, 2019 7:00 PM

MOTION: Approve the minutes.

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Mick Routh
SECONDER:	Courtney Christiansen
AYES:	Newman, Welch, Wilk, Routh, Christiansen

4. CONSENT CALENDAR

A. 523 Riverview Drive #19-0323 APN: 035-042-05

Coastal Development Permit to replace an existing retaining wall located within the R-1 (Single-Family Residential) zoning district.

Note: Request to Continue to October 3, 2019.

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

Environmental Determination: Categorical Exemption

Attachment: 9-5-19 Action (PC minutes)

Property Owner: Ed Bottorff
 Representative: Ed Bottorff, Filed: 07.11.2019

MOTION: Continue to the next regular meeting on October 3, 2019.

RESULT: CONTINUED [OCTOBER 3, 2019 MEETING]
MOVER: Edward Newman
SECONDER: Courtney Christiansen
AYES: Newman, Welch, Wilk, Routh, Christiansen

B. 204 Fanmar Way #19-0294 APN: 035-151-11

Design Permit for first-story additions and a new roof on a nonconforming single-family residence located within the RM-LM (Multiple-Family Low-Medium Density) zoning district.

This project is in the Coastal Zone but does not require a Coastal Development Permit.

Environmental Determination: Categorical Exemption

Property Owner: Eric Miller

Representative: Eric Miller, Filed: 06.19.2019

MOTION: Approve the Design Permit.

RESULT: APPROVED [4 to 0]
MOVER: Courtney Christiansen
SECONDER: Mick Routh
AYES: Newman, Welch, Routh, Christiansen
RECUSED: Peter Wilk

C. 620 Oak Drive #19-0113 APN: 035-301-06

Design Permit for first- and second-story additions to a single-family residence within the R-1 (Single-Family Residential) zoning district.

This project is in the Coastal Zone but does not require a Coastal Development Permit.

Environmental Determination: Categorical Exemption

Property Owner: Robert Reed

Representative: Roy Horn, Filed: 03.08.19

This item was pulled from the consent calendar and heard before Item 5.A.

MOTION: Approve the Design Permit.

RESULT: APPROVED [UNANIMOUS]
MOVER: Edward Newman
SECONDER: Courtney Christiansen
AYES: Newman, Welch, Wilk, Routh, Christiansen

5. PUBLIC HEARINGS

A. 115 San Jose Avenue - Pizzeria - Alcohol #19-0332 APN: 035-221-19

Amendment to a Conditional Use Permit for alcohol sales for La Bufala, a take-out pizza restaurant located within the Mercantile, in the CV (Central Village) zoning district.

Attachment: 9-5-19 Action (PC minutes)

This project is in the Coastal Zone but does not require a Coastal Development Permit.

Environmental Determination: Categorical Exemption

Property Owner: Peter Dwares

Representative: Sandro Costanza, Filed: 07.11.2019

MOTION: Approve the amendment to the Conditional Use Permit, to allow for alcohol sales.

RESULT:	APPROVED [3 TO 1]
MOVER:	Peter Wilk
SECONDER:	Courtney Christiansen
AYES:	Welch, Wilk, Christiansen
NAYS:	Mick Routh
RECUSED:	Ed Newman

B. 1440 41st Avenue #19-0369 APN: 034-111-50

Conditional Use Permit to operate and expand Hot Elevation Studios, a fitness studio located within the C-C (Community Commercial) zoning district.

This project is in the Coastal Zone and requires a Coastal Development Permit.

Environmental Determination: Categorical Exemption

Property Owner: Four Starr Properties

Representative: Fuse Architects, Filed: 08.05.2019

MOTION: Approve the Conditional Use Permit and Coastal Development Permit.

RESULT:	APPROVED [4 TO 0]
MOVER:	Edward Newman
SECONDER:	Peter Wilk
AYES:	Newman, Welch, Wilk, Routh
RECUSED:	Courtney Christiansen

6. DIRECTOR'S REPORT

7. COMMISSION COMMUNICATIONS

8. ADJOURNMENT

The meeting was adjourned at 7:54 p.m. to the next regular Planning Commission meeting on October 3, 2019.

Chloé Woodmansee, Clerk to the Commission

Attachment: 9-5-19 Action (PC minutes)



CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 26, 2019

FROM: City Manager Department
SUBJECT: Liability Claim of Bruce Stamps

RECOMMENDED ACTION: Reject liability claim.

DISCUSSION: Bruce Stamps has filed a liability claim against the City in the amount of \$1,989.00.

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

Reviewed and Forwarded by:

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

Jamie Goldstein, City Manager

9/18/2019



CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 26, 2019

FROM: City Manager Department
SUBJECT: Liability Claim of Madeline Chiavetta

RECOMMENDED ACTION: Reject liability claim.

DISCUSSION: Madeline Chiavetta has filed a liability claim against the City for an undetermined amount.

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

Reviewed and Forwarded by:

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

Jamie Goldstein, City Manager

9/18/2019



CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 26, 2019

FROM: Finance Department

SUBJECT: Approval of City Check Registers Dated August 2, August 7, August 16, August 23 and August 30, 2019

RECOMMENDED ACTION: Approve check registers.

Account: City Main				
Date	Starting Check #	Ending Check #	Payment Count	Amount
8/2/2019	93328	93373	49	\$2,023,802.13
8/7/2019	93374	93438	69	\$203,663.26
8/16/2019	93439	93519	82	\$109,525.13
8/23/2019	93520	93588	75	\$242,946.42
8/30/2019	93589	93643	58	\$119,258.59

The main account check register dated July 26, 2019, ended with check #93327.

Account: Library				
Date	Starting Check #	Ending Check #	Payment Count	Amount
8/16/2019	143	145	3	\$41,617.01
8/23/2019	146	147	2	\$762,035.06
8/30/2019	148	148	1	\$400

The library account check register dated July 26, 2019, ended with check #142.

Account: Payroll				
Date	Starting Check #	Ending Check #	Payment Count	Amount
7/29/2019	5558	5558	1	\$125.44
8/2/2019	5559	5564	132	\$196,884.27
8/16/2019	5565	5571	134	\$209,294.67
8/23/2019	5572	5609	36	\$19,599.18
8/30/2019	5610	5613	95	\$169,432.31

The payroll account check register dated July 19, 2019, ended with check #5557.

Following is a list of payments issued for more than \$10,000 and descriptions of the expenditures:

Approval of City Check Registers
September 26, 2019

Check	Issued to	Dept	Description	Amount
93341	City of Santa Cruz	PD	July – Sept. lifeguard services	\$83,152
93357	Monterey Bay Area Self Insurance Authority	CM	FY19/20 EAP, WC, liability and property insurance	\$349,384.20
EFT 809	CalPERS Fiscal Services	CM	FY19/20 PERS UAL prepayment	\$1,480,350
EFT 810	CalPERS Health Insurance	CM	August health insurance	\$61,822.39
93398	Long Beach BMW Motorcycles	PD	2019 BMW motorcycle	\$29,352.61
93418	Soquel Creek Water district	PW	July water and irrigation service	\$14,895.49
EFT 812	IRS	FN	Federal taxes and Medicare PPE 7/27/19	\$31,510.67
EFT 813	CalPERS Member Services	CM	PERS contributions PPE 7/27/19	\$53,815.51
93458	Central Fire Protection District	REC	Lifeguard training services	\$12,085
93496	MV Transportation Inc.	PW	May and June summer beach shuttle	\$11,297
93516	Wells Fargo Bank	CM	July credit card purchases	\$14,862.06
143	Bogard Construction Inc.	PW	Library construction project management services	\$10,600
145	Noll and Tam Architects	PW	Library interiors/FF&E, construction administration	\$29,657.01
93553	SCC Auditor-Controller	PD	July citation processing	\$15,587
93554	Santa Cruz County Bank	FN	Pac Cove financing lease	\$82,532.87
EFT 816	CalPERS Member Services	CM	PERS contributions PPE 8/10/19	\$53,860.04
EFT 819	IRS	FN	Federal taxes and Medicare PPE 8/10/19	\$32,997.27
146	John F. Otto Escrow	PW	July library construction 5% retainer	\$38,101.75
147	Otto Construction Inc.	PW	Library concrete work, framing, HVAC, utilities, electrical	\$723,933.31
93625	Pacific Gas and Electric	PW	Monthly gas and electricity	\$15,765.45
93632	Santa Cruz County Animal Shelter	CM	Quarterly animal services contribution	\$27,734.80

ATTACHMENTS:

1. 8/2/19 City Check Register
2. 8/7/19 City Check Register
3. 8/16/19 City Check Register
4. 8/23/19 City Check Register
5. 8/30/19 City Check Register

Approval of City Check Registers
September 26, 2019

Report Prepared By: Maura Herlihy
Accountant I

Reviewed and Forwarded by:



Jamie Goldstein, City Manager

9/18/2019

City main account checks dated August 2, 2019, numbered 93328 to 93373 plus 3 EFTs, totaling \$2,023,802.13, and 7 payroll checks plus 125 EFTs, totaling \$196,884.27, for a grand total of \$2,220,686.40, have been reviewed and authorized for distribution by the City Manager.

As of August 2, 2019, the unaudited cash balance is \$3,308,274.10.

CASH POSITION - CITY OF CAPITOLA 8/2/19

	<u>Net Balance</u>
General Fund	(\$1,641,707.72)
Payroll Payables	\$149,774.30
Contingency Reserve Fund	\$2,036,345.66
Facilities Reserve Fund	\$449,433.06
Capital Improvement Fund	\$1,718,123.77
Stores Fund	\$43,882.94
Information Technology Fund	\$193,000.81
Equipment Replacement	\$387,375.89
Self-Insurance Liability Fund	(\$103,894.59)
Workers' Comp. Ins. Fund	\$131,640.79
Compensated Absences Fund	(\$55,700.81)
TOTAL UNASSIGNED GENERAL FUNDS	<u>\$3,308,274.10</u>

The Emergency Reserve Fund balance is \$1,344,205.54 (not included above).
The PERS Contingency Fund balance is \$867,087.95 (not included above).
The Library Fund balance is \$2,612,353.11 (not included above).


 _____ 8/2/19
 Jamie Goldstein, City Manager Date


 _____ 8/2/19
 Jim Malberg, City Treasurer Date

Attachment: 8/2/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 2, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93328	08/02/2019			A TOOL SHED	\$150.00
	Invoice	Date	Description		Amount
	1361160-5	07/29/2019	Gas generator for recreation food truck event		\$150.00
93329	08/02/2019			ADRIENNE HARRELL	\$936.00
	Invoice	Date	Description		Amount
	AH072919	07/29/2019	Instructor payment		\$936.00
93330	08/02/2019			AFLAC	\$1,705.46
	Invoice	Date	Description		Amount
	641068	07/25/2019	July supplemental insurance 1001 - Payroll Payables		\$1,705.46
93331	08/02/2019			ALLIANT INSURANCE SERVICES INC.	\$6,167.00
	Invoice	Date	Description		Amount
	1110483	06/25/2019	Equipment floater physical damage insurance renewal 2213 - ISF - Self-Insur Liability		\$6,167.00
93332	08/02/2019			AMERICAN PAYROLL ASSOCIATION INC	\$254.00
	Invoice	Date	Description		Amount
	7-16-2019-227183	07/16/2019	Annual membership renewal		\$254.00
93333	08/02/2019			APTOS LANDSCAPE SUPPLY INC.	\$159.90
	Invoice	Date	Description		Amount
	495612	07/25/2019	Esplanade pathway bark chips		\$47.08
	495462	07/23/2019	Esplanade park bark chips		\$112.82
93334	08/02/2019			ARCHIVES & ARCHITECTURE LLC	\$6,020.00
	Invoice	Date	Description		Amount
	05172019	05/17/2019	Capitola Wharf historic resource evaluation		\$2,520.00
	051719	05/17/2019	Jetty and flume historic resource evaluations 1200 - Capital Impr Fund		\$3,500.00
93335	08/02/2019			ASTRO EVENTS OF SAN JOSE	\$365.50
	Invoice	Date	Description		Amount
	M323-2	06/04/2019	National Night Out jump house rental, popcorn machine		\$365.50
93336	08/02/2019			BILL TASHNICK	\$78.00
	Invoice	Date	Description		Amount
	BT072619	07/26/2019	Softball official services 7/15 & 7/22		\$78.00

Attachment: 8/2/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 2, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93337	08/02/2019			CARIN HANNA	\$640.00
	Invoice	Date	Description		Amount
	CH071219	07/12/2019	Reimbursement for BIA website services 1321 - Capitola Village BIA		\$640.00
93338	08/02/2019			CASEY PRINTING	\$255.30
	Invoice	Date	Description		Amount
	39396011	07/17/2019	Food Truck Friday event postcards and posters		\$255.30
93339	08/02/2019			CCP INDUSTRIES INC.	\$1,051.98
	Invoice	Date	Description		Amount
	IN02357192	07/23/2019	Feminine hygiene product dispensers (3)		\$1,051.98
93340	08/02/2019			CHARMAINE MONIZ	\$89.70
	Invoice	Date	Description		Amount
	CM072919	07/29/2019	Instructor payment		\$89.70
93341	08/02/2019			CITY OF SANTA CRUZ	\$83,152.00
	Invoice	Date	Description		Amount
	036645	07/17/2019	July - September lifeguard services		\$83,152.00
93342	08/02/2019			COASTAL WATERSHED COUNCIL	\$1,729.21
	Invoice	Date	Description		Amount
	1742	06/30/2019	May stormwater education and outreach		\$1,729.21
93343	08/02/2019			CSG Consultants Inc.	\$420.00
	Invoice	Date	Description		Amount
	25611	07/12/2019	June library building inspection		\$420.00
93344	08/02/2019			DONALD W ALLEY	\$1,871.80
	Invoice	Date	Description		Amount
	719-02	07/22/2019	Soquel creek fish and wildlife monitoring		\$1,871.80
93345	08/02/2019			ESTELLE DRINKHAUS	\$65.00
	Invoice	Date	Description		Amount
	ED072919	07/29/2019	Instructor payment		\$65.00
93346	08/02/2019			FLYERS ENERGY LLC	\$379.91
	Invoice	Date	Description		Amount
	19-930350	06/20/2019	101 gallons diesel		\$379.91

Attachment: 8/2/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 2, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93347	08/02/2019			FRED C. BEYERS	\$234.00
	Invoice	Date	Description		Amount
	FB072619	07/26/2019	Softball official services 7/16 - 7/25		\$234.00
93348	08/02/2019			GIGGLES N WIGGLES	\$1,722.00
	Invoice	Date	Description		Amount
	1001	07/23/2019	Camp Capitola bounce and indoor playground field trip		\$588.00
	1002	07/23/2019	Camp Capitola bounce & indoor playground field trip		\$472.50
	1004	07/29/2019	Camp Capitola bounce & indoor playground field trip		\$661.50
93349	08/02/2019			HOME DEPOT CREDIT SERVICES	\$947.63
	Invoice	Date	Description		Amount
	7622881	07/25/2019	Drive impact set, lag screws for lifeguard tower		\$77.10
	9635433	07/23/2019	Wharf framing saw blades		\$52.11
	3634602	07/19/2019	Hammer		\$21.77
	3525340	07/09/2019	Electrical tape		\$10.55
	3644097	07/29/2019	Graffiti removal supplies, tools		\$441.49
	5053979	07/17/2019	Utility knife, sandpaper		\$38.60
	6063094	07/26/2019	Plastic restorer, disinfecting wipes		\$14.64
	7362247	07/25/2019	Staples, staple gun		\$27.15
	7514442	07/25/2019	Lifeguard tower lag screws		\$18.93
	7034555	07/25/2019	Hoses, diamond braid polypro rolls		\$79.48
	0643028	07/22/2019	Staples		\$5.00
	0612040	07/22/2019	Jade St. park maintenance supplies		\$98.78
	6034622	07/26/2019	Loctite, contractor bags		\$62.03
			1000 - General Fund	\$895.52	
			1311 - Wharf	\$52.11	
93350	08/02/2019			JOHANNA WEINSTEIN	\$452.40
	Invoice	Date	Description		Amount
	JW072919	07/29/2019	Instructor payment		\$452.40
93351	08/02/2019			JONATHAN TROUTNER	\$400.00
	Invoice	Date	Description		Amount
	JT081119	05/14/2019	Art & music at the beach performance 8/11		\$400.00
93352	08/02/2019			KATHLEEN HERLIHY	\$149.14
	Invoice	Date	Description		Amount
	KH073019	07/30/2019	Lunch and coffee for mall interview panels		\$149.14
93353	08/02/2019			LABORMAX STAFFING	\$4,305.20
	Invoice	Date	Description		Amount
	26-109969	07/26/2019	Seasonal labor 7/20 - 7/26/19		\$4,305.20

Attachment: 8/2/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 2, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93354	08/02/2019			LIUNA PENSION FUND	\$985.60
	Invoice	Date	Description		Amount
	DR0482	07/19/2019	July LIUNA pension dues 1001 - Payroll Payables		\$985.60
93355	08/02/2019			MALLORY SAFETY AND SUPPLY LLC	\$435.45
	Invoice	Date	Description		Amount
	4683438	07/25/2019	Safety glasses (24 pairs)		\$103.55
	4681033	07/22/2019	Safety glasses (24 pairs)		\$157.28
	4681800	07/23/2019	Sunscreen		\$63.80
	4678055	07/16/2019	Safety gloves		\$110.82
93356	08/02/2019			MISSION LINEN SUPPLY	\$165.71
	Invoice	Date	Description		Amount
	510367469	07/24/2019	Corp. yard linen service		\$87.65
	510303451	07/15/2019	Community Center mop and mat service		\$78.06
93357	08/02/2019			MONTEREY BAY AREA SELF INSURANCE AUTH	\$349,384.20
	Invoice	Date	Description		Amount
	190701-1	07/09/2019	FY19/20 EAP, WC, liability and property insurance premiums		\$349,384.20
			2213 - ISF - Self-Insur	\$249,384.20	
			2214 - ISF - Workers Comp	\$100,000.00	
93358	08/02/2019			MONY Life Insurance Company of America	\$2,694.67
	Invoice	Date	Description		Amount
	75861	07/25/2019	July life, AD&D, LTD, STD and dependent life insurance		\$2,694.67
			1000 - General Fund	\$354.42	
			1001 - Payroll Payables	\$2,340.25	
93359	08/02/2019			PALACE OFFICE SUPPLIES	\$116.09
	Invoice	Date	Description		Amount
	540569-0	07/19/2019	Assorted envelopes		\$87.31
	9621480-0	07/24/2019	Thermal pouches		\$28.78
			1000 - General Fund	\$28.78	
			2210 - ISF - Stores Fund	\$87.31	
93360	08/02/2019			PAUL KENT	\$1,400.00
	Invoice	Date	Description		Amount
	PK080719	05/21/2019	Twilight concert performance 8/7		\$1,400.00

Attachment: 8/2/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 2, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93361	08/02/2019			ROSS RECREATION EQUIP CO INC.	\$1,441.38
	Invoice	Date	Description		Amount
	115349	07/17/2019	Cortez park swing hardware		\$490.08
	115388	07/23/2019	Cortez park swing seats		\$951.30
93362	08/02/2019			SAN LORENZO LUMBER	\$164.90
	Invoice	Date	Description		Amount
	55-0473782	07/23/2019	Wharf hardware		\$56.82
	55-0473792	07/23/2019	Wharf lumber		\$52.47
	55-0474478	07/25/2019	Lifeguard tower lumber		\$27.17
	55-0471560	07/15/2019	Router bit		\$28.44
			1000 - General Fund	\$55.61	
			1311 - Wharf	\$109.29	
93363	08/02/2019			SC Swimming CAFL	\$274.95
	Invoice	Date	Description		Amount
	QSC072919	07/29/2019	Instructor payment		\$274.95
93364	08/02/2019			SOQUEL CREEK WATER DISTRICT	\$423.40
	Invoice	Date	Description		Amount
	SCWD071719	07/17/2019	July water service		\$423.40
93365	08/02/2019			SPECTRUM BUSINESS	\$3,256.60
	Invoice	Date	Description		Amount
	0000178071919	07/19/2019	July internet service		\$3,256.60
			1000 - General Fund	\$1,304.31	
			2211 - ISF - Info Tech	\$1,952.29	
93366	08/02/2019			THE HOME DEPOT PRO	\$964.55
	Invoice	Date	Description		Amount
	502072655	07/16/2019	Cleaning supplies		\$964.55
93367	08/02/2019			UC REGENTS SEYMOUR CENTER	\$264.00
	Invoice	Date	Description		Amount
	UCRSC073119	07/31/2019	Camp Capitola Seymour marine discovery center field trip		\$264.00
93368	08/02/2019			UNITED STATES LIFESAVING ASSOCIATION	\$2,860.00
	Invoice	Date	Description		Amount
	1816	07/24/2019	Junior Guard program annual membership		\$2,860.00
93369	08/02/2019			VERIZON WIRELESS	\$2,379.70
	Invoice	Date	Description		Amount
	9833839645	07/10/2019	July telephone charges		\$2,379.70

Attachment: 8/2/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 2, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93370	08/02/2019			Jackson Hegerle	\$137.52
	Invoice	Date	Description		Amount
	JH072919	07/29/2019	Fuel reimbursement for junior guards regional competition		\$137.52
93371	08/02/2019			Katie Curtis	\$95.95
	Invoice	Date	Description		Amount
	KC072519	07/25/2019	Reimbursement for junior guard supplies and live scan fee		\$95.95
93372	08/02/2019			Linda Cover	\$400.00
	Invoice	Date	Description		Amount
	LC072519	07/25/2019	Camp Capitola tannery campus visit, pizza making, workshop		\$400.00
93373	08/02/2019			Vera Badagliacca	\$80.00
	Invoice	Date	Description		Amount
	VB071919	07/19/2019	Jr. leader stipend		\$80.00
Type Check Totals:					\$481,625.80

EFT

808	08/01/2019			INTERNAL REVENUE SERVICE	\$3.94
	Invoice	Date	Description		Amount
	21180169	08/01/2019	Medicare tax employee final paycheck		\$3.94
			1001 - Payroll Payables		
809	07/31/2019			CalPERS Fiscal Services Division	\$1,480,350.00
	Invoice	Date	Description		Amount
	10001374164-7	07/31/2019	FY19/20 PERS UAL prepayment		\$1,480,350.00
810	08/02/2019			CalPERS Health Insurance	\$61,822.39
	Invoice	Date	Description		Amount
	1001376734	08/02/2019	August health insurance		\$61,822.39
			1000 - General Fund	\$2,784.09	
			1001 - Payroll Payables	\$59,038.30	

Type EFT Totals:

Attachment: 8/2/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 2, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
CITY - Main City Totals				Count	Total
Checks				46	\$481,625.80
EFTs				3	\$1,542,176.33
All				49	\$2,023,802.13
WELLS - Payroll Totals					
Checks				7	\$5,130.87
EFTs				125	\$191,753.40
All				132	\$196,884.27
Grand Totals:					
Checks				53	\$486,756.67
EFTs				128	\$1,733,929.73
All				181	\$2,220,686.40

Attachment: 8/2/19 City Check Register (Approval of City Check Registers)

City main account checks dated August 7, 2019, numbered 93374 to 93438 plus 4 EFTs, totaling \$203,663.26, have been reviewed and authorized for distribution by the City Manager.

As of August 7, 2019, the unaudited cash balance is \$3,143,659.96.

CASH POSITION - CITY OF CAPITOLA 8/7/19

	<u>Net Balance</u>
General Fund	(\$1,669,259.90)
Payroll Payables	\$42,064.95
Contingency Reserve Fund	\$2,036,345.66
Facilities Reserve Fund	\$449,433.06
Capital Improvement Fund	\$1,718,123.77
Stores Fund	\$43,882.94
Information Technology Fund	\$193,000.81
Equipment Replacement	\$358,023.28
Self-Insurance Liability Fund	(\$103,894.59)
Workers' Comp. Ins. Fund	\$131,640.79
Compensated Absences Fund	<u>(\$55,700.81)</u>
TOTAL UNASSIGNED GENERAL FUNDS	<u>\$3,143,659.96</u>

The Emergency Reserve Fund balance is \$1,344,205.54 (not included above).
The PERS Contingency Fund balance is \$867,087.95 (not included above).
The Library Fund balance is \$2,612,353.11 (not included above).


 _____ 8/8/19
 Jamie Goldstein, City Manager Date


 _____ 8/12/19
 Jim Malberg, City Treasurer Date

Attachment: 8/7/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 7, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93374	08/07/2019			ACE PORTABLE SERVICES	\$488.60
	Invoice	Date	Description		Amount
	148924	07/26/2019	Portable toilet and handwashing station rental		\$488.60
93375	08/07/2019			AMAZON CAPITAL SERVICES	\$108.95
	Invoice	Date	Description		Amount
	16P4-NY7H-G13M	07/30/2019	Flash drives (5)		\$108.95
93376	08/07/2019			B & B SMALL ENGINE REPAIR	\$1,665.34
	Invoice	Date	Description		Amount
	425959	07/29/2019	2200 watt generator, kombisystem		\$1,623.98
	425709	07/25/2019	Square line		\$41.36
93377	08/07/2019			BAY AREA POLYGRAPH	\$500.00
	Invoice	Date	Description		Amount
	913	07/31/2019	Police officer polygraphs		\$500.00
93378	08/07/2019			BIG CREEK LUMBER	\$24.31
	Invoice	Date	Description		Amount
	1186717	08/01/2019	Skate park 2x6 lumber		\$24.31
93379	08/07/2019			BREIGE WALBRIDGE	\$195.00
	Invoice	Date	Description		Amount
	BW080519	08/05/2019	Instructor payment		\$195.00
93380	08/07/2019			CAPITOLA PEACE OFFICERS ASSOCIATION	\$1,719.00
	Invoice	Date	Description		Amount
	POA080219	08/02/2019	POA and gym dues PPE 7/27/19		\$1,719.00
			1001 - Payroll Payables		
93381	08/07/2019			CASEY PRINTING	\$5,384.08
	Invoice	Date	Description		Amount
	39441011	07/26/2019	Fall recreation guide printing		\$5,384.08
93382	08/07/2019			COUNTY OF SANTA CRUZ GENERAL SERVICES	\$1,053.00
	Invoice	Date	Description		Amount
	SCCGSD072919	07/29/2019	Tires (6)		\$1,053.00
93383	08/07/2019			CVS PHARMACY INC.	\$8.02
	Invoice	Date	Description		Amount
	5347	07/31/2019	Kiddie pools (3), sponges, less credit for duplicate payment		\$8.02

Attachment: 8/7/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 7, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93384	08/07/2019			D & G SANITATION	\$1,254.10
	Invoice	Date	Description		Amount
	262539	07/31/2019	Wharf portable toilet rental		\$827.05
	262540	07/31/2019	Lower parking lot portable toilet rental		\$427.05
			1000 - General Fund	\$427.05	
			1311 - Wharf	\$827.05	
93385	08/07/2019			DEPARTMENT OF PESTICIDE REGULATION	\$60.00
	Invoice	Date	Description		Amount
	DPR05312019	05/31/2019	Pesticide applicator certificate renewal		\$60.00
93386	08/07/2019			EMPLOYMENT DEVELOPMENT DEPT	\$150.00
	Invoice	Date	Description		Amount
	L0957964192-1	08/02/2019	Earnings withholding order garnishment ID #1721302016		\$150.00
			1001 - Payroll Payables		
93387	08/07/2019			EWING IRRIGATION	\$614.78
	Invoice	Date	Description		Amount
	8019402	07/31/2019	Topper, rake, scoop, gloves		\$129.76
	7983892	07/27/2019	Esplanade bathrooms plumbing supplies		\$438.13
	7983891	07/27/2019	Esplanade slip fix repair		\$8.99
	7974263	07/26/2019	Esplanade bathrooms plumbing supplies		\$37.90
93388	08/07/2019			FLYERS ENERGY LLC	\$3,733.80
	Invoice	Date	Description		Amount
	19-946084	07/18/2019	451 gallons gasoline		\$1,710.48
	19-946083	07/18/2019	106 gallons diesel		\$399.94
	19-949890	07/25/2019	340 gallons gasoline		\$1,254.13
	19-949889	07/25/2019	100 gallons diesel		\$369.25
93389	08/07/2019			FRANCHISE TAX BOARD	\$164.17
	Invoice	Date	Description		Amount
	607119956-4	08/02/2019	Earnings withholding order for taxes		\$164.17
			1001 - Payroll Payables		
93390	08/07/2019			GRANITE ROCK COMPANY	\$96.75
	Invoice	Date	Description		Amount
	1186662	07/27/2019	Soquel Creek park decomposed granite		\$96.75
93391	08/07/2019			GUARDIAN ALLIANCE INVESTIGATIONS LLC	\$2,800.00
	Invoice	Date	Description		Amount
	1180	07/05/2019	POST mandated background check		\$1,400.00
	1179	07/02/2019	POST mandated background check		\$1,400.00

Attachment: 8/7/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 7, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93392	08/07/2019			HOME DEPOT CREDIT SERVICES	\$722.35
	Invoice	Date	Description		Amount
	0644637	08/01/2019	Shelves		\$70.85
	1644480	07/31/2019	Hammer drill and bits		\$363.20
	3055642	07/29/2019	Bathroom plunger, screwdriver, toilet auger, lanyard		\$85.41
	2644299	07/30/2019	Concrete patch, concrete mix, sakrete sand		\$49.94
	4623303	07/28/2019	Utility knife, hawk bill flip knife		\$30.18
	3010535	07/29/2019	Batteries		\$17.42
	2630954	07/30/2019	Community center duster, pole, broom, lock, batteries		\$105.35
93393	08/07/2019			ICMA RETIREMENT TRUST 457	\$8,050.85
	Invoice	Date	Description		Amount
	41773812	08/02/2019	457 contributions PPE 7/27/19 1001 - Payroll Payables		\$8,050.85
93394	08/07/2019			INTERSTATE TRAFFIC CONTROL PRODUCTS	\$1,660.16
	Invoice	Date	Description		Amount
	233157	08/05/2019	Street barricades (20), temp signs (48), pedestrian signs (8)		\$1,660.16
93395	08/07/2019			LABORMAX STAFFING	\$4,055.83
	Invoice	Date	Description		Amount
	26-110262	08/02/2019	Seasonal labor 7/28 - 8/2/19		\$4,055.83
93396	08/07/2019			LESLIE FELLOWS	\$750.00
	Invoice	Date	Description		Amount
	LF072219	07/22/2019	Art and music at the beach coordinator admin. fee		\$300.00
	LF080519	08/05/2019	Sunday Art and Music at the Beach coordinator		\$450.00
93397	08/07/2019			LLOYDS TIRE SERVICE	\$93.63
	Invoice	Date	Description		Amount
	317266	07/25/2019	Tire mounting, balance, disposal		\$93.63
93398	08/07/2019			LONG BEACH BMW MOTORCYCLES	\$29,352.61
	Invoice	Date	Description		Amount
	1001	07/26/2019	2019 BMW R1250RT-P motorcycle 2212 - ISF - Equipment Replacement		\$29,352.61
93399	08/07/2019			MANPOWER INC.	\$373.49
	Invoice	Date	Description		Amount
	34150545	07/28/2019	Temporary receptionists		\$373.49

Attachment: 8/7/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 7, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93400	08/07/2019			MID COUNTY AUTO SUPPLY	\$153.09
	Invoice	Date	Description		Amount
	MID-416963	07/31/2019	Air filter		\$86.10
	MID-418616	08/01/2019	Sanding pads		\$46.20
	MID-418628	08/01/2019	Flashlight for fleet shop		\$20.79
93401	08/07/2019			MISSION LINEN SUPPLY	\$163.27
	Invoice	Date	Description		Amount
	510367468	07/24/2019	Fleet linen service		\$36.16
	510417518	07/31/2019	Fleet linen service		\$36.16
	510417519	07/31/2019	Corp. yard linen service		\$90.95
93402	08/07/2019			MONTEREY BAY ECONOMIC PARTNERSHIP	\$5,000.00
	Invoice	Date	Description		Amount
	1697	08/01/2019	Annual membership renewal		\$5,000.00
93403	08/07/2019			NORTH BAY FORD	\$13.57
	Invoice	Date	Description		Amount
	273016	07/23/2019	Roller		\$13.57
93404	08/07/2019			O'REILLY AUTO PARTS	\$189.25
	Invoice	Date	Description		Amount
	2763-470172	07/31/2019	Air filter		\$56.31
	2763-471324	08/05/2019	Exhaust fluid		\$45.75
	2763-470651	08/02/2019	36 brush set for fleet maintenance		\$87.19
93405	08/07/2019			ORIGINAL WATERMEN	\$313.65
	Invoice	Date	Description		Amount
	S63352	06/17/2019	Junior Guard instructor uniforms		\$313.65
93406	08/07/2019			OTC BRANDS INC	\$172.88
	Invoice	Date	Description		Amount
	697254875-01	07/22/2019	Camp Capitola prizes and awards		\$172.88
93407	08/07/2019			PACIFIC YACHTING AND SAILING	\$169.00
	Invoice	Date	Description		Amount
	PS080519	08/05/2019	Instructor payment		\$169.00
93408	08/07/2019			PALACE BUSINESS SOLUTIONS	\$138.66
	Invoice	Date	Description		Amount
	9615973-0	07/01/2019	White board, dry erase markers		\$21.42
	540897-0	07/24/2019	Paper		\$117.24

Attachment: 8/7/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 7, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93409	08/07/2019			PATRICK SIERRA	\$1,400.00
	Invoice	Date	Description		Amount
	PAS081419	05/21/2019	Twilight concert performance 8/14		\$1,400.00
93410	08/07/2019			PHIL ALLEGRI ELECTRIC INC.	\$199.13
	Invoice	Date	Description		Amount
	25913	06/27/2019	Esplanade tree light dimmer installation		\$199.13
93411	08/07/2019			PRAXAIR DISTRIBUTION INC.	\$118.50
	Invoice	Date	Description		Amount
	90731415	07/22/2019	Acetylene rental		\$118.50
93412	08/07/2019			PROFORCE LAW ENFORCEMENT	\$6,637.68
	Invoice	Date	Description		Amount
	381480	07/12/2019	Tasers (5)		\$6,637.68
93413	08/07/2019			ROYAL WHOLESALE ELECTRIC	\$29.30
	Invoice	Date	Description		Amount
	7719-648260	07/29/2019	Gloves 1300 - SLESF - Supl Law Enfc		\$29.30
93414	08/07/2019			RWG LEGAL	\$2,826.71
	Invoice	Date	Description		Amount
	RWG080219	08/02/2019	July special city attorney services		\$2,349.71
	RWG071519	07/15/2019	July special city attorney services 7/1-7/15		\$477.00
93415	08/07/2019			SAN LORENZO LUMBER	\$164.34
	Invoice	Date	Description		Amount
	55-0476555	08/02/2019	Lumber		\$154.44
	55-0475614	07/30/2019	Lower parking lot lumber		\$9.90
93416	08/07/2019			SANTA CRUZ LIVE SCAN INC	\$60.00
	Invoice	Date	Description		Amount
	1239	08/01/2019	New hire live scans (2)		\$60.00
93417	08/07/2019			SHEA MERRITT	\$567.45
	Invoice	Date	Description		Amount
	SM080119	08/01/2019	Camp Capitola field trip reimbursement		\$567.45

Attachment: 8/7/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 7, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93418	08/07/2019			SOQUEL CREEK WATER DISTRICT	\$14,895.49
	Invoice	Date	Description		Amount
	SCWD072619	08/01/2019	July water service		\$2,923.74
	SCWD072519	07/25/2019	July irrigation water service		\$11,971.75
			1000 - General Fund	\$14,017.21	
			1311 - Wharf	\$878.28	
93419	08/07/2019			SOQUEL NURSERY GROWERS INC.	\$16.06
	Invoice	Date	Description		Amount
	0000351496	07/16/2019	Plants		\$16.06
93420	08/07/2019			THE CLEANING MACHINE INC.	\$570.00
	Invoice	Date	Description		Amount
	6359	07/10/2019	Sidewalk cleaning		\$570.00
93421	08/07/2019			THE HOME DEPOT PRO	\$2,456.00
	Invoice	Date	Description		Amount
	503959751	07/26/2019	Janitorial supplies		\$2,456.00
93422	08/07/2019			TRANSPORTATION ALLIANCE BANK INC.	\$1,385.88
	Invoice	Date	Description		Amount
	652138	08/01/2019	Sweeper keys, nuts		\$60.77
	652105	08/01/2019	Sweeper filaments and g.b. set		\$1,325.11
			1310 - Gas Tax		
93423	08/07/2019			UNITED STATES LIFESAVING ASSOCIATION	\$588.00
	Invoice	Date	Description		Amount
	1877	08/04/2019	Junior guard regional competition registrations		\$588.00
93424	08/07/2019			US BANK PARS Acct 6746022400	\$2,398.07
	Invoice	Date	Description		Amount
	PARS080219	08/02/2019	PARS contributions PPE 7/27/19		\$2,398.07
			1001 - Payroll Payables		
93425	08/07/2019			WATSONVILLE POLICE DEPARTMENT	\$925.00
	Invoice	Date	Description		Amount
	R19-CPD-002	07/18/2019	Range rental (3 days)		\$925.00
93426	08/07/2019			WE ALL RIDE SANTA CRUZ	\$45.41
	Invoice	Date	Description		Amount
	4163084	07/26/2019	Insect remover, high gloss clear coat, micro fiber towel		\$45.41

Attachment: 8/7/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 7, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93427	08/07/2019			ZUMAR INDUSTRIES INC.	\$356.74
	Invoice	Date	Description		Amount
	84535	07/26/2019	"No outlet" sign		\$127.71
	84376	07/16/2019	"Pets must be leashed" signs (3)		\$229.03
93428	08/07/2019			Carlo Bianco Jr.	\$48.00
	Invoice	Date	Description		Amount
	CB071219	07/12/2019	Junior leader stipend		\$48.00
93429	08/07/2019			Cem Yazgan	\$72.00
	Invoice	Date	Description		Amount
	CY071219	07/12/2019	Junior leader stipend		\$72.00
93430	08/07/2019			Charlie Bailey	\$613.60
	Invoice	Date	Description		Amount
	CB072619	07/26/2019	Junior guards regional competition meals reimbursement		\$613.60
93431	08/07/2019			Frank Borges	\$54.60
	Invoice	Date	Description		Amount
	FB080519	08/05/2019	Refund blue curb parking permit		\$54.60
93432	08/07/2019			Kendall Wilson	\$156.00
	Invoice	Date	Description		Amount
	KW071219	07/12/2019	Junior leader stipend		\$156.00
			1000 - General Fund	\$52.00	
			1317 - Technology Fee Fund	\$2.60	
93433	08/07/2019			Kerem Yazgan	\$32.00
	Invoice	Date	Description		Amount
	KY071219	07/12/2019	Junior leader stipend		\$32.00
93434	08/07/2019			Madison Heid	\$80.00
	Invoice	Date	Description		Amount
	MH071219	07/12/2019	Junior leader stipend		\$80.00
93435	08/07/2019			Sevin Vargas	\$130.00
	Invoice	Date	Description		Amount
	SV071219	07/12/2019	Junior leader stipend		\$130.00
93436	08/07/2019			Tanner Lujan	\$80.00
	Invoice	Date	Description		Amount
	TL071219	07/12/2019	Junior leader stipend		\$80.00

Attachment: 8/7/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 7, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93437	08/07/2019			Tess Ortiz	\$108.00
	Invoice	Date	Description		Amount
	TO071219	07/12/2019	Junior leader stipend		\$108.00
93438	08/07/2019			Yolanda Provoste-Fuentes	\$30.00
	Invoice	Date	Description		Amount
	YPF073119	07/31/2019	Employee bilingual testing		\$30.00
Type Check Totals:					\$108,436.15
<u>EFT</u>					
811	08/05/2019			EMPLOYMENT DEVELOPMENT DEPT	\$8,668.17
	Invoice	Date	Description		Amount
	1-330-409-152	08/05/2019	State taxes PPE 7/27/19		\$8,668.17
			1001 - Payroll Payables		
812	08/05/2019			INTERNAL REVENUE SERVICE	\$31,510.67
	Invoice	Date	Description		Amount
	72884802	08/05/2019	Federal taxes and Medicare PPE 7/27/19		\$31,510.67
			1001 - Payroll Payables		
813	08/05/2019			CalPERS Member Services Division	\$53,815.51
	Invoice	Date	Description		Amount
	1001377950-3	08/05/2019	PERS contributions PPE 7/27/19		\$53,815.51
			1000 - General Fund	(\$0.15)	
			1001 - Payroll Payables	\$53,815.66	
814	08/05/2019			STATE DISBURSEMENT UNIT	\$1,232.76
	Invoice	Date	Description		Amount
	6G1N3N66658	08/05/2019	Employee garnishments PPE 7/27/19		\$1,232.76
			1001 - Payroll Payables		
Type EFT Totals:					\$95,227.11

Attachment: 8/7/19 City Check Register (Approval of City Check Registers)

CITY - Main City Totals	Count	Total
Checks	65	\$108,436.15
EFTs	4	\$95,227.11
All	69	\$203,663.26

City main account checks dated August 16, 2019, numbered 93439 to 93519 plus 1 EFTs, totaling \$109,525.13, 3 Library account checks, totaling \$41,617.01, and 7 Payroll account checks, totaling \$209,294.67, for a grand total of \$360,436.81, have been reviewed and authorized for distribution by the City Manager.

As of August 16, 2019, the unaudited cash balance is \$3,355,175.56.

CASH POSITION - CITY OF CAPITOLA 8/16/19

	<u>Net Balance</u>
General Fund	(\$1,596,964.06)
Payroll Payables	\$184,670.24
Contingency Reserve Fund	\$2,036,345.66
Facilities Reserve Fund	\$449,433.06
Capital Improvement Fund	\$1,718,123.77
Stores Fund	\$43,382.18
Information Technology Fund	\$190,116.04
Equipment Replacement	\$358,023.28
Self-Insurance Liability Fund	(\$103,894.59)
Workers' Comp. Ins. Fund	\$131,640.79
Compensated Absences Fund	(\$55,700.81)
TOTAL UNASSIGNED GENERAL FUNDS	<u><u>\$3,355,175.56</u></u>


The Emergency Reserve Fund balance is \$1,344,205.54 (not included above).
The PERS Contingency Fund balance is \$867,087.95 (not included above).
The Library Fund balance is \$2,927,822.61 (not included above).



 Jamie Goldstein, City Manager

8/19/19

 Date



 Jim Malberg, City Treasurer

8/19/19

 Date

Attachment: 8/16/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 16, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93439	08/13/2019		Reissue	PDM STEEL SERVICE CENTERS INC.	\$5,036.51
	Invoice	Date	Description		Amount
	821662-01	05/08/2019	Assorted tubing		\$5,036.51
93440	08/15/2019			LEO MORENO	\$2,808.69
	Invoice	Date	Description		Amount
	LM072619	08/07/2019	POST supervisor training reimbursement		\$1,247.79
	LM072019	08/03/2019	POST supervisor course reimbursement		\$1,560.90
93441	08/16/2019			ADAMS ASHBY GROUP INC	\$1,000.00
	Invoice	Date	Description		Amount
	2753	08/01/2019	CDBG and HOME program annual reports		\$1,000.00
			1350 - CDBG Grants	\$500.00	
			1370 - HOME Reuse	\$500.00	
93442	08/16/2019			ADT SECURITY SERVICES INC.	\$205.46
	Invoice	Date	Description		Amount
	ADT072919	07/29/2019	Corporation yard & museum security monitoring		\$205.46
93443	08/16/2019			AMAZON CAPITAL SERVICES	\$190.06
	Invoice	Date	Description		Amount
	17M6-XKG3-RJPY	07/31/2019	Ergonomic wireless mouse, keyboard		\$85.46
	1T7N-JCDV-HJ73	08/09/2019	Screen protectors		\$87.18
	1Q6P-MTJN-RCPP	08/11/2019	HDMI and ethernet cables		\$17.42
			1000 - General Fund	\$87.18	
			2211 - ISF - Info Tech	\$102.88	
93444	08/16/2019			ANTHEA SHORE	\$327.60
	Invoice	Date	Description		Amount
	AS080519	08/05/2019	Reimbursement for Camp Capitola ice cream field trip		\$327.60
93445	08/16/2019			ARCADIA PUBLISHING COMPANY	\$174.48
	Invoice	Date	Description		Amount
	21187882	07/26/2019	Books for museum (13)		\$174.48
93446	08/16/2019			AT&T	\$9.12
	Invoice	Date	Description		Amount
	ATT080119	08/01/2019	August long distance charges		\$9.12
			1000 - General Fund	\$4.48	
			2211 - ISF - Info Tech	\$4.64	

Attachment: 8/16/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 16, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93447	08/16/2019			AUTHENTIC APPROACH	\$2,525.00
	Invoice	Date	Description		Amount
	11006	08/01/2019	BIA communication & marketing management, social media promotion 1321 - BIA - Capitola Village-Wharf BIA		\$2,525.00
93448	08/16/2019			AXCIENT	\$125.00
	Invoice	Date	Description		Amount
	FY19INEFI023308	07/31/2019	July AppAssure storage 2211 - ISF - Info Tech		\$125.00
93449	08/16/2019			B & B SMALL ENGINE REPAIR	\$48.98
	Invoice	Date	Description		Amount
	427003	08/13/2019	Air filter, hedge trimmer blades		\$48.98
93450	08/16/2019			BAY PHOTO LAB	\$89.51
	Invoice	Date	Description		Amount
	14565038	08/05/2019	Museum prints		\$89.51
93451	08/16/2019			BILL TASHNICK	\$78.00
	Invoice	Date	Description		Amount
	BT080919	08/09/2019	Softball official services 7/29 & 8/5		\$78.00
93452	08/16/2019			BOBBY'S PIT STOP INC.	\$1,329.83
	Invoice	Date	Description		Amount
	0364883	08/09/2019	1997 Ford Aerostar airbag module replaced, diagnose check engine		\$1,329.83
93453	08/16/2019			CA DEPARTMENT OF CONSERVATION	\$348.57
	Invoice	Date	Description		Amount
	CDC063019	06/30/2019	April - June strong motion instrumentation & seismic mapping fee		\$348.57
93454	08/16/2019			CA DEPARTMENT OF JUSTICE	\$64.00
	Invoice	Date	Description		Amount
	395909	08/05/2019	July recreation staff and instructor fingerprinting		\$64.00
93455	08/16/2019			CALE AMERICA INC.	\$1,829.00
	Invoice	Date	Description		Amount
	155401	07/30/2019	July active meters		\$1,829.00
93456	08/16/2019			CALIFORNIA COAST UNIFORM COMPANY	\$54.00
	Invoice	Date	Description		Amount
	7358	08/02/2019	Name tags		\$54.00

Attachment: 8/16/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 16, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93457	08/16/2019			CAPITOLA BEACH FESTIVAL ASSOCIATION	\$4,000.00
	Invoice	Date	Description		Amount
	CBF080519	08/05/2019	BIA Sip N' Stroll proceeds 1321 - BIA - Capitola Village-Wharf BIA		\$4,000.00
93458	08/16/2019			CENTRAL FIRE PROTECTION DISTRICT	\$12,085.00
	Invoice	Date	Description		Amount
	6637	07/30/2019	Lifeguard training services through October 31st		\$12,085.00
93459	08/16/2019			CLEAN BUILDING MAINTENANCE CO.	\$3,719.13
	Invoice	Date	Description		Amount
	22892	07/31/2019	July janitorial services 1000 - General Fund 1311 - Wharf	\$3,453.63 \$265.50	\$3,719.13
93460	08/16/2019			CODE PUBLISHING COMPANY INC.	\$1,307.50
	Invoice	Date	Description		Amount
	64352	08/06/2019	Municipal code web update		\$1,307.50
93461	08/16/2019			COMPLETE MAILING SERVICE INC.	\$1,538.95
	Invoice	Date	Description		Amount
	4671	07/30/2019	Fall recreation brochure mailing		\$1,538.95
93462	08/16/2019			CRYSTAL SPRINGS WATER CO.	\$272.62
	Invoice	Date	Description		Amount
	CSW073119	07/31/2019	July drinking water		\$272.62
93463	08/16/2019			CVS PHARMACY INC.	\$24.98
	Invoice	Date	Description		Amount
	4278	08/12/2019	Camp prizes		\$24.98
93464	08/16/2019			DAVID SCOTT COBABE	\$1,444.10
	Invoice	Date	Description		Amount
	DSC081219	08/12/2019	Instructor payment		\$1,444.10
93465	08/16/2019			DAWN MAC LAUGHLIN	\$743.60
	Invoice	Date	Description		Amount
	DM081219	08/12/2019	Instructor payment		\$743.60
93466	08/16/2019			DIXON AND SON INC.	\$215.17
	Invoice	Date	Description		Amount
	220917	08/01/2019	Mount loader, o-ring, road service, fuel surcharge		\$215.17

Attachment: 8/16/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 16, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93467	08/16/2019			EMERGENCY VEHICLE SPECIALISTS INC.	\$1,097.34
	Invoice	Date	Description		Amount
	10145	07/30/2019	Kenwood TK5710 replacement unit #181 1300 - SLESF - Supl Law Enfc		\$1,097.34
93468	08/16/2019			FARWEST NURSERY	\$267.63
	Invoice	Date	Description		Amount
	733689	08/13/2018	Plant baskets, organic all purpose fertilizer		\$267.63
93469	08/16/2019			FIRST SECURITY	\$344.93
	Invoice	Date	Description		Amount
	IN-0013680	08/06/2019	August Jade Street foot patrol		\$344.93
93470	08/16/2019			FIRST SECURITY	\$382.50
	Invoice	Date	Description		Amount
	IN-0014279	08/06/2019	August Esplanade patrol service		\$382.50
93471	08/16/2019			FIRST SECURITY	\$356.42
	Invoice	Date	Description		Amount
	IN-0014278	08/06/2019	August skate park patrol service		\$356.42
93472	08/16/2019			FLYERS ENERGY LLC	\$4,390.41
	Invoice	Date	Description		Amount
	19-909323	05/16/2019	500 gallons gasoline		\$2,184.41
	19-909324	05/16/2019	155 gallons diesel		\$663.07
	19-930341	06/20/2019	425 gallons gasoline		\$1,542.93
93473	08/16/2019			FRED C. BEYERS	\$156.00
	Invoice	Date	Description		Amount
	FB080919	08/09/2019	Softball official services		\$156.00
93474	08/16/2019			GARDAWORLD	\$201.55
	Invoice	Date	Description		Amount
	10505227	08/01/2019	August armored car services		\$201.55
93475	08/16/2019			H. BARBER & SONS INC.	\$714.37
	Invoice	Date	Description		Amount
	BL33896	07/26/2019	Upper lift arm, chains		\$714.37
93476	08/16/2019			HDL COREN AND CONE	\$645.00
	Invoice	Date	Description		Amount
	0026956-IN	08/05/2019	FY18/19 CAFR statistical reports package		\$645.00

Attachment: 8/16/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 16, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93477	08/16/2019			HOME DEPOT CREDIT SERVICES	\$929.90
	Invoice	Date	Description		Amount
	6645310	08/05/2019	1' rubber cords		\$35.75
	3056898	08/08/2019	High output batteries (2)		\$271.41
	6283864	08/05/2019	Hose		\$49.03
	1613000	07/31/2019	Batteries, driller toggle, wing-it 6 pack		\$29.46
	1082439	07/31/2019	Multiscanner		\$65.37
	0631400	08/01/2019	Spackling paste, putty knife		\$10.08
	5064480	08/06/2019	Hose, hand truck, scrub brush, wash brush		\$113.26
	5064443	08/06/2019	Scrubbing sponge, trigger nozzle, bucket, gloss white paint		\$34.47
	0613122	08/01/2019	Lower parking lot paint		\$31.26
	6645361	08/05/2019	Jade St. electrical supplies		\$3.27
	4344080	08/07/2019	Toilet wax ring and hardware		\$86.93
	8646592	08/13/2019	Gloves, cedar rectangle trellis		\$77.67
	3056891	08/08/2019	Contractor measuring wheel		\$64.82
	9625350	08/12/2019	Paint, precision blades		\$50.06
	8065455	08/13/2019	Meguiars interior detailer		\$7.06
93478	08/16/2019			HOPE REHABILITATION SERVICES	\$2,880.00
	Invoice	Date	Description		Amount
	S169174	07/31/2019	July litter and debris abatement services		\$2,880.00
93479	08/16/2019			HUMBOLDT PETROLEUM LLC	\$32.50
	Invoice	Date	Description		Amount
	088492	07/31/2019	July car wash services		\$32.50
93480	08/16/2019			HYDROSCIENCE ENGINEERS INC.	\$2,892.50
	Invoice	Date	Description		Amount
	331010010	08/05/2019	4199 Clares St. stormwater review services		\$2,315.00
	331016004	08/05/2019	523 Burlingame Ave. stormwater review services		\$577.50
93481	08/16/2019			JACKIE YEUNG	\$292.84
	Invoice	Date	Description		Amount
	JY071219	07/20/2019	Firearms and armorer training expenses		\$292.84
93482	08/16/2019			JAMES POLIZZI	\$1,400.00
	Invoice	Date	Description		Amount
	JP082119	05/23/2019	Twilight concert performance 8/21		\$1,400.00
93483	08/16/2019			JIM MALBERG - PETTY CASH CUSTODIAN	\$484.34
	Invoice	Date	Description		Amount
	PC081419	08/14/2019	Various petty cash expenditures		\$484.34

Attachment: 8/16/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 16, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93484	08/16/2019			JOHANNA WEINSTEIN	\$268.45
	Invoice	Date	Description		Amount
	JW081219	08/12/2019	Instructor payment		\$268.45
93485	08/16/2019			KARL HEEBNER	\$3,000.00
	Invoice	Date	Description		Amount
	108	07/31/2019	Twilight concert sound engineer		\$3,000.00
93486	08/16/2019			KBA Document Solutions LLC	\$484.81
	Invoice	Date	Description		Amount
	55Y1001299	08/05/2019	City Hall & Recreation copier usage charges		\$121.38
	55Y1001300	08/05/2019	City Hall copier usage charges		\$363.43
			1000 - General Fund	\$43.56	
			2211 - ISF - Info Tech	\$441.25	
93487	08/16/2019			KINGS PAINT AND PAPER INC.	\$221.01
	Invoice	Date	Description		Amount
	A0285803	07/19/2019	Chip brush, recycle tray, cover		\$24.72
	A0285602	07/16/2019	Paint, nylon sheet		\$65.61
	A0285724	07/18/2019	Street curb paint		\$47.63
	A0285927	07/22/2019	Street curb paint		\$83.05
93488	08/16/2019			LANGUAGE LINE SERVICES INC	\$2.82
	Invoice	Date	Description		Amount
	4623834	07/31/2019	Translation service		\$2.82
93489	08/16/2019			LAW ENFORCEMENT TARGETS INC.	\$1,241.08
	Invoice	Date	Description		Amount
	0427260-IN	08/01/2019	Range supplies		\$1,241.08
93490	08/16/2019			MACKAY METERS INC	\$217.45
	Invoice	Date	Description		Amount
	1054339	07/31/2019	July meter and credit card transaction fees		\$217.45
93491	08/16/2019			MARQUIS BOOTH	\$1,175.18
	Invoice	Date	Description		Amount
	MB071719	07/17/2019	SBSLI leadership training reimbursement		\$1,175.18

Attachment: 8/16/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 16, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93492	08/16/2019			MID COUNTY AUTO SUPPLY	\$122.89
	Invoice	Date	Description		Amount
	MID-433406	08/12/2019	Steering shift tube		\$44.40
	MID-430997	08/09/2019	Standard capsules		\$23.80
	MID-425601	08/06/2019	Paint pens		\$12.74
	MID-425261	08/06/2019	Jumper cables		\$41.95
93493	08/16/2019			MILLER'S TRANSFER & STORAGE CO.	\$373.95
	Invoice	Date	Description		Amount
	91325	08/10/2019	August record storage and July warehouse handling		\$373.95
93494	08/16/2019			MISSION LINEN SUPPLY	\$201.87
	Invoice	Date	Description		Amount
	510463560	08/07/2019	Fleet linen service		\$36.16
	510463561	08/07/2019	Corp. yard linen service, towels		\$87.65
	510398856	07/29/2019	Community Center mop and mat service		\$78.06
93495	08/16/2019			MONY Life Insurance Company of America	\$2,694.67
	Invoice	Date	Description		Amount
	75973	07/30/2019	August AD&D, LTD, STD, life insurance		\$2,694.67
			1000 - General Fund	(\$14.70)	
			1001 - Payroll Payables	\$2,709.37	
93496	08/16/2019			MV TRANSPORTATION INC.	\$11,297.00
	Invoice	Date	Description		Amount
	101274	06/01/2019	May summer beach shuttle services		\$2,607.00
	101804	07/01/2019	June summer beach shuttle services		\$8,690.00
93497	08/16/2019			NANCY ELLEN GALLOWAY	\$172.25
	Invoice	Date	Description		Amount
	NG081219	08/12/2019	Instructor payment		\$172.25
93498	08/16/2019			NANCY HOWELLS	\$27.30
	Invoice	Date	Description		Amount
	NH081219	08/12/2019	Instructor payment		\$27.30
93499	08/16/2019			NORTH BAY FORD	\$1,445.69
	Invoice	Date	Description		Amount
	335329	06/21/2019	2016 Ford Explorer replaced active shutter grill		\$1,030.24
	273237	08/08/2019	Brake lining, rotor assembly, receptacle		\$415.45

Attachment: 8/16/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 16, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93500	08/16/2019			PALACE BUSINESS SOLUTIONS	\$357.45
	Invoice	Date	Description		Amount
	543100-0	08/09/2019	Desk pad, headset, organizer, wall file		\$229.70
	9624530-0	08/06/2019	Tape, card stock, folders		\$25.05
	9607853-0	05/31/2019	Stencils, paint		\$31.96
	9623014-0	07/30/2019	Pens		\$9.45
	9626310-0	08/12/2019	Paint		\$16.51
	542095-0	08/05/2019	Folders		\$44.78
			1000 - General Fund	\$312.67	
			2210 - ISF - Stores Fund	\$44.78	
93501	08/16/2019			PHIL ALLEGRI ELECTRIC INC.	\$1,027.07
	Invoice	Date	Description		Amount
	26066	08/05/2019	Fuel pump switch installation		\$1,027.07
93502	08/16/2019			QUENVOLD'S SAFETY SHOEMOBILES	\$173.31
	Invoice	Date	Description		Amount
	63400	08/05/2019	Safety shoes		\$173.31
93503	08/16/2019			ROBIN WOODMAN	\$150.00
	Invoice	Date	Description		Amount
	RW081419	08/14/2019	California residential code update event registration		\$150.00
93504	08/16/2019			SALINAS VALLEY PRO SQUAD	\$120.12
	Invoice	Date	Description		Amount
	299696	06/04/2019	526 uniform		\$120.12
93505	08/16/2019			SAN LORENZO LUMBER	\$49.02
	Invoice	Date	Description		Amount
	55-0479135	08/13/2019	Sun glasses		\$24.51
	55-0479264	08/13/2019	Sun glasses		\$24.51
93506	08/16/2019			SANTA CRUZ COUNTY DEPT OF PUBLIC WORKS	\$193.00
	Invoice	Date	Description		Amount
	36164	07/31/2019	July hazardous waste disposal fees		\$193.00
93507	08/16/2019			SANTA CRUZ COUNTY INFORMATION SERVICES	\$633.68
	Invoice	Date	Description		Amount
	SCC080119	08/01/2019	August open query scan charges		\$633.68
93508	08/16/2019			SANTA CRUZ MUNICIPAL UTILITIES	\$222.71
	Invoice	Date	Description		Amount
	SCMU073119	08/07/2019	July water service for medians		\$222.71

Attachment: 8/16/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 16, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93509	08/16/2019			SANTA CRUZ SENTINEL	\$614.40
	Invoice	Date	Description		Amount
	0001205806	07/31/2019	July planning commision public noticing		\$614.40
93510	08/16/2019			SUMMIT UNIFORMS	\$421.71
	Invoice	Date	Description		Amount
	60438	07/13/2019	530 TOC vest		\$272.03
	60417	07/12/2019	522 boots		\$130.01
	60439	07/13/2019	520 hat		\$19.67
93511	08/16/2019			T&T PAVEMENT MARKINGS AND PRODUCTS INC	\$2,496.01
	Invoice	Date	Description		Amount
	2019192	05/24/2019	6 gallons epoxy, 10 gallons street paint 1310 - Gas Tax		\$2,496.01
93512	08/16/2019			TRANSPORTATION ALLIANCE BANK INC.	\$3,935.15
	Invoice	Date	Description		Amount
	652265	08/08/2019	Sweeper dirt shoes (4)		\$1,477.64
	652144	08/02/2019	Sweeper actuator parts, retaining rings, bushings, shafts, screw		\$329.29
	652007	07/29/2019	Sweeper fuel tank 1310 - Gas Tax		\$2,128.22
93513	08/16/2019			US BANK EQUIPMENT FINANCE	\$481.78
	Invoice	Date	Description		Amount
	391644887	08/02/2019	City Hall & Recreation copier leases		\$481.78
			1000 - General Fund	\$25.80	
			2210 - ISF - Stores Fund	\$455.98	
93514	08/16/2019			US BANK EQUIPMENT FINANCE	\$103.55
	Invoice	Date	Description		Amount
	391644721	08/02/2019	Recreation copier lease		\$103.55
93515	08/16/2019			US BANK EQUIPMENT FINANCE	\$288.85
	Invoice	Date	Description		Amount
	391645264	08/02/2019	PD copier lease		\$288.85

Attachment: 8/16/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 16, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93516	08/16/2019			WELLS FARGO BANK	\$14,862.06
	Invoice	Date	Description		Amount
	WF080219	08/02/2019	July credit card purchases		\$14,862.06
			Purchases over \$500 threshold:		
			Job announcements	\$598.00	
			Range training	\$517.00	
			Range training	\$517.00	
			Desk	\$1,423.54	
			Pavers	\$1,872.00	
			Pavers	\$1,872.00	
			IT consulting	\$2,500.00	
			1000 - General Fund	\$12,322.77	
			1310 - Gas Tax	\$39.29	
			2211 - ISF - Info Tech	\$2,500.00	
93517	08/16/2019			Hensley Law Group	\$360.00
	Invoice	Date	Description		Amount
	10645	07/31/2019	LCP update legal services		\$360.00
93518	08/16/2019			Joyce Palmer	\$36.00
	Invoice	Date	Description		Amount
	233125319	08/08/2019	Citation refund		\$36.00
93519	08/16/2019			Lam Wong	\$36.00
	Invoice	Date	Description		Amount
	200123812	08/08/2019	Citation refund		\$36.00
Type Check Totals:					\$108,571.38
<u>EFT</u>					
815	08/12/2019			WELLS FARGO BANK	\$953.75
	Invoice	Date	Description		Amount
	WF081219	08/12/2019	August client analysis charges		\$953.75
Type EFT Totals:					\$953.75

Attachment: 8/16/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 16, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
Library - Library					
<u>Check</u>					
143	08/16/2019			BOGARD CONSTRUCTION INC.	\$10,600.00
	Invoice	Date	Description		Amount
	160707-35	07/31/2019	Library construction project management services		\$10,600.00
			1360 - Library Fund		
144	08/16/2019			BUTANO GEOTECHNICAL ENGINEERING	\$1,360.00
	Invoice	Date	Description		Amount
	4151	04/09/2019	March library construction phase observation and testing		\$1,360.00
			1360 - Library Fund		
145	08/16/2019			NOLL AND TAM ARCHITECTS	\$29,657.01
	Invoice	Date	Description		Amount
	0058374	07/31/2019	Library interiors/FF&E, construction administration		\$18,395.37
	0058324	06/30/2019	Library interiors/FF&E, construction administration		\$11,261.64
			1360 - Library Fund		
Type Check Totals:					\$41,617.01

CITY - Main City Totals	Count:	Total:
Checks	81	\$108,571.38
EFTs	1	\$953.75
All	82	\$109,525.13
Library - Library Totals		
Checks	3	\$41,617.01
EFTs	0	\$0.00
All	3	\$41,617.01
WELLS - Payroll Totals		
Checks	7	\$6,238.96
EFTs	127	\$203,055.71
All	134	\$209,294.67
Grand Totals:		
Checks	91	\$156,427.35
EFTs	128	\$204,009.46
All	219	\$360,436.81

Attachment: 8/16/19 City Check Register (Approval of City Check Registers)


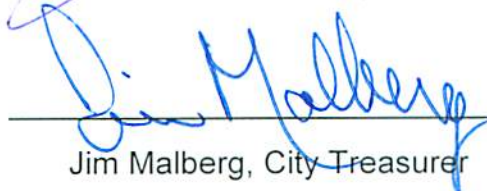
City main account checks dated August 23, 2019, numbered 93520 to 93588 plus 6 EFTs, totaling \$242,946.42, 2 Library account checks, totaling \$762,035.06, and 36 Payroll account checks, totaling \$19,566.18, for a grand total of \$1,024,580.66, have been reviewed and authorized for distribution by the City Manager.

As of August 23, 2019, the unaudited cash balance is \$3,176,393.36

CASH POSITION - CITY OF CAPITOLA 8/23/19

	<u>Net Balance</u>
General Fund	(\$1,665,091.03)
Payroll Payables	\$75,016.22
Contingency Reserve Fund	\$2,036,345.66
Facilities Reserve Fund	\$449,433.06
Capital Improvement Fund	\$1,718,123.77
Stores Fund	\$43,199.70
Information Technology Fund	\$189,414.31
Equipment Replacement	\$358,023.28
Self-Insurance Liability Fund	(\$104,011.59)
Workers' Comp. Ins. Fund	\$131,640.79
Compensated Absences Fund	<u>(\$55,700.81)</u>
TOTAL UNASSIGNED GENERAL FUNDS	<u>\$3,176,393.36</u>

The Emergency Reserve Fund balance is \$1,344,205.54 (not included above).
The PERS Contingency Fund balance is \$867,087.95 (not included above).
The Library Fund balance is \$2,165,740.76 (not included above).

 _____ Jamie Goldstein, City Manager	8/26/19 Date
 _____ Jim Malberg, City Treasurer	8/23/19 Date

Attachment: 8/23/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 23, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93520	08/23/2019			AGAPE DANCE ACADEMY	\$87.10
	Invoice	Date	Description		Amount
	ADA081919	08/19/2019	Instructor payment		\$87.10
93521	08/23/2019			AMAZON CAPITAL SERVICES	\$76.29
	Invoice	Date	Description		Amount
	1JPT-XCPJ-4KV3	08/14/2019	Extension duster		\$76.29
93522	08/23/2019			B & B SMALL ENGINE REPAIR	\$16.88
	Invoice	Date	Description		Amount
	427212	08/16/2019	FC edger blade		\$16.88
93523	08/23/2019			BIOBAG AMERICAS INC.	\$2,740.00
	Invoice	Date	Description		Amount
	466333	08/14/2019	Dog waste bags		\$2,740.00
93524	08/23/2019			BRINKS AWARDS & SIGNS	\$843.41
	Invoice	Date	Description		Amount
	80158	08/13/2019	Junior guards award plaques and trophies		\$843.41
93525	08/23/2019			CALIFORNIA BUILDING STANDARDS COMMISSION	\$151.20
	Invoice	Date	Description		Amount
	CBSC063019	06/30/2019	April - June building standards admin. fee		\$151.20
93526	08/23/2019			CAPITOLA PEACE OFFICERS ASSOCIATION	\$1,719.00
	Invoice	Date	Description		Amount
	POA081619	08/16/2019	Gym and POA dues PPE 8/10/19 1001 - Payroll Payables		\$1,719.00
93527	08/23/2019			CHARMAINE MONIZ	\$29.90
	Invoice	Date	Description		Amount
	CM081919	08/19/2019	Instructor payment		\$29.90
93528	08/23/2019			CLAUDIO FRANCA	\$143.00
	Invoice	Date	Description		Amount
	CF081919	08/19/2019	Instructor payments		\$143.00
93529	08/23/2019			COVELLO AND COVELLO PHOTOGRAPHY	\$1,590.68
	Invoice	Date	Description		Amount
	6612	08/17/2019	Junior guard photo sessions		\$1,590.68

Attachment: 8/23/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 23, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93530	08/23/2019			CVS PHARMACY INC.	\$63.54
	Invoice	Date	Description		Amount
	CVS072319	07/23/2019	Sunscreen		\$63.54
93531	08/23/2019			DAVID SCOTT COBABE	\$45.00
	Invoice	Date	Description		Amount
	DSC081919	08/19/2019	Instructor payment		\$45.00
93532	08/23/2019			DOUG PENNY	\$83.20
	Invoice	Date	Description		Amount
	DP081919	08/19/2019	Instructor payment		\$83.20
93533	08/23/2019			EMPLOYMENT DEVELOPMENT DEPT	\$150.00
	Invoice	Date	Description		Amount
	L1858684256-2	08/16/2019	Employee earnings withholding order 1001 - Payroll Payables		\$150.00
93534	08/23/2019			EWING IRRIGATION	\$491.60
	Invoice	Date	Description		Amount
	8049639	08/06/2019	Esplanade pump w/ hose		\$36.21
	8049638	08/06/2019	Trash gators (24)		\$455.39
93535	08/23/2019			FASTENAL COMPANY	\$20.59
	Invoice	Date	Description		Amount
	CASAT53827	07/29/2019	Pilot		\$20.59
93536	08/23/2019			FLYERS ENERGY LLC	\$2,835.24
	Invoice	Date	Description		Amount
	19-959313	08/09/2019	624 gallons gasoline		\$2,288.73
	19-959312	08/09/2019	148 gallons diesel		\$546.51
93537	08/23/2019			GIGGLES N WIGGLES	\$375.00
	Invoice	Date	Description		Amount
	1005	08/14/2019	Camp Capitola field trip		\$375.00
93538	08/23/2019			GOVERNMENT FINANCE OFFICERS ASSOCIATION	\$640.00
	Invoice	Date	Description		Amount
	GFOA082119	08/21/2019	Advanced governmental accounting training		\$640.00
93539	08/23/2019			GRANITE ROCK COMPANY	\$547.47
	Invoice	Date	Description		Amount
	1188158	08/03/2019	Bumper strip for parking lots		\$547.47

Attachment: 8/23/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 23, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93540	08/23/2019			HOME DEPOT CREDIT SERVICES	\$295.57
	Invoice	Date	Description		Amount
	7633860	08/14/2019	Machete, hose, nozzle pack, face shield		\$98.00
	0063841	08/01/2019	Adhesive, caulk gun, SS clamps, heavy duty VOC 10oz.		\$20.25
	3626109	08/18/2019	Wharf deck screw, bath faucet handle, lock washer kit, bit set		\$69.63
	5634283	08/16/2019	Graffiti removal supplies		\$39.98
	7043201	08/14/2019	Band stand fence post		\$19.49
	6012447	08/15/2019	Duct tape		\$3.89
	7522545	08/14/2019	Clothesline, poly braid		\$18.00
	7633856	08/14/2019	Splicers, coupling, tubes		\$26.33
			1000 - General Fund	\$225.94	
			1311 - Wharf	\$69.63	
93541	08/23/2019			ICMA RETIREMENT TRUST 457	\$8,050.63
	Invoice	Date	Description		Amount
	41776483	08/16/2019	457 contributions PPE 8/10/19		\$8,050.63
			1001 - Payroll Payables		
93542	08/23/2019			LABORMAX STAFFING	\$3,228.90
	Invoice	Date	Description		Amount
	26-110854	08/16/2019	Seasonal labor 8/10 - 8/12		\$3,228.90
93543	08/23/2019			LORRAINE KINNAMON	\$140.40
	Invoice	Date	Description		Amount
	LK081919	08/19/2019	Instructor payment		\$140.40
93544	08/23/2019			MID COUNTY AUTO SUPPLY	\$43.75
	Invoice	Date	Description		Amount
	MID-435420	08/13/2019	Diesel cleaner		\$10.75
	MID-440304	08/15/2019	Wipers		\$33.00
93545	08/23/2019			MISSION LINEN SUPPLY	\$127.11
	Invoice	Date	Description		Amount
	510512948	08/14/2019	Corp. yard linen service, mats, towels		\$90.95
	510512947	08/14/2019	Fleet linen service		\$36.16
93546	08/23/2019			NANCY HOWELLS	\$33.80
	Invoice	Date	Description		Amount
	NH081919	08/19/2019	Instructor payment		\$33.80
93547	08/23/2019			NORTH BAY FORD	\$64.62
	Invoice	Date	Description		Amount
	273271	08/12/2019	2006 Ford SD trans lever, gear change plunger, damper, bushings		\$64.62

Attachment: 8/23/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 23, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93548	08/23/2019			O'REILLY AUTO PARTS	\$26.09
	Invoice	Date	Description		Amount
	2763-473377	08/14/2019	Wiper fluid		\$26.09
93549	08/23/2019			PALACE BUSINESS SOLUTIONS	\$182.48
	Invoice	Date	Description		Amount
	543485-0	08/13/2019	Paper, pens, post-it notes 2210 - ISF - Stores Fund		\$182.48
93550	08/23/2019			POSITIVE DISCIPLINE COMMUNITY RESOURCES	\$500.00
	Invoice	Date	Description		Amount
	002	08/28/2019	Afterschool program staff training		\$500.00
93551	08/23/2019			SAN LORENZO LUMBER	\$24.51
	Invoice	Date	Description		Amount
	55-0478357	08/09/2019	Sun glasses		\$24.51
93552	08/23/2019			SANTA CRUZ APTOS AUTO TOWING	\$375.00
	Invoice	Date	Description		Amount
	11027	07/03/2019	Wharf launch ramp		\$125.00
	11130	07/19/2019	Lift wharf ramp up to repair 1311 - Wharf		\$250.00
93553	08/23/2019			SANTA CRUZ COUNTY AUDITOR-CONTROLLER	\$15,587.00
	Invoice	Date	Description		Amount
	SCC080719	08/07/2019	July citation processing		\$15,587.00
93554	08/23/2019			SANTA CRUZ COUNTY BANK	\$82,532.87
	Invoice	Date	Description		Amount
	SCCB071819	07/18/2019	Pacific Cove financing lease payment 1420 - Pac Cove Lease Financing		\$82,532.87
93555	08/23/2019			SANTA CRUZ OCCUPATIONAL MEDICAL CENTER	\$159.00
	Invoice	Date	Description		Amount
	I-23836	07/31/2019	Employee medical exam		\$159.00
93556	08/23/2019			SKATEDOGS	\$946.40
	Invoice	Date	Description		Amount
	SD081919	08/19/2019	Instructor payment		\$946.40
93557	08/23/2019			SOQUEL CREEK WATER DISTRICT	\$172.37
	Invoice	Date	Description		Amount
	SCWD080719	08/07/2019	Water service 430 Kennedy Dr.		\$172.37

Attachment: 8/23/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 23, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93558	08/23/2019			SPORT ABOUT GRAPHICS	\$518.20
	Invoice	Date	Description		Amount
	7880	06/06/2019	Public Works hats (24)		\$518.20
93559	08/23/2019			THE HOME DEPOT PRO	\$3,906.61
	Invoice	Date	Description		Amount
	505140319	08/02/2019	Cleaning and restroom supplies		\$2,282.86
	506832344	08/13/2019	Cleaning and restroom supplies		\$1,623.75
93560	08/23/2019			TRANSPORTATION ALLIANCE BANK INC.	\$783.64
	Invoice	Date	Description		Amount
	652197	08/06/2019	Sweeper brackets, deflector 1310 - Gas Tax		\$783.64
93561	08/23/2019			UNITED WAY OF SANTA CRUZ COUNTY	\$30.00
	Invoice	Date	Description		Amount
	UW081619	08/16/2019	August employee United Way contributions 1001 - Payroll Payables		\$30.00
93562	08/23/2019			UPEC LIUNA LOCAL 792	\$1,140.00
	Invoice	Date	Description		Amount
	UPEC080519	08/05/2019	August UPEC dues 1001 - Payroll Payables		\$1,140.00
93563	08/23/2019			US BANK PARS Acct 6746022400	\$3,279.96
	Invoice	Date	Description		Amount
	PARS081619	08/16/2019	PARS contributions PPE 8/10/19 1001 - Payroll Payables		\$3,279.96
93564	08/23/2019			WENDY NOLAN	\$209.30
	Invoice	Date	Description		Amount
	WN081919	08/19/2019	Instructor payment		\$209.30
93565	08/23/2019			WESTERN EXTERMINATOR COMPANY	\$128.00
	Invoice	Date	Description		Amount
	7226851	07/31/2019	City Hall rodent control		\$64.00
	7226850	07/31/2019	Turnouts rodent control		\$64.00
93566	08/23/2019			Addison Newman	\$152.00
	Invoice	Date	Description		Amount
	081619	08/16/2019	Junior leader stipend		\$152.00

Attachment: 8/23/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 23, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93567	08/23/2019			Carlo Bianco Junior	\$96.00
	Invoice	Date	Description		Amount
	081619	08/16/2019	Junior leader stipend		\$96.00
93568	08/23/2019			Dakota Heid	\$28.00
	Invoice	Date	Description		Amount
	081319	08/13/2019	Junior leader stipend		\$28.00
93569	08/23/2019			Julia Bollinger	\$80.00
	Invoice	Date	Description		Amount
	081319	08/13/2019	Junior leader stipend		\$80.00
93570	08/23/2019			Julian Kamos	\$74.00
	Invoice	Date	Description		Amount
	081319	08/13/2019	Junior leader stipend		\$74.00
93571	08/23/2019			Kendall Wilson	\$79.00
	Invoice	Date	Description		Amount
	081319	08/13/2019	Junior leader stipend		\$79.00
93572	08/23/2019			Kumiko Cattaert	\$152.00
	Invoice	Date	Description		Amount
	081319	08/13/2019	Junior leader stipend		\$152.00
93573	08/23/2019			Laila Villaverde	\$78.00
	Invoice	Date	Description		Amount
	081319	08/13/2019	Junior leader stipend		\$78.00
93574	08/23/2019			Madison Heid	\$80.00
	Invoice	Date	Description		Amount
	081319	08/13/2019	Junior leader stipend		\$80.00
93575	08/23/2019			Max Perko	\$174.00
	Invoice	Date	Description		Amount
	081319	08/13/2019	Junior leader stipend		\$174.00
93576	08/23/2019			Servin Vargas	\$77.00
	Invoice	Date	Description		Amount
	081319	08/13/2019	Junior leader stipend		\$77.00
93577	08/23/2019			Tess Ortiz	\$39.00
	Invoice	Date	Description		Amount
	081319	08/13/2019	Junior leader stipend		\$39.00

Attachment: 8/23/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 23, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93578	08/23/2019			Vera Badagliacca	\$79.00
	Invoice	Date	Description		Amount
	081319	08/13/2019	Junior leader stipend		\$79.00
93579	08/23/2019			ALLIANT INSURANCE SERVICES INC NPB MAIN	\$117.00
	Invoice	Date	Description		Amount
	1149429	08/07/2019	Equipment floater physical damage insurance 2213 - ISF - Self-Insurance Liability		\$117.00
93580	08/23/2019			ATCHISON BARISONE & CONDOTTI	\$2,167.90
	Invoice	Date	Description		Amount
	33306	08/12/2019	July legal services		\$850.90
	33307	08/12/2019	July general city attorney services		\$1,317.00
93581	08/23/2019			CLASSIFIED SOUND	\$1,500.00
	Invoice	Date	Description		Amount
	190626A	06/05/2019	Twilight concert sound engineer		\$1,500.00
93582	08/23/2019			COMMUNITY TELEVISION OF SANTA CRUZ COUNTY	\$559.00
	Invoice	Date	Description		Amount
	2698	08/09/2019	July Planning Commission and City Council meeting footage		\$559.00
93583	08/23/2019			FRANK PERRY	\$135.12
	Invoice	Date	Description		Amount
	FP081619	08/16/2019	Museum artifact, coloring books, pencils, 1970 directory		\$135.12
93584	08/23/2019			FRED MENG AUDIO VISUAL SERVICES	\$800.00
	Invoice	Date	Description		Amount
	FM060319	06/03/2019	Movie at the Beach projection services (2)		\$800.00
93585	08/23/2019			KBA Document Solutions LLC	\$51.44
	Invoice	Date	Description		Amount
	55Y1004406	08/13/2019	Recreation copier usage charges		\$22.19
	55Y1004783	08/14/2019	City Hall copier usage charges		\$29.25
			1000 - General Fund	\$22.19	
			2211 - ISF - Info Tech	\$29.25	
93586	08/23/2019			LESLIE FELLOWS	\$300.00
	Invoice	Date	Description		Amount
	LF081219	08/12/2019	Art and Music at the Beach coordinator		\$300.00

Attachment: 8/23/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 23, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93587	08/23/2019			SAMUEL NIGH	\$1,000.00
	Invoice	Date	Description		Amount
	TD051419	05/14/2019	Twilight concert performance 8/28		\$1,000.00
93588	08/23/2019			TPX COMMUNICATIONS	\$1,523.87
	Invoice	Date	Description		Amount
	119222360-0	07/23/2019	July phone service 1000 - General Fund 2211 - ISF - Info Tech		\$1,523.87
Type Check Totals:					\$144,477.64
<u>EFT</u>					
816	08/19/2019			CalPERS Member Services Division	\$53,860.04
	Invoice	Date	Description		Amount
	1001387073-6	08/19/2019	PERS contributions PPE 8/10/19 1000 - General Fund (\$0.19) 1001 - Payroll Payables \$53,860.23		\$53,860.04
817	08/19/2019			STATE DISBURSEMENT UNIT	\$1,232.76
	Invoice	Date	Description		Amount
	K1U40EB6659	08/19/2019	Employee garnishments PPE 8/10/19 1001 - Payroll Payables		\$1,232.76
818	08/19/2019			EMPLOYMENT DEVELOPMENT DEPT	\$9,006.08
	Invoice	Date	Description		Amount
	1-220-968-128	08/19/2019	State taxes PPE 8/10/19 1001 - Payroll Payables		\$9,006.08
819	08/19/2019			INTERNAL REVENUE SERVICE	\$32,997.27
	Invoice	Date	Description		Amount
	05296037	08/19/2019	Federal taxes and Medicare PPE 8/10/19 1001 - Payroll Payables		\$32,997.27
820	08/23/2019			EMPLOYMENT DEVELOPMENT DEPT	\$23.88
	Invoice	Date	Description		Amount
	2-011-529-664	08/23/2019	State taxes for seasonal employees 1001 - Payroll Payables		\$23.88
821	08/22/2019			INTERNAL REVENUE SERVICE	\$1,348.75
	Invoice	Date	Description		Amount
	32351320	08/22/2019	Federal taxes and Medicare for seasonal employees 1001 - Payroll Payables		\$1,348.75
Type EFT Totals:					\$98,468.78

Attachment: 8/23/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 23, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
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Library - Library

Check

146	08/23/2019			JOHN F OTTO INC ESCROW NO 02-701154	\$38,101.75
	Invoice	Date	Description		Amount
	13244retainer	08/15/2019	July library construction retainer 1360 - Library Fund		\$38,101.75
147	08/23/2019			OTTO CONSTRUCTION INC.	\$723,933.31
	Invoice	Date	Description		Amount
	13244	08/15/2019	Library concrete work, framing, HVAC, utilities, electrical 1360 - Library Fund		\$723,933.31
Type Check Totals:					\$762,035.06

CITY - Main City Totals	Count	Total
Checks	69	\$144,477.64
EFTs	6	\$98,468.78
All	75	\$242,946.42
Library - Library Totals		
Checks	2	\$762,035.06
EFTs	0	\$0.00
All	2	\$762,035.06
WELLS - Payroll Totals		
Checks	36	\$19,599.18
EFTs	0	\$0.00
All	36	\$19,599.18
Grand Totals:		
Checks	107	\$926,111.88
EFTs	6	\$98,468.78
All	113	\$1,024,580.66

Attachment: 8/23/19 City Check Register (Approval of City Check Registers)


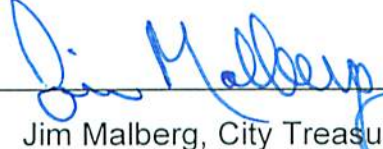
City main account checks dated August 30, 2019, numbered 93589 to 93643 plus 3 EFTs, totaling \$119,258.59, 1 Library account check, totaling \$400.00, and 4 Payroll account checks and 91 EFTs, totaling \$169,432.31, for a grand total of \$289,090.90, have been reviewed and authorized for distribution by the City Manager.

As of August 30, 2019, the unaudited cash balance is \$2,996,753.20.

CASH POSITION - CITY OF CAPITOLA 8/30/19

	<u>Net Balance</u>
General Fund	(\$1,935,138.95)
Payroll Payables	\$170,309.06
Contingency Reserve Fund	\$2,036,345.66
Facilities Reserve Fund	\$449,433.06
Capital Improvement Fund	\$1,717,032.37
Stores Fund	\$43,122.05
Information Technology Fund	\$184,910.78
Equipment Replacement	\$358,810.78
Self-Insurance Liability Fund	(\$104,011.59)
Workers' Comp. Ins. Fund	\$131,640.79
Compensated Absences Fund	<u>(\$55,700.81)</u>
TOTAL UNASSIGNED GENERAL FUNDS	<u>\$2,996,753.20</u>

The Emergency Reserve Fund balance is \$1,344,205.54 (not included above).
The PERS Contingency Fund balance is \$867,087.95 (not included above).
The Library Fund balance is \$2,165,470.76 (not included above).

 _____ Jamie Goldstein, City Manager	9/3/19 _____ Date
 _____ Jim Malberg, City Treasurer	9/3/19 _____ Date

Attachment: 8/30/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 30, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93589	08/23/2019			Gang Hu Liang	\$1,281.00
	Invoice	Date	Description		Amount
	19-0153	06/27/2019	Deposit refund for 1200 41st Ave. Suite C permit		\$1,281.00
93590	08/30/2019			ALLSAFE LOCK COMPANY	\$22.05
	Invoice	Date	Description		Amount
	51876	08/21/2019	Keys		\$8.14
	51875	08/19/2019	Janitorial keys and key tags		\$13.91
93591	08/30/2019			ALVAREZ TECHNOLOGY GROUP INC	\$235.00
	Invoice	Date	Description		Amount
	52419	08/21/2019	September antivirus 2211 - ISF - Info Tech		\$235.00
93592	08/30/2019			AMAZON CAPITAL SERVICES	\$1,257.86
	Invoice	Date	Description		Amount
	1VQC-MDLM-YFFD	08/12/2019	Flashlight battery		\$22.99
	17XP-CV7K-6TJ7	08/19/2019	Popcorn for movies at the beach		\$20.92
	1TH3-TN7M-H1PY	08/23/2019	Headset with lifter		\$183.12
	1J9K-7MRJ-3Y6H	08/19/2019	Batteries		\$15.50
	1FMY-GTNY-LL7Q	08/23/2019	Cameras (2), microphone headset 1000 - General Fund 2211 - ISF - Info Tech		\$1,015.33
93593	08/30/2019			AMERICAN PLANNING ASSOCIATION	\$558.00
	Invoice	Date	Description		Amount
	201248-1977	07/17/2019	Annual membership renewal		\$558.00
93594	08/30/2019			AMERICAN RED CROSS TRAINING SERVICES	\$224.00
	Invoice	Date	Description		Amount
	22217988	08/21/2019	CPR and first aid training (donation funded)		\$224.00
93595	08/30/2019			AT&T/CALNET 3	\$548.49
	Invoice	Date	Description		Amount
	0013483747	08/13/2019	August telephone service 1000 - General Fund 2211 - ISF - Info Tech	\$526.70 \$21.79	\$548.49
93596	08/30/2019			AT&T/CALNET 3	\$889.28
	Invoice	Date	Description		Amount
	0013484415	08/13/2019	August T-1 access		\$889.28

Attachment: 8/30/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 30, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93597	08/30/2019			AXCIENT	\$125.00
	Invoice	Date	Description		Amount
	FY19INEFI020909	06/30/2019	June AppAssure storage 2211 - ISF - Info Tech		\$125.00
93598	08/30/2019			BEAR ELECTRICAL SOLUTIONS INC.	\$1,149.90
	Invoice	Date	Description		Amount
	8718	07/30/2019	July traffic signal maintenance services - routine		\$646.80
	8700	07/28/2019	July traffic signal maintenance services - response 1310 - Gas Tax		\$503.10
93599	08/30/2019			BEN'S MOTORCYCLE WORKS	\$406.74
	Invoice	Date	Description		Amount
	6400	08/22/2019	2019 BMW R1250RT motorcycle rear tire replaced		\$406.74
93600	08/30/2019			BILL TASHNICK	\$39.00
	Invoice	Date	Description		Amount
	BT082319	08/23/2019	Softball official services		\$39.00
93601	08/30/2019			CALE AMERICA INC.	\$4,742.85
	Invoice	Date	Description		Amount
	155654	07/26/2019	Pay station coin selector cable		\$50.89
	155287	07/12/2019	Pay station card readers (4)		\$596.12
	155281	07/12/2019	Pay station printers (3)		\$4,095.84
93602	08/30/2019			CAROLYN FLYNN	\$945.00
	Invoice	Date	Description		Amount
	CBF-08-2019	08/26/2019	Affordable housing program assistance		\$945.00
93603	08/30/2019			DONALD W ALLEY	\$1,808.80
	Invoice	Date	Description		Amount
	819-02	08/20/2019	Soquel creek fish and wildlife monitoring		\$1,808.80
93604	08/30/2019			DOOLEY ENTERPRISES INC.	\$8,103.51
	Invoice	Date	Description		Amount
	56791	07/30/2019	Ammo		\$8,103.51
93605	08/30/2019			DUDEK	\$4,386.00
	Invoice	Date	Description		Amount
	20195423	08/13/2019	322 Capitola Ave. archaeological report #19-0221		\$4,386.00

Attachment: 8/30/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 30, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93606	08/30/2019			FARWEST NURSERY	\$335.27
	Invoice	Date	Description		Amount
	733695	08/20/2019	Esplanade plants		\$335.27
93607	08/30/2019			FIRST ALARM	\$215.16
	Invoice	Date	Description		Amount
	487550	08/15/2019	Community Center quarterly security monitoring		\$215.16
93608	08/30/2019			FLYERS ENERGY LLC	\$1,428.74
	Invoice	Date	Description		Amount
	19-961929	08/14/2019	306 gallons gasoline		\$1,154.19
	19-961931	08/14/2019	70 gallons diesel		\$274.55
93609	08/30/2019			FRED C. BEYERS	\$195.00
	Invoice	Date	Description		Amount
	FB082319	08/23/2019	Softball official services		\$195.00
93610	08/30/2019			GARDEN HAVEN NURSERY	\$95.58
	Invoice	Date	Description		Amount
	00349913	08/20/2019	Esplanade plants and fertilizer		\$95.58
93611	08/30/2019			HANYA FOJACO	\$1,296.75
	Invoice	Date	Description		Amount
	HF082619	08/26/2019	Instructor Payment		\$1,296.75
93612	08/30/2019			HIGH THREAT INNOVATIONS	\$2,261.00
	Invoice	Date	Description		Amount
	HTI082619	08/26/2019	Trauma packs (11)		\$2,261.00
93613	08/30/2019			HOME DEPOT CREDIT SERVICES	\$262.80
	Invoice	Date	Description		Amount
	8615389	08/23/2019	Wire, rodent bait and traps, ferrules		\$36.79
	9640136	08/22/2019	Screws		\$6.43
	2634835	08/19/2019	Jade St. park bathroom supplies		\$95.17
	8640293	08/23/2019	Batteries		\$69.60
	1058639	08/20/2019	Super glue, adhesive		\$10.51
	1523030	08/20/2019	Bucket, utility knife, tape, gloves, loctite, duct tape		\$44.30
93614	08/30/2019			HOPE REHABILITATION SERVICES	\$2,640.00
	Invoice	Date	Description		Amount
	S169286	08/15/2019	August litter abatement		\$2,640.00

Attachment: 8/30/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 30, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93615	08/30/2019			HUMBOLDT PETROLEUM LLC	\$52.00
	Invoice	Date	Description		Amount
	088529	08/15/2019	August carwash service		\$52.00
93616	08/30/2019			INTERNATIONAL CODE COUNCIL	\$2,561.94
	Invoice	Date	Description		Amount
	1001080674	08/16/2019	2019 CA complete building code collection		\$2,561.94
93617	08/30/2019			LABORMAX STAFFING	\$3,294.50
	Invoice	Date	Description		Amount
	26-111163	08/23/2019	Seasonal labor 8/19 - 8/23		\$3,294.50
93618	08/30/2019			LLOYDS TIRE SERVICE	\$470.10
	Invoice	Date	Description		Amount
	317636	08/21/2019	2015 Ford F250 tires, spin, balance		\$470.10
93619	08/30/2019			LORRAINE KINNAMON	\$35.10
	Invoice	Date	Description		Amount
	LK082619	08/26/2019	Instructor payment		\$35.10
93620	08/30/2019			MAR-KEN K-9 TRAINING CENTER	\$240.00
	Invoice	Date	Description		Amount
	0422-19	08/15/2019	August K-9 training		\$240.00
93621	08/30/2019			MARINE RESCUE PRODUCTS	\$331.95
	Invoice	Date	Description		Amount
	90715	06/19/2019	Rescue tubes (5)		\$331.95
93622	08/30/2019			MID COUNTY AUTO SUPPLY	\$386.87
	Invoice	Date	Description		Amount
	MID-444936	08/19/2019	2004 Ford F250 serpentine belt, alternator		\$199.47
	MID-445677	08/20/2019	2000 Ford F150 alternator, F250 belt		\$148.39
	MID-446021	08/20/2019	Return alternator		(\$174.25)
	MID-448318	08/21/2019	Toggle switches		\$11.45
	MID-448754	08/21/2019	Round fuse holder and cap		\$11.24
	MID-445176	08/19/2019	2006 Ford F250 alternator		\$190.57
93623	08/30/2019			MISSION LINEN SUPPLY	\$201.87
	Invoice	Date	Description		Amount
	510563858	08/21/2019	Fleet linen service		\$36.16
	510563859	08/21/2019	Corp. yard uniform service, towels		\$87.65
	510494402	08/12/2019	Community Center mop and mat service		\$78.06

Attachment: 8/30/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 30, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93624	08/30/2019			MOFFATT AND NICHOL	\$1,091.40
	Invoice	Date	Description		Amount
	744138	08/20/2019	Wharf design and reimbursables 1200 - Capital Improvement Fund		\$1,091.40
93625	08/30/2019			PACIFIC GAS & ELECTRIC	\$15,765.45
	Invoice	Date	Description		Amount
	PGE082019-acct9	08/20/2019	Monthly gas and electricity		\$14,833.77
	PGE081419-acct0	08/14/2019	Wharf Road Rispin Mansion utilities		\$10.63
	PGE081519-acct5	08/15/2019	Pacific Cove parking lot utilities		\$921.05
			1000 - General Fund	\$5,890.64	
			1300 - SLESF-Supl Law Enf	\$110.55	
			1310 - Gas Tax	\$7,069.25	
			1311 - Wharf	\$2,695.01	
93626	08/30/2019			PALACE BUSINESS SOLUTIONS	\$464.69
	Invoice	Date	Description		Amount
	545275-0	08/21/2019	Paper reams (4)		\$77.65
	544161-0	08/15/2019	Notebook, stenobook, paper		\$120.70
	545760-0	08/23/2019	Thermal pouch, envelopes, file storage boxes		\$215.00
	9630446-0	08/27/2019	Folders, utility box, colored pencils, binder, lanyards, postcard		\$46.02
	9628576-0	08/21/2019	Picture frame		\$5.32
			1000 - General Fund	\$387.04	
			2210 - ISF - Stores Fund	\$77.65	
93627	08/30/2019			PET PALS DISCOUNT PET SUPPLIES	\$291.48
	Invoice	Date	Description		Amount
	2155753	08/11/2019	K-9 supplies		\$291.48
93628	08/30/2019			PHOENIX GROUP INFORMATION SYSTEMS	\$4,727.15
	Invoice	Date	Description		Amount
	072019070	08/16/2019	July citation processing		\$4,727.15
93629	08/30/2019			PREFERRED BENEFIT INSURANCE ADMIN.	\$5,470.40
	Invoice	Date	Description		Amount
	EIA29322	08/01/2019	August dental and vision insurance 1001 - Payroll Payables		\$5,470.40
93630	08/30/2019			PROFORCE LAW ENFORCEMENT	\$378.00
	Invoice	Date	Description		Amount
	380541	06/28/2019	Taser 1300 - SLESF-Supl Law Enf		\$378.00

Attachment: 8/30/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 30, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93631	08/30/2019			RIO HONDO COLLEGE	\$228.00
	Invoice	Date	Description		Amount
	X19-77-ZCAP	07/19/2019	Supervisor training		\$228.00
93632	08/30/2019			SANTA CRUZ COUNTY ANIMAL SHELTER	\$27,734.80
	Invoice	Date	Description		Amount
	19/20-1CA	08/15/2019	Quarterly animal services contribution		\$27,734.80
93633	08/30/2019			SOFTWARE ONE INC	\$3,923.12
	Invoice	Date	Description		Amount
	US-PSI-824762	08/20/2019	Creative Cloud annual renewal 2211 - ISF - Info Tech		\$3,923.12
93634	08/30/2019			SOQUEL HEARING AID CENTER (THE LISTENING STA	\$125.34
	Invoice	Date	Description		Amount
	TLS081319	08/13/2019	525 radio adapter		\$125.34
93635	08/30/2019			SOQUEL NURSERY GROWERS INC.	\$77.26
	Invoice	Date	Description		Amount
	0000352167	08/19/2019	Esplanade plants		\$24.14
	0000352211	08/21/2019	Esplanade plants		\$53.12
93636	08/30/2019			SPRINT	\$2,702.47
	Invoice	Date	Description		Amount
	788070596-024	08/02/2019	July cell phone charges		\$2,702.47
93637	08/30/2019			STAPLES ADVANTAGE	\$288.76
	Invoice	Date	Description		Amount
	8055333695	08/10/2019	Cups, plates, napkins, forks, spoons, paper towels, return pens		\$143.24
	8055250351	08/03/2019	Pens, napkins, plates, hot cups		\$145.52
93638	08/30/2019			SUPERIOR PRESS	\$186.85
	Invoice	Date	Description		Amount
	4050450	08/27/2019	Payroll check stock		\$186.85
93639	08/30/2019			T MOBILE	\$256.59
	Invoice	Date	Description		Amount
	2019-7	07/21/2019	July cell phone usage		\$256.59
93640	08/30/2019			UBTECH ROBOTICS CORP.	\$2,339.94
	Invoice	Date	Description		Amount
	20181126075	08/23/2019	Robotic kits (6)		\$2,339.94

Attachment: 8/30/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 30, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
93641	08/30/2019			VERIZON WIRELESS	\$964.32
	Invoice	Date	Description		Amount
	9835827399	08/10/2019	August telephone charges		\$964.32
93642	08/30/2019			WATCHGUARD VIDEO	\$7,137.40
	Invoice	Date	Description		Amount
	ACCINV0021329	08/09/2019	Vehicle trigger kit, radio base, switch		\$882.90
	BCMINV0007960	07/19/2019	Body cameras (5), device license keys, freight 1300 - SLESF-Supl Law Enf		\$6,254.50
93643	08/30/2019			Jian Zhang	\$96.00
	Invoice	Date	Description		Amount
	222126744	08/15/2019	Citation refund		\$96.00
Type Check Totals:					\$117,276.53
<u>EFT</u>					
822	08/28/2019			CalPERS Fiscal Services Division	\$1,400.00
	Invoice	Date	Description		Amount
	100000015779312	08/28/2019	GASB 68 reports		\$1,400.00
823	08/26/2019			DISCOVERY BENEFITS	\$135.00
	Invoice	Date	Description		Amount
	0001042428-IN	07/31/2019	July COBRA & FSA admin. fees		\$135.00
824	08/28/2019			SUPERIOR PRESS	\$447.06
	Invoice	Date	Description		Amount
	4050219	08/26/2019	AP check stock		\$447.06
Type EFT Totals:					\$1,982.06
Library - Library					
<u>Check</u>					
148	08/30/2019			INTERWEST CONSULTING GROUP INC.	\$400.00
	Invoice	Date	Description		Amount
	52305	08/21/2019	August library plans examination		\$175.00
	52304	08/21/2019	August library plans examination		\$225.00
			1360 - Library Fund		
Type Check Totals:					\$400.00

Attachment: 8/30/19 City Check Register (Approval of City Check Registers)

City Checks Issued August 30, 2019

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
CITY - Main City Totals				Count	Total
Checks				55	\$117,276.53
EFTs				3	\$1,982.06
All				58	\$119,258.59
Library - Library Totals					
Checks				1	\$400.00
EFTs				0	\$0.00
All				1	\$400.00
WELLS - Payroll Totals					
Checks				4	\$3,091.33
EFTs				91	\$166,340.98
All				95	\$169,432.31
Grand Totals:					
Checks				60	\$120,767.86
EFTs				94	\$168,323.04
All				154	\$289,090.90

Attachment: 8/30/19 City Check Register (Approval of City Check Registers)



CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 26, 2019

FROM: City Manager Department

SUBJECT: Adopt an Ordinance Amending Capitola Municipal Code Section 2.04.275

RECOMMENDED ACTION: Approve the second 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/DISCUSSION: 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. City Council Member salaries are established by ordinance and were initially set at \$75 per month in 1966. Salaries were subsequently increased to \$150 per month in 1977, \$300 per month in 1991, and \$500 per month in 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. The maximum adjusted salary permitted by law in December 2020 is \$989.97 per month.

At the FAC meeting on May 22, 2019, the committee reviewed compensation history and compared the current salary to 11 other cities within Santa Cruz, Monterey, and San Benito counties. These cities are also 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. The FAC unanimously approved recommending an increase of 20 percent to \$600 per month.

At its September 12 regular meeting, the City Council held a public hearing on the recommended compensation increase and unanimously passed the first reading of the proposed ordinance.

FISCAL IMPACT: Increasing Council Member salaries to \$600 per month will first impact 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.

City Council Compensation
September 26, 2019

Report Prepared By: Linda Fridy
City Clerk

Reviewed and Forwarded by:



Jamie Goldstein, City Manager

9/18/2019

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 26, 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 26th day of September, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

APPROVED:

Jacques Bertrand, Mayor

ATTEST:

Linda Fridy, City Clerk



CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 26, 2019

FROM: City Manager Department

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

RECOMMENDED ACTION: Approve the second reading.

BACKGROUND/DISCUSSION: The City anticipates entering into 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.

The City Council held a public hearing to discuss the proposed ordinance on September 12, 2019, and made a slight amendment in the language for 18.04.010(A)(2) from low-income to income-restricted housing developments. It then unanimously approved the first reading.

FISCAL IMPACT: None.

Report Prepared By: Linda Fridy
City Clerk

Reviewed and Forwarded by:

Jamie Goldstein, City Manager

9/18/2019

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

Development Agreement Ordinance
September 26, 2019

- 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 projects, such as multi-phase developments, income-restricted 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,

Development Agreement Ordinance
September 26, 2019

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.

Development Agreement Ordinance
September 26, 2019

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.

Development Agreement Ordinance
September 26, 2019

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.

Development Agreement Ordinance
September 26, 2019

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.

Development Agreement Ordinance
September 26, 2019

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.

Development Agreement Ordinance
September 26, 2019

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 26th day of September, 2019, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:



CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 26, 2019

FROM: City Manager Department

SUBJECT: Consider a Report Regarding Residency Requirements for Planning Commission and City Advisory Board Membership

RECOMMENDED ACTION: Receive report and provide direction regarding residency requirements for Planning Commission and City advisory bodies.

BACKGROUND: In 1951, Capitola established a Planning Commission and over time the City created, amended, and dissolved a number of other advisory bodies. In 1999, the then-City Attorney wrote a memo stating that the Capitola Municipal Code does not include a residency requirement for members of the Planning Commission based on the 2.12 Planning Commission code section. (Attachment 1).

In 2000, the City Council adopted Ordinance No. 823, which repealed language requiring residency for “boards and commissions” memberships, prohibited City staff from serving on committees, and set forth general duties for all advisory board members (formerly Sections 2.04.030, 2.04.040, and 2.04.050 of the Capitola Municipal Code). (Attachments 2 and 3.) The reasoning behind the repeal is not contained in the record.

The November 29, 2000, meeting minutes for the hearing where the ordinance was introduced included a request for the City Attorney to return with an ordinance or resolution requiring residency for the Planning Commission and Finance Advisory Commission (FAC). (Attachment 4.)

In 2001, Section 2.40 of the Capitola Municipal Code was again revised with Ordinance No. 830 to allow advisory bodies to be formed by ordinance, resolution, or minutes action, but residency was not addressed (Attachment 5). A residency requirement was eventually added to the FAC by resolution in 2009. The FAC is currently the only advisory body with a residency requirement for some members. The record is not clear about why Planning Commission residency is not addressed in Ordinance 830, or if it was discussed and ultimately not included in the adopted Ordinance.

In Fall 2018, the City Clerk’s Office issued notices recruiting for advisory bodies including the Planning Commission and received an application for the Planning Commission from a non-City-resident who works in the City as a design professional. Staff researched the requirements for membership and confirmed that a nonresident could be appointed. The applicant’s residency outside the City was listed on the application included in the December 13, 2018, agenda packet. That applicant was appointed to the Planning Commission on December 13.

In August 2019, another Planning Commissioner questioned the appointment of a nonresident

Commission Residency Report
September 26, 2019

to the Commission. City Council has received public communication since then, with some emails supporting residency requirements for all advisory bodies and others focusing on residency requirements for the Planning Commission (Attachment 6). At the August 22 meeting, Council Member Sam Storey requested that a report on the history and best practices be presented to Council.

DISCUSSION: Over the years, the City Council has appointed numerous members of the greater community to serve on various City boards and commissions. Following is a summary of current advisory body membership and recent recruitment efforts.

- Art and Cultural Commission: This commission currently has one nonresident. Recent artist and at-large member recruitments have remained open for several months.
- Commission on the Environment: One current Council appointee is a nonresident but is a local business owner. That recruitment had to be continued as there were not enough applicants by the deadline.
- Finance Advisory Commission: Residency has been required for Council appointees since 2009. The recent recruitment was extended since there were not enough applicants to fill the resident seats when Council made its appointments. The Commission includes one seat for a Capitola business person, who does not have to reside in the City.
- Architectural and Site Committee: None of the required professional members are City residents.
- Historical Museum Board: Of the seven trustees, four are non-residents and a fifth lists two addresses, one local and one not. The recent recruitment had to be extended to fill openings.
- Planning Commission: There is currently one Planning Commissioner who resides in Pleasure Point and works in the City. In 2016, Council members accepted additional applications after the deadline to broaden the applicant pool.

Additionally, during discussion of youth membership on advisory bodies in 2017, the Council opted to allow youth from nearby high schools and throughout the Soquel Union Elementary School District area to serve, rather than limit those positions to City residents.

Capitola is a relatively small city and has a history of extending recruitments to get a sufficient applicant pool. At times, the lack of a full board has made it more difficult to establish a quorum and led to canceled meeting in some cases.

Planning Commission Appointments: State Government Code 65100 authorizes cities to create a planning commission with at least five members. However, the code also allows that function to be filled by the city council or the staff planning department and does not require residency. Based on 34 survey responses, most cities appear to have a Planning Commission residency requirement. Two cities that responded, Los Altos Hills and Ojai, do not have a residency requirement.

Cities do not take a uniform approach to Planning Commission membership and appointments. Some cities require residency or for applicants to be registered voters. Some, such as Chula Vista, specifically seek a background in architecture or planning from at least a portion of the members. Others, such as Emeryville, require Planning Commissioners to either live or work in the city. Additionally, more cities make full council appointments or approve the mayors'

Commission Residency Report
September 26, 2019

nominees rather than having individual council members directly appoint a planning commissioner. Capitola used a Mayor-nomination/Council approval process to select Planning Commission members until 1978.

While understanding what other cities do is informative, the key question for City Council is what is the best process for Capitola, and what are the goals and benefits of a residency requirement versus other approaches.

Along with attracting applicants with appropriate backgrounds or interests, city clerks are encouraged at professional trainings to ensure their cities recruit applicants that reflect the diversity of the local population. Ideally, all advisory bodies would include members of varying ages, genders, and cultures. Under Capitola's approach of individually appointed Planning Commission members, that responsibility falls to each Council Member.

Factors for consideration:

- 32 of the 34 cities who responded to the surveys have a residency requirement for Planning Commission. In at least one case, a city that has a residency requirement may waive it if applicants work in the City. Cities may also require some members to hold certain professional certifications.
- If Council directs staff to change residency requirements, staff recommends that change take effect upon the end of existing terms, following the 2020 elections.
- A blanket residency requirement for all Capitola advisory boards and commissions would result in the disqualification of a number of current, active volunteers and likely lead to increased recruitment challenges.

FISCAL IMPACT: None.

ATTACHMENTS:

1. City Attorney letter PC residency
2. Ordinance 823 (2000)
3. Ordinance 375 excerpt (1974)
4. 11-29-2000 minutes excerpt
5. Ordinance 830 (2001)
6. Public comment

Report Prepared By: Linda Fridy
City Clerk

Reviewed and Forwarded by:



Jamie Goldstein, City Manager

9/18/2019

CITY OF CAPITOLA

*Office of the
CITY ATTORNEY*

=====

MEMO TO: *Pam Greeninger, City Clerk*

FROM: *Richard Manning, City Attorney*

DATE: *September 1, 1999*

SUBJECT: *PLANNING COMMISSIONERS*

I have been asked whether there are any residency requirements for Planning Commissioners in the City of Capitola. The answer is “no”.

State law, Government Code Section 65102 specifically, vests complete authority in the City Council to establish the qualifications for planning commissioners. It says, “*A legislative body may establish for its planning agency any rules, procedures, or standards which do not conflict with state or federal laws.*”

The pertinent Capitola Municipal Code provisions are found in Chapter 2.12 (copy attached). There are no residency requirements therein, so none exist.

RMM/pam

cc: Council Member Bruce Arthur
Kathleen Molloy/Eric Marlatt

Attachment: City Attorney letter PC residency (Commission Residency Report)

ORDINANCE NO. 823

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAPITOLA
REPEALING MUNICIPAL CODE SECTIONS 2.04.030, 2.04.040, AND
2.04.050 REGARDING BOARDS AND COMMISSIONS**

THE CITY COUNCIL OF THE CITY OF CAPITOLA HEREBY ORDAINS AS
FOLLOWS:

Municipal Code Sections 2.04.030, 2.04.040, and 2.04.050 are repealed in their entirety.

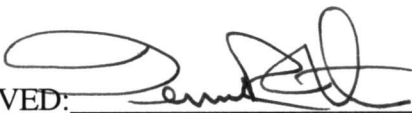
This ordinance was introduced on the 29th day of November, 2000, and passed and adopted
on the 14th day of December, 2000, by the following vote:

AYES: Council Members Ortiz, Gualtieri, Harlan, Arthur and Mayor Norton


NOES: None

ABSENT: None

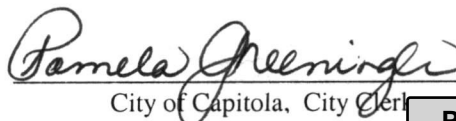
ABSTAIN: None

APPROVED: 
Dennis R. Norton, Mayor

ATTEST:


Pamela Greeninger, City Clerk CMC/AAE

This is to certify that the above and foregoing is
is the original document: Ordinance No. 823 and
that it has been published or posted pursuant to
law. (California Government Code § 40806)


City of Capitola, City Clerk

643 A

ORDINANCE NO. 375

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAPITOLA ADOPTING A PLAN FOR ADMINISTRATIVE ORGANIZATION

WHEREAS, the City Council of the City of Capitola is desirous of promoting the orderly business of the City of Capitola;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CAPITOLA DOES ORDAIN that the following Administrative Organization is hereby adopted by and is binding upon the City of Capitola:

ADMINISTRATIVE ORGANIZATION

The governmental forces of the city shall be organized into the following departmental and official categories and the head of each department or office shall be known by his respective title as shown:

Legislative

DEPARTMENT OR OFFICE	TITLE
City Council	Mayor

Administrative

Office of the City Manager	City Manager
Office of City Clerk	City Clerk
Office of City Attorney	City Attorney
Office of City Treasure	City Treasurer

Public Works and Utilities

Department of Public Works	Director of Public Works
----------------------------	--------------------------

Public Safety

Department of Police	Chief of Police
Department of Fire	Capitola Fire Protection District
Department of Health	Santa Cruz County Department of Public Health

Attachment: Ordinance 375 excerpt (1974) (Commission Residency Report)

643 B

Powers and Duties of Department Heads

The heads of the various departments established by this ordinance shall have the following general powers, duties and responsibilities:

(a) To organize the department into the divisions established by this chapter in such a manner as to efficiently perform the functional responsibilities allocated. For this purpose, the department head may create such sections and sub-units within such division as deemed necessary.

(b) To make recommendations regarding recruiting, disciplining and discharging of departmental personnel in accordance with the personnel rules and regulations of the city.

(c) To transfer or reallocate personnel from one division to another in accordance with their respective needs, and best usage of available manpower.

(d) To keep correct attendance records on each employee for payroll purposes, and to submit such other information as required for the proper maintenance of individual personnel records, including leaves of absence, job efficiency and personal conduct.

(e) To administer the departmental budget and permit no purchase requisitions to be issued, or other expense incurred, unless an appropriation therefor has been duly authorized.

(f) Department heads shall attend meetings of the council when required.

(g) Department heads shall attend meetings of their respective boards and commissions, and represent the city manager thereon in case of his absence. They shall serve as secretary and keep records of such commissions when so requested.

(h) Department heads shall carry on an active public relations program for their respective services, including the publication of educational reports and brochures, the promotion of authorized objectives, and the making of public addresses when the occasion so requires.

(i) Department heads shall promulgate and administer internal rules and regulations for the proper conduct of personnel and the efficient handling of the department's duties and functions.

(j) They shall discharge such other duties as may be assigned by the city manager or required by the ordinances, resolutions or official orders of the city council.

Boards and Commissions --- Establishment

The following boards and commissions are hereby established:

Name	Members
Planning Commission	5

Repealed

REPEALED

BY ORDINANCE NO. 823

DATED December 14, 2000

Pamela Greening
CITY CLERK

2.

Attachment: Ordinance 375 excerpt (1974) (Commission Residency Report)

BY ORDINANCE NO. 823

DATED December 14, 2000

Pamela Jennings
CITY CLERK

Qualifications and Terms of Members

~~All members of boards and commissions shall be a resident of the City of Capitola. No person shall be appointed to a board or commission who holds any salaried job or employment with the City of Capitola.~~

Powers and Duties of Members

The boards and commissions shall have the following general powers, duties and responsibilities:

- (a) To utilize all appropriate techniques in crystallizing and testing public sentiment on major public issues in their respective fields.
- (b) To hold official hearings as requested by the city council.
- (c) To advise and recommend on city policies and procedures pertinent to their respective activities and functions.
- (d) To support and adhere to all city policies promulgated by the council, and to establish interim policies in the absence of such city policies.
- (e) To provide information and promote good public relations between the city and the general public.
- (f) To perform such other related functions as may be assigned by the city council.

May Utilize Services of City Personnel

The various boards and commissions may utilize the services of the appropriate city departmental personnel in carrying out their respective functions subject to the administrative control of the city manager.

City Policies

- (a) The policies of the city shall be adopted by resolution or formal motions of the city council upon the advice and recommendation of the city manager.
- (b) In the absence of council policy, the city manager may establish an interim policy pending the formal action of the city council on the subject.

Bond --- Officers to be Bonded; Amount

The following officials of the city shall be bonded with a statutory public official's bond, which shall include faithful performance provisions or conditions in the following amounts:

Title of Official	Amount of Bond
City Clerk	\$50,000.00
City Treasurer	\$50,000.00

Attachment: Ordinance 375 excerpt (1974) (Commission Residency Report)

643 P

ERASABLE
BOND
RAG CONTENT

- (1) ANIMAL REGULATION. Enforce the city ordinance pertaining to animal regulation and control;
- (2) STRAY ANIMALS. Impound stray animals;
- (3) DEAD AND INJURED ANIMALS. Remove and dispose of dead and injured animals from streets or public places.

I HEREBY CERTIFY that the foregoing ordinance was passed and adopted by the City Council of the City of Capitola at its regular meeting held on the 13th day of May, 1974, by the following vote:

AYES: Councilmen Dixon, Graves, Mason, Routh and Mayor Nelson.
 NOES: None.
 ABSENT: None.

Bill Nelson
 Mayor

ATTEST: *Naama L. Nelson*
 City Clerk

Stuart's
 ERASABLE
 BOND
 RAG CONTENT

8952

November 29, 2000
 Capitola, California

CAPITOLA CITY COUNCIL

MINUTES OF AN ADJOURNED REGULAR MEETING

ANNOUNCEMENT REGARDING NATURE OF CLOSED SESSION

At 5:00 p.m. in the foyer to the Council Chambers, City Attorney Manning announced the nature of Closed Session regarding Public Appointment of City Manager to commence immediately in the City Manager's Office.

CLOSED SESSION – 5:00 P.M.

PUBLIC APPOINTMENT

TITLE: CITY MANAGER

7:00 P.M. – REGULAR SESSION

Mayor Arthur called the Adjourned Regular Meeting of the Capitola City Council to order at 7:05 p.m. in the City Hall Council Chambers, 420 Capitola Avenue, Capitola, California.

ROLL CALL & PLEDGE OF ALLEGIANCE

PRESENT: Council Members Gayle Ortiz, Tony Gualtieri, Stephanie Harlan, Dennis Norton and Mayor Bruce Arthur

ABSENT: None

STAFF: City Attorney Richard Manning, Deputy City Clerk Patricia Evans

1. ORAL/COUNCIL COMMUNICATIONS

A. City Attorney Manning requested the Council consider Other Business prior to the Public Hearing so that the Deputy City Clerk could record the actions and leave. The Public Hearing is to be recorded by a Court Reporter hired for that purpose. The Council agreed.

B. Council Member Harlan reported on information she had received from AMBAG and stated she would distribute it to the rest of the City Council.

2. REPORT ON CLOSED SESSION [525-20]

City Attorney Manning reported that Council had met with the consultant, Bob Murray, with regard to the City Manager recruitment. Mr. Murray received direction from the Council with respect to future procedures in the City Manager selection process.

Items 4. B. and 4. A. were considered at this time and in that order.

4. OTHER BUSINESS

B. **Discussion of Changes to Municipal Code Section 2.04, Administration.**
 City Attorney Manning gave the staff report on this item.

After a brief discussion the following action was taken:

Attachment: 11-29-2000 minutes excerpt (Commission Residency Report)

8953

CAPITOLA CITY COUNCIL – NOVEMBER 29, 2000

4. OTHER BUSINESS (Continued)

ACTION: Council Member Gualtieri moved, seconded by Council Member Ortiz, to pass the proposed Ordinance Repealing Municipal Code Sections 2.04.030, 20.04.040, and 2.04.050 Regarding Boards and Commissions to a second reading; and gave direction to City Attorney to bring back ordinances and/or resolutions that would create residency requirements for both the Planning Commission and the Finance Advisory Committee, stating that if residency ends, a new appointment must be made. The motion carried on the following vote: AYES: Council Members Ortiz, Gualtieri, Harlan, Norton and Mayor Arthur. NOES: None. ABSENT: None. ABSTAIN: None.

4. OTHER BUSINESS

A. Appointments to Community Interview Panel for City Manager Candidate Interviews.

Council discussion was followed by this action:

ACTION: The following appointments were made to the City Manager Community Interview Panel: Mayor Arthur appointed Wayne Fontes; Council Member Gualtieri appointed Doug Piggott; Council Member Harlan appointed Mary Bryant; Council Member Norton appointed Papken Der Torossian (with alternate Bruce Daniels); and Council Member Ortiz appointed Ron Burke. Mayor Arthur, on behalf of the Finance Committee, appointed Al Carlson as the Finance Advisory Committee representative. The Council asked the Mayor to contact the Planning Commission and the Chamber of Commerce and to make those appointments for them.

[NOTE: Deputy City Clerk Pat Evans left the meeting at this time.]

3. PUBLIC HEARINGS

A. Public Hearing Regarding Castle Mobile Home Estates Fair Rate of Return Rent Increase Application. [750-25] Presentation: City Attorney.

At 7:27 p.m. Mayor Arthur clarified that the public portion of the hearing on this item has been closed and that the Council will conduct its deliberations at this time. City Attorney Manning summarized matters to date and responded to questions of council members.

Considerable Council discussion was followed by this action:

ACTION: Direction was provided to the City Attorney regarding the contents of draft findings and decision to be brought back for Council consideration.

[NOTE: A complete copy of the Court Reporter's Transcript (entitled "City of Capitola Public Hearing Re: Fair Rate of Return Application Castle Mobile Home Estate Park" dated November 29, 2000) is available in the Office of the City Clerk.]

The Council adjourned at 8:37 p.m. to a continued Closed Session. City Attorney Manning announced the items to be discussed in Closed Session, with the Closed Session commencing immediately in the Council Chambers.

ORDINANCE NO. 830

**ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF CAPITOLA AMENDING CHAPTER 2.04 OF THE
CAPITOLA MUNICIPAL CODE REGARDING
CITY'S DEPARTMENTS ORGANIZATION**

THE CITY COUNCIL OF THE CITY OF CAPITOLA HEREBY ORDAINS AS FOLLOWS:

Section 1. Sections 2.04.010, 2.04.020, 2.04.030, 2.04.080, 2.04.110, 2.04.140, 2.04.180, 2.04.190, 2.04.240, 2.04.280, 2.04.310, and 2.04.600 of the Municipal Code shall be amended or added to read as follows:

I. ORGANIZATION

2.04.010. Categories. The governmental forces of the city shall be organized into the following categories.

A. Elective. The elective offices of the City of Capitola are: the City Council members and City Treasurer.

B. Such city boards and commissions as are established by City Council ordinance or resolution. Such boards and commissions shall have the powers and duties expressly set forth in the enabling ordinance or resolution and shall also advise the City Council on matters related to the explicit function of the board or commission.

C. City Manager and city departments. Capitola shall be administered as a City Manager form of government. It shall have such administrative departments as are set forth in this chapter and as are hereafter created by ordinance or resolution. Unless a power or duty is explicitly vested in an identified city employee, all city employees are expected to function in accordance with the instruction of their department heads, and department heads are expected to function in accordance with the instructions they receive from the City Manager.

2.04.020 Powers and duties of department heads. The heads of the various departments established by this chapter shall have the following general powers, duties and responsibilities:

A. To organize the department into the divisions established by this chapter in such a manner as to efficiently perform the functional responsibilities allocated. For this purpose, the department head may create such sections and subunits within such division as deemed necessary;

B. To make recommendations regarding recruiting, disciplining and discharging of departmental personnel in accordance with any personnel rules and regulations of the city;

C. To efficiently utilize available manpower;

D. To keep correct attendance records on each employee for payroll purposes, and to submit such other information as required for the proper maintenance of individual personnel records, including leaves of absence, job efficiency and personal conduct;

E. To administer the departmental budget and permit no purchase requisitions to be issued, or other expense incurred, unless an appropriations therefor has been duly authorized;

F. Department heads shall attend meetings of the council when required;

G. Department heads shall attend meetings of their respective boards and commissions. They shall serve as secretary and keep records of such commissions when so requested;

H. Department heads shall carry on an active public relations program for their respective services, including the publication of educational reports and brochures, the promotion of authorized objectives, and the making of public addresses when the occasion so requires;

I. Department heads shall recommend and administer internal rules and regulations for the proper conduct of personnel and the efficient handling of the department's duties and functions;

J. They shall discharge such other duties as may be assigned by the city manager or required by the ordinances, resolutions or official orders of the city council.

II. CITY BOARDS AND COMMISSIONS POLICIES

2.04.030 The Council may establish appropriate boards, commissions, and committees by ordinance, resolution, or minute order.

2.04.040 [Reserved]

III. BONDS

2.04.080 Officers. The following officials of the city shall be bonded with a statutory public official's bond, which shall include faithful performance provisions or conditions, in the following amounts:

<u>Title of Official</u>	<u>Amount of Bond</u>
Director of Finance	\$50,000
City treasurer	\$50,000

IV. CITY COUNCIL

2.04.110 Regular meetings. A. Time. Regular meetings of the city council shall be held on the second and fourth Thursday of each month at seven (7:00) p.m. Whenever the day fixed for any such meeting of the council falls upon a day designated by law as a legal or national holiday, such meeting shall be held at the same hour on the next succeeding day not a holiday. Other regular meetings may be in accordance with Government Code Sections 54954 and 54955.

Attachment: Ordinance 830 (2001) (Commission Residency Report)

B. Place. All meetings of the council shall be convened in the council chambers in the city hall, 420 Capitola Avenue, Capitola, California. If, by reason of fire, flood, earthquake or other emergency, it is unsafe to meet in the place designated, the meetings may be held for the duration of the emergency at such place as is designated by the presiding officer of the council.

C. Public. Meetings of the council shall be open as required by the Brown Act (Government Code Sections 54950, et. seq.), or other applicable law.

2.04.120 Special meetings. Special meetings of the city council shall be held under the conditions and in the manner set forth in the Brown Act.

2.04.140 Agenda. The following have authority to place a matter on the council agenda:

A. The Mayor

B. The City Manager

C. The City Council may, after the 72-hour agenda-posting deadline has expired, add items to the agenda in the manner provided in Government Code Section 54954.2(b). A majority of a quorum of the City Council may order that any designated matter be on any future agenda.

D. The chair of any board or commission, provided the subject is reasonably related to the powers and duties of the body and concerns a matter upon which the Council has authority to act.

E. The City Treasurer, City Clerk, or City Attorney, provided the subject is reasonably related to their powers and duties and concerns a subject upon which the Council has authority to act.

Other persons must direct their agenda requests to the City Council (at Council meetings), the Mayor, or the City Manager. Agendas shall otherwise be prepared under the direction of the City Manager and shall be posted, noticed and distributed in accordance with the Brown Act. For purposes of Government Code Section 54954.2(a), agendas shall be posted in the entrance area to the City Council Chambers.

2.04.180 Quorum/Action. A majority of the entire membership of the council shall constitute a quorum to do business. A majority of that quorum may act on matters before the Council, unless a city ordinance or state law requires a greater number. When less than the full Council is present and there is a tie vote, the chair, unless overridden by a majority of present Council members, may continue the matter to another meeting. When there is a tie Council vote on an appeal from a board or commission action, unless the matter is continued, the appeal will be deemed denied and the board or commission action becomes final.

2.04.190 Order of business. The chair, subject to the concurrence of the council, may vary the sequence of business from that shown on the posted agenda.

2.04.240 Addressing council--Manner. Each person addressing the council shall be requested to give his or her name and address in an audible tone of voice for the records. All remarks shall be addressed to the council as a body and not to any member thereof. No person, other than the council and person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the council, without permission of the presiding officer. No question shall be asked a councilman or staff member, except through the presiding officer.

2.04.260 Adjournment--time and date continued. The council may adjourn any regular, adjourned or special meeting to a time and place specified in the order for adjournment. Whenever an order for adjournment fails to state the hour at which the adjourned meeting is to be held, it shall be at seven p.m. on the day specified in the order for adjournment. All matters may be considered and passed upon at such adjourned meetings as could have been considered and passed upon at the meetings from which such adjournments were taken and shall be deemed to be a continuation of the meeting from which the adjournment was taken.

2.04.280 Administrative procedures. A. The administrative procedures of the city shall be established through formal documents approved by the City Manager.

B. In the absence of established administrative procedures, the appropriate department head may establish an interim procedure pending the formal action of the city manager on the subject provided that the procedure has been submitted to the City Manager's office for later review.

C. In cases of conflict between such administrative procedure and: state law, federal law, Council resolution, Council ordinance, or Council policy adopted pursuant to Section 2.04.070, the latter shall supersede the administrative procedure.

VI. CITY CLERK

2.04.310 Office created. The office of city clerk is established pursuant to Government Code Sections 40800 through 40814 subject to the modifications set forth in Section 2.04.600. This office shall be under the direct control of the city clerk as to statutory duties but subject to the general administrative direction of the city manager.

X. DIRECTOR OF FINANCE

2.04.600 Powers and duties. The powers and duties of the Director of Finance are as follows:

A. With respect to the City's accounting and necessarily related matters, the Director of Finance shall act within the official and professional rules of his or her profession and may not be directed to act contrary to those rules.

B. The Director of Finance prepares, or supervises preparation of, the City and Redevelopment Agency's annual financial report(s); oversees annual independent audits; and interfaces with independent auditor(s).

C. The Director of Finance conducts, directs and/or oversees all investigative and corrective accounting projects.

D. As requested by them, the Director of Finance advises and consults with the City Treasurer and Redevelopment Agency Treasurer on accounting and financial matters relative to their offices. The Director of Finance is not staff to either the City Treasurer or the Redevelopment Agency Treasurer, but works closely with and assists both officers.

E. "Finance" and "financial" primarily refers to accounting, reporting and information management aspects of City/Agency fiscal activities and procedures related to those activities. It does not include providing advice as to the social desirability of any proposed expenditure over another.

F. Pursuant to Government Code Section 37209, the Director of Finance shall have the powers and duties otherwise vested in the City Clerk under Government Code Sections 37203, 37205, 37207, 37208, 40802 and 40804.

Section 2. Sections 2.04.400, 2.04.410, 2.04.420, 2.04.430, 2.04.440, 2.04.470, 2.04.480, 2.04.490, 2.04.500, 2.04.510, 2.04.520, and 2.04.530 of the Municipal Code shall be repealed in their entirety.

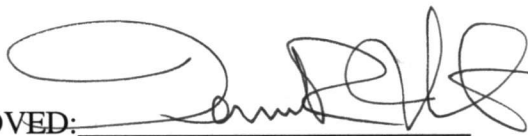
This ordinance was introduced on the 12th day of July, 2001, and passed and adopted by the City Council of the City of Capitola on the 26th day of July, 2001 by the following vote:

AYES: Council Members Ortiz, Arthur and Mayor Norton


NOES: None

ABSENT: Council Members Gualtieri and Harlan

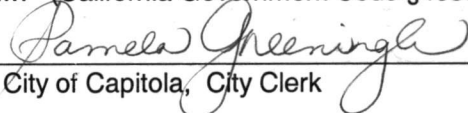
ABSTAIN: None

APPROVED: 
Dennis R. Norton, Mayor

ATTEST:

 CMC
Pamela Greeninger, City Clerk

This is to certify that the above and foregoing is the original document: Ordinance No. 830, and that it has been published or posted pursuant to law. (California Government Code §40806)


City of Capitola, City Clerk

Attachment: Ordinance 830 (2001) (Commission Residency Report)

To: Capitola City Council
From: 2000 City Council
Re: Appointments to Planning Commission
Sept. 3, 2019

Dear Council,

It has come to our attention that the records indicate that our council voted to cease residency requirement for Planning Commissioners.

We recall the discussion where we decided to allow applicants from outside the city to apply for lesser boards and commissions but to disallow those for the Planning Commission and Finance Committee.

It is obvious that we did not look closely enough at the draft ordinance regarding this matter and passed it in error.

We would respectfully ask that you draft a new ordinance requiring that all Planning Commissioner reside in Capitola. The council should decide whether to make this change now or after the next election.

We hope you agree.

Our sincere thanks for your service,

Bruce Arthur, Gayle Ortiz, Tony Gualtieri, Stephanie Harlan and Dennis Norton

pacpubs@attglobal.net
 Planning Commission Residency Requirement Reinstatement

From Lynne Ann Dispellers
 11 September 2019

Subject: Composition of Planning Commission (PC) limited to Capitola Residents

At the last council meeting, residency requirements for the Planning Commission were brought to my attention by Stephanie Harlan. After listening to statements that all members seated met requirements in our city ordinances, I asked Linda Friday to research how that might have come to be.

Since that time, it is clear that there was a snafu in the council/staff procedures to retain residency requirements. I believe that you now have the relevant materials to determine what happened and to reinstate the residency requirements on the PC.

I urge you to support Councilwoman Brooks in finding a suitable resident to replace her original selection of a PC member who does not live in Capitola. This replacement should occur as soon as possible.

With such large development projects (The Mall and the Village Hotel) in the work of the PC at present, I believe that decisions need to be made by members from our community.

Sincerely, Lynne

Lynne Ann DeSpelder
 post office box 1150
 Capitola, California 95010 USA
 831-476-8284 [PDT]
 pacpubs@attglobal.net
 Last Dance 10e Website

JOAN STEELE danjobry@aol.com
 Planning commissioners not living in Capitola

Dear Capitola City Council,

Please do not allow anyone who does not live in Capitola to serve on the planning commission. This is OUR precious town and only Capitola residents should be making any decisions for our community.

Thank you,
 Joan Steele
 Capitola property owner and resident.

Attachment: Public comment (Commission Residency Report)

Marilee Werfhorst marileewhite1@aol.com
Residents on planning commission

Only Capitola residents please

Sandra Russell sandrakayrussell@icloud.com
Planning commissioners

Yes, all should be capitola residents. Correct the glitch legally.

Patricia Alvarez pcat1828@gmail.com
Planning Commission

Hello,
I am a Capitola resident and believe that only residents should be allowed to serve on the Planning Commission.
Thanks,
Pat Alvarez

Dale Benedix <reachdale7@yahoo.com>
Planning Commission

Could you comment about someone's assertion that non residents may serve on the planning commission?

If this is the case, it needs to be rectified immediately. Grandfather in any current nonresident members to serve the remainder of their term, but Capitola needs local interests only.

Thank you,
Dale Benedix
Capitola.

Linda Daly ldaly0801@gmail.com
Capitola

Only residents of Capitola should decide the future of Capitola our beautiful little town by the sea, not someone from Fresno! This little error needs to be corrected!

Best regards,
Linda Daly

Anthony Rovai ARovai@moneyconcepts.com

Please require Planning Commissioners to be residents of Capitola.

Dear Council Members,

Please require Planning Commissioners to be residents of Capitola. I would also suggest they are property owners for at least 5 years.

This a very special place to live and has a great culture, I would hate to see big city influences change the character of our city.

Thanks!

Anthony J. Rovai | Senior Associate

o: 831.475.3442 direct: 831.475.3442

w: moneyconcepts.com/arovai

a: 1715 42nd Ave., Suite C | Capitola, CA 95010

e: arovai@moneyconcepts.com

Robin Hubert robins4dogs@gmail.com

change the law

Dear City Council - I want to throw my hat in the ring and say it's time to change the law/rule so that ONLY Capitola residents can serve on the planning commission. We need people who live here permanently year round and love this community to be the only ones to make decisions regarding it's development. What has been allowed to date is a tragedy. Thank you. Robin Hubert

Kyle Catterlin catterlinguitar@gmail.com

Vote no on non resident planning commission members

Please add my no vote to allow non residents to serve on the planning commision. (or any other city post for that matter)

Kyle Catterlin

4425 Clares St. #86

Capitola, CA 95010

Randall Leonard randallsc@cruzio.com

Planning Commission.

I live in the Opal Cliffs subdivision up against the City limits. But I do believe that people on the Planning Commission and other appointed positions should live (full time for real) in Capitola. Thank you, Randall Leonard

randallsc@cruzio.com

4155 Nova Drive

Santa Cruz, Ca 95062

chewaka9@gmail.com

To whom it may concern,

I have lived in Santa Cruz for over 30 years. I have seen it change for the worst sadly. It's now a little San Jose/LA rat race. Heart breaking for many of us, who believe money is not King. Some of us want to keep it small and kind here, like back in the day. Remember that?

Why are "non-residents" allowed to make decisions about how things are run, where things are going to be built ect.. due to an old error made? Please do tell. I say correct it. Locals are trying to hold on to the soul of our community. We don't want everything faster, bigger and more built up. In my youth, I grew up in Cambria Ca. That town will not let people just build and build, they don't have the resources. Mainly due to water issues. Not enough.

I have spoken with many, many long time locals whom feel deeply upset about how our town is changing. How money is moving in and eating at the heart of our town. Progress is what the transplants call it. Greed is another word, one might use. Think, act, be brave. Keep our town real please.

Randi O'brien tolagirl2@icloud.com

Residency

Please correct the error allowing non-residents to be members of the Capitola Board.

Randi O'Brien

Lynn Yocum lynnyocum@hotmail.com

Non-Capitola residents serving on the planning commission

I agree. Please correct this error. We shouldn't have to write an email asking to have this error corrected. It should have been corrected when it was discovered. Also, the appointee should have realized that a non-resident shouldn't be allowed to decide what Capitola residents can do with their property.

Patsy Ross patsy@christopherranch.com

Capitola Residency for City Council and Planning Commission

It has been brought to our attention that a current Planning Commission member is NOT a resident of Capitola. This is not right, how can someone who doesn't live on our special place really make decisions in the best interest of us?

Please remedy this as soon as possible.

Capitola Residency for City Council and Planning Commission

Sincerely,

Steve & Patsy Ross

218 El Camino Medio St.

Capitola, CA 95010

Molly Ording mollyording@yahoo.com
Planning Commissioner Position

Good Gorgeous Capitola Labor Day! (Thank you for ALLI you do to help keep our community beautiful and charming!)

Just a note to weigh in regarding the Planning Commission position, with the caveat that this is in NO way politically motivated or intended to be personal in any way...but when I heard about the Planning Commission member not being a resident, I immediately personally reflected on this question. After thinking about it I realized that I (as interested in Santa Cruz or others towns' local politics and planning as I am...) would not feel it appropriate for me to serve on a planning body without being a resident. Seems inappropriate for me, or anyone, to make decisions for communities without a history of residence and community involvement and awareness, a net work of friends and neighbors and a time in residence to learn and reflect on local issues. Actually seems kind of like a "no brainer" to me! Am sure this was an oversight and that the appointee and her Councilwoman would concur. Not a political issue at all...just a policy issue that needs to be amended or changed!

Thanks, as always, for your attention and time!

Cheers!

Molly Ording

Patricia Fox pitterfox@yahoo.com
planning commission

Please make all members of the planning commission be city residences.



CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 26, 2019

FROM: Public Works Department

SUBJECT: Receive a Presentation from the Monterey Regional Waste Management District to Begin Negotiations for a Long-Term Agreement for Disposal and Recycling Processing

RECOMMENDED ACTION: Direct staff to negotiate a new Waste Disposal Agreement with Monterey Regional Waste Management District for solid waste disposal and recycling processing and to reopen the Refuse, Recycling and Yard Waste Services Franchise Agreement with Green Waste Recovery, Inc., to account for the new disposal rates.

BACKGROUND: Solid waste collection, recycling, and disposal for the City is completed through two contracts. Since the 1990s, solid waste processing, and more recently yard and organic waste processing, is provided through a contract with Monterey Regional Waste Management District (Monterey Regional) located in Marina. The current agreement was entered into in 2010 (Attachment 1). Collection and recycling services are provided by GreenWaste Recovery, Inc. (GreenWaste) through a franchise agreement that was first approved in 2008 (Attachment 2). Both contracts ensure the city is in compliance with State requirements and regulations. Under the terms of both agreements, the disposal fees paid per ton of waste brought to the Monterey Regional landfill are paid by GreenWaste, which then collects from city residential and commercial customers based on rates approved annually by the City Council.

Pursuant to the terms in the agreement with Monterey Regional, the City received notice in 2017 that the existing agreement would be terminated in 2022 due to mandated changes in the way solid waste is processed. The changes require new technologies and processing in order to increase the amount of waste being diverted from the landfill. These changes were not anticipated in the original agreement. At the time of the notice, Monterey Regional informed City staff that it was the district's intention to continue to offer disposal services to the City, but under a new agreement. The notice is included as Attachment 3.

DISCUSSION: Monterey Regional was established to provide solid waste services for the greater Monterey Peninsula area including the cities of Carmel-by-the-Sea, Del Rey Oaks, Marina, Monterey, Pacific Grove, Sand City, Seaside, and the unincorporated areas of Big Sur, Carmel Highlands, Carmel Valley, Castroville, Corral De Tierra, Laguna Seca, Moss Landing, Pebble Beach, San Benancio, and Toro Park. The Board of Directors for Monterey Regional are made up of officials from these member jurisdictions who establish the rates paid for disposal and recycling through their facility.

Solid Waste Program Update
September 26, 2019

As part of the initial meetings with Monterey Regional about a potential new contract, the General Manager has indicated that the City of Capitola would be charged the same rates as member agencies under a new agreement. Currently the City pays lower disposal rates than Monterey Regional member agencies.

State regulations requiring increased diversion of organic waste (unused food materials) and a decline in the market of recycled products, especially plastic, has greatly impacted the operations of Monterey Regional and other landfills and require changes to the current agreement. In order to meet these new regulations, Monterey Regional will need to build new facilities and begin charging for recycling services.

Tim Flanagan, general manager of Monterey Regional, will provide an update on the solid waste business and regulations at the Council meeting.

As the rates at the landfill increase, the rates city customers pay will need to be adjusted accordingly. GreenWaste has performed an initial analysis of the impact of the projected rate increases at Monterey Regional. Residential rates, which include trash, recycling, and yard waste, are projected to increase by up to 15 percent. Staff anticipates that Capitola still will have the lowest residential trash, recycling, and yard waste rates in Santa Cruz County.

Commercial trash rates are also anticipated to increase by a similar amount. Due to changes in recycling markets and State organics diversion requirements, commercial trash rates will no longer include recycling and food waste (organics). Commercial customers will pay additional fees for mandatory recycling and commercial food waste disposal.

As part of the negotiating process with Monterey Regional, the City hopes that the increases in the rates can be implemented over the remaining two years of the existing agreement. As the negotiations with Monterey Regional are being finalized, it will be necessary for the City to then amend the franchise agreement with GreenWaste and negotiate rate changes for its services. At the same time, staff will look to extend the franchise agreement to coincide with the County of Santa Cruz's agreement with GreenWaste and also change the annual term of the agreement to a fiscal year instead of the calendar year.

City staff has been a participant on the Santa Cruz County Solid Waste Task Force, which has worked to identify organics and recycling solutions within the County. Unfortunately, there is no local option for organics processing in Santa Cruz County. Monterey Regional remains the most viable and affordable option for the City of Capitola.

FISCAL IMPACT: The cost of any increases in disposal and recycling fees resulting from a new agreement with Monterey Regional will be passed on to GreenWaste and ultimately paid by residents and businesses of the City. The City does mandate that all residents and businesses have garbage service.

ATTACHMENTS:

1. Monterey_Regional_Waste_Management_District_8-1-10
2. Green Waste Recovery Refuse_Recycling_Yard_Waste_Franchise_Agreement_4-24-08
3. Capitola_30-Day_Notice_Agmt_Termination817

Report Prepared By: Steve Jesberg
Public Works Director

Solid Waste Program Update
September 26, 2019

Reviewed and Forwarded by:



Jamie Goldstein, City Manager

9/19/2019

WASTE DISPOSAL AGREEMENT
BY AND BETWEEN THE MONTEREY REGIONAL WASTE
MANAGEMENT DISTRICT AND THE CITY OF CAPITOLA

THIS WASTE DISPOSAL AGREEMENT (hereinafter "Agreement") is made and entered into on, Aug 1, 2010, by and between the Monterey Regional Waste Management District, a public entity duly organized pursuant to the provisions of California Health and Safety Code sections 4170 *et seq.* (the "District"), and the City of Capitola, a California general law city (the "City") (collectively, the "Parties"), as follows:

RECITALS

A. The District owns, manages, and operates a Class III sanitary landfill for the disposal of municipal solid waste and other acceptable waste streams (the "Monterey Peninsula Landfill"). District jurisdictional boundaries include the cities of Carmel-by-the-Sea, Del Rey Oaks, Marina, Monterey, Pacific Grove, Sand City, Seaside and the unincorporated areas of Big Sur, Carmel Highlands, Carmel Valley, Castroville, Corral de Tierra, Laguna Seca, Moss Landing, Pebble Beach, San Benancio and Toro Park. Municipal solid waste generated within the District historically has been and currently is delivered by commercial waste haulers and by self-haulers on behalf of the residents of the District for disposal in the Monterey Peninsula Landfill.

B. In constructing, operating, and managing the Monterey Peninsula Landfill, the District is under regulatory obligation with the State of California pertaining to landfill closure, and post closure monitoring and maintenance, and long term debt obligations with related covenants which obligate the District to properly maintain and preserve the system and operate it in an efficient, economical and business-like manner.

C. Monterey County's Integrated Waste Management Plan ("CIWMP") provides for the continued use of the Monterey Peninsula Landfill by the cities and unincorporated areas within the County of Monterey for the disposal of municipal solid waste which is not reused, recycled, or otherwise diverted from landfills pursuant to the California Integrated Waste Management Act of 1989 (Division 30 of the California Public Resources Code) (the "Act").

D. The waste diversion requirements of the Act, together with changes in Applicable Law and other factors, have significantly reduced the tonnage of municipal solid waste delivered to the Monterey Peninsula Landfill on behalf of residents within the District. The result of the shortfall

in the volume of waste received is under-utilization of the Monterey Peninsula Landfill, which is designed and permitted to accept approximately 3500 tons per day and presently realizes less than 1000 tons per day.

E. The District has determined that by accepting municipal solid waste generated outside of the District ("Non-District Waste" or "Out-of-District Waste") the unused capacity in the Monterey Peninsula Landfill can be utilized to generate revenue to assist in rate stabilization for the member entities, and develop alternative waste diversion technologies and practices. Acceptance of Non-District Waste can be accommodated by the existing Monterey Peninsula Landfill without negatively impacting the commercial refuse haulers and self-haulers within the District who deliver waste to the Monterey Peninsula Landfill.

F. The City desires to deliver all of the Non-District waste collected by its franchise hauler to the Monterey Peninsula Landfill. Parties intend that Non-District waste collected shall be disposed of under the provisions of this Agreement.

G. The District has determined that the acceptance for disposal of Non-District Waste would have a minimal impact on the cost of operating the Monterey Peninsula Landfill. The District has further determined that acceptance of Non-District Waste would have a minimal impact on the useful life of the Monterey Peninsula Landfill.

H. The District has determined that the execution by the District of this Agreement will serve the public health, safety, and welfare of the District by providing a more stable, predictable, and reliable supply of municipal solid waste to optimize the Monterey Peninsula Landfill; and that the resulting revenue will assist in the District's rate stabilization efforts and waste diversion programs.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises hereinafter set forth, District and City agree to the following Terms and Conditions:

TERMS AND CONDITIONS

1. DEFINITIONS

As used in this Agreement, the following terms shall have the meanings set forth below.

1.1 "Acceptable Waste" means all garbage, refuse, rubbish, and other materials and substances discarded or rejected as being spent, useless, worthless, or in excess to the owners at the time of such discard or rejection and which is normally disposed of or collected from residential (single

family or multi-family), commercial, industrial, governmental, and institutional establishments by haulers, and which is acceptable at Class III landfills under Applicable Law. "Acceptable Waste" also means solid waste that has been source separated and/or processed with reasonable due diligence to remove the following: reusable and recyclable materials; Unacceptable Waste; Hazardous Substances or Hazardous Materials; Universal Waste (as defined by State law); and Hazardous Waste.

1.2 "Act" means the California Integrated Waste Management Act of 1989 (Division 30 of the California Public Resources Code), as amended, supplemented, superseded, and replaced from time to time.

1.3 "Applicable Law" means the Act, the Monterey County Code, CERCLA, RCRA, CEQA, any legal entitlement and any other rule, regulation, requirement, guideline, permit, action, determination, or order of any governmental body having jurisdiction, applicable from time to time, relating to the siting, design, permitting, acquisition, construction, equipping, financing, ownership, possession, management, operation, or maintenance of the Monterey Peninsula Landfill or the transfer, handling, transportation, and disposal of Acceptable Waste, Unacceptable Waste, or any other transaction or matter contemplated hereby (including any of the foregoing which concern health, safety, fire, environmental protection, labor relations, mitigation monitoring plans, building codes, non-discrimination and the payment of minimum wages).

1.4 "CEQA" means the California Environmental Quality Act (California Public Resources Code Section 21000 et seq.) as amended or superseded, and the regulations promulgated under the statute.

1.5 "CERCLA" means the Comprehensive Environmental Responsibility Compensation and Liability Act (42 U.S.C. Section 9601 *et seq.*) as amended or superseded, and the regulations promulgated under the statute.

1.6 "Disposal Services" means the solid waste disposal services to be provided to the City by the District under this Waste Disposal Agreement.

1.7 "Hazardous Material" or "Hazardous Substance" has the meaning given such terms in CERCLA, the Carpenter-Presley-Tanner Hazardous Substance Account Act (California Health and Safety Code Section 25300 et seq.), and Titles 22 and 26 of the California Code of Regulations, as well as other regulations promulgated under these statutes, as they exist now and as they may be amended from time to time.

1.8 "Hazardous Waste" means (a) any waste which by reason of its quality, concentration, composition or physical, chemical, or infectious characteristic may do any of the following: cause,

or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness, or pose a substantial threat or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of or otherwise mismanaged; or any waste which is defined or regulated as a hazardous waste, toxic substance, hazardous chemical substance or mixture, or asbestos under Applicable Law, as amended from time to time including, but not limited to: (1) the Resource Conservation and Recovery Act (RCRA) and the regulations contained in 40 CFR Parts 260-281; (2) the Toxic Substances Control Act (15 U.S.C. Sections 2601 et seq.) and the regulations contained in 40 CFR Parts 761-766; (3) the California Health and Safety Code, Section 25117; (4) the California Public Resources Code, Section 40141; and (5) future additional or substitute Applicable Law pertaining to the indemnification, treatment, storage, or disposal of toxic substances or hazardous wastes; or (b) radioactive materials which are source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954 (42 U.S.C. Section 2011 et seq.) and the regulations contained in 10 CFR Part 40.

1.9 "Household Hazardous Waste Element" or "HHWE" means a solid waste planning document prepared by each city and unincorporated county pursuant Division 30, Section 41000 et seq. of the Act.

1.10 "Non-District Waste" also "Out-of- District Waste," means solid waste originating outside the jurisdictional boundaries of the District.

1.11 "RCRA" means the Resource Conservation and Recovery Act, 42 USC Section 6901 *et seq.*, as amended and superseded.

1.12 "Self-Hauler" means any person not engaged commercially in waste cartage that collects and hauls to the Monterey Peninsula Landfill Acceptable Waste generated from residential or business activities.

1.13 "Source Reduction and Recycling Element" or "SRRE" means a solid waste planning document prepared by each city and unincorporated county pursuant to Division 30, Section 41000 et seq. of the Act.

1.14 "Unacceptable Waste" means Hazardous Waste; Hazardous Substances; Hazardous Materials; untreated medical waste; Household Hazardous Waste that has been separated from Acceptable Waste; explosives; bombs; ordnance, such as guns and ammunition; highly flammable substances; noxious materials; drums and closed containers; liquid waste, including liquid concrete; oil; human wastes and sewage sludge; machinery and equipment from commercial or industrial sources, such as hardened gears, shafts; motor vehicles or major components thereof; agricultural equipment; trailers;

marine vessels and steel cable; hot loads, including hot asphalt, and hot liquid sulfur; loads of whole tires; friable asbestos; and any waste which the Monterey Peninsula Landfill is prohibited from receiving under Applicable Law.

1.15 "Uncontrollable Circumstances" means only the following acts, events or conditions, whether affecting the City, or the District, to the extent that it materially and adversely affects the ability of either party to perform any obligation under the Agreement, if such act, event or condition is beyond the reasonable control and is not also the result of the willful or negligent act, error or omission or failure to exercise reasonable diligence on the part of the party relying thereon as justification for not performing an obligation or complying with any condition required of such party under this Agreement:

1. an act of nature, hurricane, landslide, lightning, earthquake, fire, explosion, flood, sabotage or similar occurrence, acts of a public enemy, extortion, war, blockade or insurrection, riot or civil disturbance;
2. a change in law affecting either party's ability to perform an obligation or complying with any condition required of such party under this Agreement;
3. pre-emption of materials or services by a Governmental Body in connection with a public emergency or any condemnation or other taking by eminent domain.

Provided, however, that the contesting in good faith or the failure in good faith to contest such action or inaction shall not be construed as willful or negligent action or a lack of reasonable diligence of either party.

2. TERM OF AGREEMENT

2.1 Term of Agreement

The term of this Agreement shall commence on the date first written above and shall continue for thirty years thereafter.

3. DELIVERY OF WASTE

3.1 Commitment to Deliver Waste

The City shall be permitted to annually deliver up to 10,000 tons of Acceptable Waste to the Monterey Peninsula Landfill during the term of this Agreement. Annual deliveries in excess of 10,000 tons require the District's prior written consent. At no time shall the delivered waste exceed 1,700 tons per day. Prior to delivering over 200 tons on any one day, the City shall give the District

General Manager 24-hours advance notice by telephone, and obtain his or her agreement to any daily delivery in excess of 200 tons, unless the District General Manager waives such notice.

The parties may, by January 1 of any year, mutually agree to a higher or lower maximum daily tonnage of Acceptable Waste for the next fiscal year, beginning on July 1.

Waste shall generally be delivered by refuse collection vehicles of the City's franchised waste hauler.

Waste shall be delivered to the Monterey Peninsula Landfill during the hours of 5:30 A.M. TO 4:00 P.M. Monday through Friday, and 8:00 A.M. to 4:00 P.M. on Saturdays.

The City shall deliver to the Monterey Peninsula Landfill one hundred percent of the Acceptable Waste generated from residential or business activities within the City and collected by the City's franchised waste hauler or any subcontractor. The delivery to any other landfill of Acceptable Waste generated from residential or business activities within the City by the City's franchised waste hauler or any subcontractor is a default under the terms of this Agreement, in which event, the District shall be entitled to reasonably estimate the amount of Acceptable Waste that would have been delivered to the Monterey Peninsula Landfill and invoice the City for such amount in accordance with Section 4.2.

3.2 City's Authority to Deliver Waste

The City warrants that it has and shall maintain during the term of this Agreement the right, power, and authority to deliver the waste to the District through franchises, contracts, permits, licenses or other arrangements.

4. **PROVISION OF DISPOSAL SERVICES**

4.1 Commitment to Provide Disposal Services

The District agrees to provide Disposal Services to the City for the term of the Agreement under the conditions specified in the Agreement. The District warrants that it can receive City's Acceptable Waste at the designated Monterey Peninsula Landfill, under the facility permit for the term of this Agreement.

4.2 Fee for Disposal Services

From the commencement of the term of this Agreement, to and including June 30, 2011, the District shall charge the rate of Twenty-Eight Dollars and Forty-Eight Cents (\$28.48) per ton for provision of Disposal Services under the conditions of this Agreement. This rate is only for Acceptable Waste delivered to the Monterey Peninsula Landfill for disposal. A separate rate shall be

negotiated, and must be set forth in a prior writing, should the District agree to process and recycle mixed construction or demolition waste, mixed waste generated by commercial businesses or multi-family dwelling units, source separated green waste, commingled curbside recyclables, or wastewater treatment plant sludge.

4.3 Payment for Disposal Services

The City is responsible for payment for Disposal Services and all other fees or charges under this Agreement. The District may, in its discretion, charge and accept payment from the City's franchised waste hauler for Disposal Services but responsibility for payment of any charges not paid by the City's franchised waste hauler remains the City's responsibility. The disposal fee may be paid in cash in advance for each load at the time of delivery, or the District may elect to establish a deferred billing account under a process mutually agreed upon.

4.4 Annual Disposal Fee Increase Adjustment for Provision of Disposal Services

The rate specified in Section 4.2 shall be increased annually in proportion to any annual increase in the Consumer Price Index (CPI) for All Urban Consumers for the San Francisco Bay Area (All Consumers-All Items - 1982-1984 Base Year) promulgated by the Bureau of Labor Statistics of the U.S. Department of Labor. Any such rate increase will be effective on ~~July~~ 1 of ~~each~~ ^{January} year and will be calculated by means of the following formula:

- A = \$ (initial fee) x (B/C) = Adjusted fee
- B = Monthly index for the month of ~~April~~ ^{Oct} of the current year
- C = Monthly index for the month of ~~April~~ ^{Oct} of the previous year

Notwithstanding the foregoing, in no event shall the annual disposal fee be reduced by reason of any such adjustment, or increased by more than 6% by reason of any such adjustment. In the event that the CPI is not issued or published for the period for which the annual disposal fee is to be adjusted and computed hereunder, or in the event that the Bureau of Labor Statistics of the U.S. Department of Labor should cease to publish said index figures, then any similar index published by any other branch or department of the U.S. Government shall be used, and if none is so published, then another index generally recognized and authoritative shall be substituted by mutual agreement.

4.5 Increase in Governmental Fees or District Costs Due to New Regulatory or Statutory Mandates

If any fees or charges are imposed or increase by law or regulation after the date first written above and levied on the District by any local, state, or federal government or a local enforcement agency, the District shall have the right, upon 30-days prior written notice to the City, to increase the then current fee charged to the City hereunder in an equitable manner relative to the services

Attachment: Monterey_Regional_Waste_Management_District_8-1-10 (Solid Waste Program Update)

provided to the City under this Agreement. Any increased cost borne by the District due to new regulatory or statutory mandates beyond the District's control shall be allocated based on the percentage of tons of waste delivered to the District by the City compared to all other tons delivered to the District and included in the disposal fee charged.

5. PROCEDURES FOR DELIVERY AND ACCEPTANCE OF WASTE

5.1 Procedures for Delivery and Acceptance of Out-of-District Waste

City shall deliver Acceptable Waste to the Monterey Peninsula Landfill according to the conditions and procedures in **Exhibit A.**) The General Manager of the District and the City's designee may mutually agree to modify **Exhibit A**, provided such modifications are made in a writing signed by both parties and subject to the terms and conditions of this Agreement.

The City through its franchised waste hauler shall bear all costs of collection, processing, transfer, transportation, taxes, permits, or impositions assessed by any governmental body related to the delivery of waste to the Monterey Peninsula Landfill. The District assumes all costs incurred as a result of the acceptance of the City's Acceptable Waste.

5.2 Unacceptable Waste

The City shall act with reasonable due diligence to prevent the delivery of any waste to the Monterey Peninsula Landfill that is defined as Unacceptable Waste under this Agreement.

5.3 Out-of-City Waste

Only waste originating inside of the City (with the exception of up to 5% of out-of-City waste per Section 8.4) may be delivered to the Monterey Peninsula Landfill pursuant to this Agreement. City shall maintain records and supporting source documents that adequately identify the origin of all "Acceptable Waste" delivered by the City to the Monterey Peninsula Landfill pursuant to this Agreement. All records and source documentation shall be maintained by the City for a minimum of five years following the termination of this Agreement. Documents shall be maintained in a location mutually acceptable to District and City.

District shall, through its duly authorized agents or representatives, have the right to examine and audit records and supporting source documents maintained by City concerning the origin of waste delivered to the Monterey Peninsula Landfill at any and all reasonable times, upon thirty (30) days written notice, for purposes of determining the accuracy of those records and of the reports provided to District pursuant to this Agreement and of the accuracy of City payments to District pursuant to this Agreement. If any audit of the City's or its franchised hauler's invoices or other

records reveals any variance from any invoice for waste delivered to the District in excess of three percent of the amount shown on such invoice, or if the City has failed to maintain true and complete books, records and supporting source documents in accordance with this Section, City shall immediately reimburse District for all costs and expenses incurred in conducting such audit.

5.4 Hazardous Materials, Substances or Waste

The City and its franchised waste hauler shall act with reasonable due diligence to prevent the delivery of Hazardous Materials, Hazardous Substances, or Hazardous Waste to the Monterey Peninsula Landfill. Through the City's participation in the County of Santa Cruz's Household Hazardous Waste Program, City residents and small businesses utilize free drop-off collection sites for Hazardous Materials, Hazardous Waste, Hazardous Substances or Unacceptable Waste.

The City shall notify the General Manager of the District, in writing, at least 30-days prior to making any significant modifications in City's Hazardous Materials Removal Program. The District may object to any such modification in writing within 15-days of receipt. The City shall give reasonable consideration to any District objections. The intentional delivery of Hazardous Waste shall constitute a material breach of this Agreement. The intentional delivery of any quantity of industrial or commercial Hazardous Waste shall constitute a material breach of this Agreement.

5.5 Emergency Re-Designation of Facility

The District shall have the right to suspend acceptance of Acceptable Waste to the Monterey Peninsula Landfill at any time for up to 45-days upon the occurrence of a natural disaster or other Uncontrollable Circumstances which affect the ability of the District to accept, under Applicable Law, City's otherwise Acceptable Waste at the Monterey Peninsula Landfill.

The District will make every reasonable effort to provide advance notice; however, exigent circumstances may require re-designation of Acceptable Waste on a temporary basis without prior notice. There will be no adjustment in the disposal fee of waste redirected due to an emergency.

5.6 Mutual Aid

In the event of an emergency, the parties may provide mutual aid to one another through the sharing of resources.

5.7 Weights for Payment

Payment shall be based upon weight provided by the Districts' regular vehicle weighing scale system.

6. REGULATORY COMPLIANCE

6.1 Applicable Law

Both parties shall comply with Applicable Law at all times, throughout the term of this Agreement; and shall obtain and maintain any permits, licenses, or approvals which are required for the performance of the party's respective obligations under this Agreement.

6.2 Compatibility with The Act

The actions of the City in entering into this Agreement shall be compatible with the goals, policies, and agreements of the Source Reduction and Recycling Element(s) (SRREs) of the jurisdiction(s) generating the waste which is accepted in the Monterey Peninsula Landfill, and conform generally and specifically with the conditions outlined in **Exhibit B**, attached hereto, the "Guiding Principles for Acceptance of Regional Waste" for Disposal at the Monterey Peninsula Landfill.

6.3 Disposal Reporting

The City shall supply all information necessary to comply with the District's Disposal Reporting System and any other information required by the District to comply with the Act, or any other Applicable Law.

7. TERMINATION, DEFAULT AND REMEDIES

7.1 Termination for Convenience

Either party may terminate this Agreement for convenience during the term hereof by giving a 30-day's written notice to the other party. Upon the expiration of the 30-day notice period, a five year final term on the same terms and conditions set forth herein shall commence.

7.2 Termination for Cause

Either party may terminate this Agreement for cause for the reasons set forth below, without the commencement of a final 5-year term (as provided in paragraph 7.1). In the case of termination for cause, the terminating party shall not be liable to the non-terminating party for any damages incurred due to early termination, including, but not limited to, consequential damages.

A. Termination for Cause by District

The District may terminate for cause if:

- i. The City delivers waste originating outside the City in excess of 5% (paragraph 5.3);

- ii. The City intentionally delivers and attempts to deliver Unacceptable Waste; Hazardous Substances or Hazardous Materials or Universal Waste (as defined by State law) (paragraph 5.4); or
- iii. The City fails to comply with a Household Hazardous Waste Program that complies with state law (paragraph 8.4).

B. Termination for Cause by City

The City may terminate for cause if the District is unable to accept Acceptable Waste for more than 45-days and the parties are unable to reach a mutually acceptable resolution through modification of this Agreement (paragraph 5.5).

C. Termination for Cause by Either Party

Either party may terminate for cause if:

- i. The District is ordered by court of competent jurisdiction to cease providing Disposal Services under the terms and conditions of this Agreement. In such event District will not be liable for actual or consequential damages due to the inability to provide Disposal Services.
- ii. The other party is determined to be in violation of Applicable Law, despite reasonable due diligence.

D. Opportunity for Cure

If either party fails to perform any of its obligations hereunder, that party shall have 30 business days' from receipt of written notice of default from the other party within which to cure such default. However, the City's intentional delivery of industrial or commercial Hazardous Waste (pursuant to paragraph 5.4) or failure to maintain a Household Hazardous Waste (HHW) Management Program that complies with state law (pursuant to paragraph 8.4) may be grounds for termination in the District's discretion. Such default may be subject to termination pursuant to paragraph 7.2. In the case of a default involving HHW under paragraph 5.4 by City, City must cure the default within 24 hours of written notice of the default in compliance with applicable laws and regulations, including District ordinances and established procedures.

7.3 Dispute Resolution

If any dispute arises between the parties as to proper interpretation or application of this Agreement, the parties must meet and confer in a good faith attempt to resolve the matter between themselves. If a dispute concerns any amounts to be paid to the District by the City, then the City

shall pay the amount demanded on time, under protest, notwithstanding that the City has commenced or proposes to commence the dispute resolution procedures specified herein. If a dispute is not resolved by meeting and conferring, the matter may be submitted for formal mediation to a mediator mutually agreed by the parties. The expenses of such mediation will be shared equally between the parties. If the dispute is not or cannot be resolved by mediation, the parties may mutually agree (but only as to those issues of matters not resolved by mediation) to submit their dispute to arbitration. Before commencement of the arbitration, the parties may elect to have arbitration proceed on an informal basis; however, if the parties are unable to so agree, then the arbitration may be conducted in accordance with Code of Civil Procedure §§1280 *et seq.*, and to the extent that procedural issues are not there resolved, in accordance with the rules of the American Arbitration Association. The decision of the arbitrator will be binding, unless within 30-days after issuance of the arbitrator's written decision, either party files an action in court.

8. GENERAL CONDITIONS

8.1 Uncontrollable Circumstances

Each party will excuse performance by the other in the event of Uncontrollable Circumstances.

8.2 Indemnification and Hold Harmless

A. Indemnification by City. City and District agree that District, its Board of Directors, officers, employees and agents, should to the extent permitted by law, be fully protected from any loss, injury, damage, claim, lawsuit, cost, expense, attorney's fees, litigation cost, defense cost, court cost or any other cost arising out of or in any way related to the performance of this Agreement. Accordingly, the provisions of this indemnity provision are intended by the parties to be interpreted and construed to provide the fullest protection possible under the law to the District. City acknowledges that District would not enter into this agreement in the absence of this commitment to indemnify and protect District as set forth herein.

To the full extent permitted by law, the City shall defend, indemnify and hold harmless District, its Board of Directors, officers, employees and agents from any liability, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, actual attorneys' fees incurred by District, court costs, interest, defense costs, including expert witness fees, and any other costs or expenses of any kind whatsoever without restriction or limitation which arise from or are connected with or are caused or claimed to be caused by the sole or active negligence or

willful misconduct of the City or its franchised waste hauler or contractor(s). All obligations under this provision are to be paid by the City as they are incurred by the District.

Without affecting the rights of the District under any provision of this Agreement or this section, the City shall not be required to indemnify and hold harmless District as set forth above for liability attributable to the active negligence of the District, its officers, employees or agents, provided such active negligence is determined by agreement between the parties or the findings of a court of competent jurisdiction. This exception will apply only in instances where the District is shown to have been actively negligent and not in instances where the City, or its franchised waste hauler or contractor(s) are solely or partially at fault or in instances where the District's active negligence accounts for only a percentage of the liability involved. In those instances, the obligation of the City will be for that portion or percentage of liability not attributable to the active negligence of the District, as determined by written agreement between the parties or the findings of a court of competent jurisdiction.

The City agrees to obtain executed indemnity agreements from its franchised waste hauler and any contractor or any other person or entity involved by, for, with or on behalf of the City in the performance or subject matter of this Agreement. In the event the City fails to obtain such indemnity obligations from others as required here, the City agrees to be fully responsible according to the terms of this section.

Failure of the District to monitor compliance with these requirements imposes no additional obligations on District and will in no way act as a waiver of any rights hereunder and shall survive the termination of this Agreement or this section.

B. Indemnification by District. To the full extent permitted by law, the District shall defend, indemnify and hold harmless the City, its City Council, officers, employees and agents from any liability, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, expenses or costs of any kind, whether actual, alleged or threatened, actual attorneys' fees incurred by City, court costs, interest, defense costs, including expert witness fees, and any other costs or expenses of any kind whatsoever without restriction or limitation which arise from or are connected with or are caused or claimed to be caused by the sole or active negligence or the willful misconduct of the District. All obligations under this provision are to be paid by the District as they are incurred by the City.

Without affecting the rights of the City under any provision of this Agreement or this section, the District shall not be required to indemnify and hold harmless City as set forth above

for liability attributable to the active negligence of the City, its officers, employees, contractors or agents, provided such active negligence is determined by agreement between the parties or the findings of a court of competent jurisdiction. This exception will apply only in instances where the City or its franchised waste hauler or contractor(s) are shown to have been actively negligent and not in instances where the District is solely or partially at fault or in instances where the City's active negligence accounts for only a percentage of the liability involved. In those instances, the obligation of the District will be for that portion or percentage of liability not attributable to the active negligence of the City, as determined by written agreement between the parties or the findings of a court of competent jurisdiction.

C. Notice of Claims

A party seeking indemnification shall promptly notify the other party of the assertion of any claim against it for which it seeks to be indemnified, shall give the other party the opportunity to defend such claim, and shall not settle the claim without the approval of the other party. These indemnification provisions are for the protection of the Parties only and shall not establish, of themselves, any liability to third parties. The provisions of this subsection shall survive termination of this Agreement.

8.3 Insurance

City shall require its franchise waste hauler to maintain, and require any of its subcontractors or others hired for this Agreement to maintain, insurance coverage as described hereunder effective the date first written above and such insurance shall remain in full force at all times throughout the full term of this Agreement. Insurers providing coverage as required by this Agreement shall be acceptable to District and must be authorized to do business in the State of California.

Certificates of insurance or other evidence satisfactory to the District shall be furnished in duplicate, evidencing City coverage of Workers' Compensation Insurance, Commercial General Liability, and Comprehensive Auto Liability; such certificates shall show the insurer's name, policy number, limit of coverage, and the period of the policy and cancellation conditions of these specifications. Such certificates shall state that coverage there under shall not be terminated or reduced in coverage until 30 days' written notice is given to General Manager of the District of cancellation or reduction in coverage; allow for severability of interest of District; and be primary and non-contributing with insurance maintained or self-insured by the District.

The District shall be added, by endorsement to the policy for Commercial General Liability, Auto Liability and Employer's Liability coverage, as an additional insured on the above-described

policies, as they pertain to the operations of the named insured performed under this Agreement for the District. Entire limits of liability maintained must be certified but in no event shall limits be less than specified herein below:

<u>Coverage</u>	<u>Minimum Limit</u>
Workers' Compensation	Statutory
Employer's Liability	\$1,000,000 per accident or disease
Comprehensive General Liability	\$1,000,000 Combined
General Aggregate	\$2,000,000 Single limit each occurrence
Comprehensive Auto Liability (Including owned, non-owned And hired vehicles)	\$1,000,000 Combined Single limit each occurrence

Workers' Compensation Insurance Policy shall include a waiver of all rights of subrogation against the District.

8.4 Solid Waste Origin

City may deliver solid waste collected by City or any other entity under subcontract to City. The District understands and agrees that up to 5% of the City's Acceptable Waste delivered to the Monterey Peninsula Landfill during any twelve month period may originate outside the City. Waste originating outside City in excess of the 5% cap, may not be delivered without the express prior written consent of the District General Manager. All waste delivered must originate from a municipality or district that has implemented an approved Household Waste Collection Program and has fully implemented its SRRE.

8.5 Non-Assignment of Agreement

City may not assign this Agreement or any of the rights or obligations under this Agreement without the prior written consent of the District, which may be withheld at the District's sole discretion. Any person or entity to whom this Agreement is assigned shall expressly agree to be bound by all provisions of this Agreement. City will remain liable to District for all obligations under this Agreement notwithstanding any assignment made pursuant to this clause.

8.6 Notices

Any notice required or permitted by this Agreement shall be in writing and sufficiently given if delivered in person or sent by certified or registered mail, postage prepaid, to the notice address of the respective parties set forth in this Agreement. Any changes to the respective addresses to which

Attachment: Monterey_Regional_Waste_Management_District_8-1-10 (Solid Waste Program Update)

notices may be directed, may be made from time to time by any party by notice to the other party.

The present addresses of the parties are:

District Monterey Regional Waste Management District
 Attn: General Manager
 Location for Direct Deliveries and Certified Mail:
 14201 Del Monte Blvd.
 P.O. Box 1670
 Marina, CA 93933-1670

City City of Capitola .
 Attn: City Manager
 420 Capitola Ave
 Capitola, CA 95010

8.7 Indemnification for Taxes and Contributions

Each party shall exonerate, indemnify, defend, and hold harmless the other (which for the purpose of this paragraph shall include, without limitation, its officers, agents, employees, and volunteers) from and against:

Any and all Federal, State and Local taxes, charges, fees, or contributions required to be paid with respect each party's officers, employees and agents engaged in the performance of this Agreement (including, without limitation, unemployment insurance, social security, and payroll tax withholding).

8.8 Non-Discrimination

During and in relation to the performance of this Agreement, both parties agree as follows:

A. Neither party shall discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, physical or mental disability, medical condition (cancer related), marital status, sexual orientation, age (over 18); veteran status, gender, pregnancy, or any other non-merit factor unrelated to job duties. Such action shall include, but not be limited to, the following: recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training (including apprenticeship), employment, upgrading, demotion, or transfer. Both parties agree to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this non-discrimination clause.

8.9 Independent Contractor Status

The District and City have reviewed and considered the principal test and secondary factors for determining independent contractor status and agree that this is an independent contractor arrangement and that neither party is an employee of the other. Each party is responsible for its own insurance (workers' compensation, unemployment, etc.) and all payroll-related taxes. Neither party is entitled to any employee benefits from the other. Each party shall have the right to control the manner and means of accomplishing the result contracted for herein.

8.10. Amendment or Modification

This Agreement may be amended, altered or modified only by a writing, specifying such amendment, alteration or modification, executed by authorized representatives of both of the parties hereto.

8.11. Further Actions

Each of the parties agrees to execute and deliver to the other such documents and instruments, and to take such actions, as may reasonably be required to give effect to the terms and conditions of this Agreement.

8.12. Interpretation

This Agreement has been negotiated by and between the general managers and engineers or principals of both parties, all persons knowledgeable in the subject matter of this Agreement, which was then reviewed and drafted by attorneys representing both parties, in joint consultation with both general managers and engineers or principals. Accordingly, any rule of law (including Civil Code §1654) or legal decision that would require interpretation of any ambiguities in this Agreement against the party that has drafted it is not applicable and is waived. The provisions of this Agreement shall be interpreted in a reasonable manner to affect the purpose of the parties and this Agreement.

8.13 Captions

Titles or captions of sections and paragraphs contained in this Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision of it.

8.14 Severability

If any of the provisions of this Agreement are determined to be invalid or unenforceable, those provisions shall be deemed severable from the remainder of this Agreement and shall not cause the invalidity or unenforceability of the remainder of this Agreement, unless this Agreement without

the severed provision would frustrate a material purpose of either party in entering into this Agreement:

8.15 Attorneys' Fees and Costs

In the event it should become necessary for either party to enforce any of the terms and conditions of this Agreement by means of arbitration, court action or administrative enforcement, the prevailing party, in addition to any other remedy at law or in equity available to such party, shall be awarded all reasonable costs and reasonable attorney's fees in connection therewith, including the fees and costs of experts reasonably consulted by the attorneys for the prevailing party.

8.16 Relationship of Parties

Nothing in this Agreement shall create a joint venture, partnership or principal-agent relationship between the parties.

8.17 Waiver

No waiver of any right or obligation of either party hereto shall be effective unless made in writing, specifying such waiver, executed by the party against whom such waiver is sought to be enforced. A waiver by either party of any of its rights under this Agreement or any other right at any time shall not be a bar to exercise of the same right on any subsequent or any other right at any time.

8.18. Counterparts

This Agreement may be executed in two counterparts, each of which shall be deemed an original, but both of which shall be deemed to constitute one and the same instrument.

8.19. Entire Agreement

This Agreement constitutes the entire and complete agreement between the parties regarding the subject matter hereof, and supersedes all prior or contemporaneous negotiations, understandings or agreements of the parties, whether written or oral, with respect to such subject matter.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the dates opposite their respective signatures:

EXHIBIT A**CONDITIONS & PROCEDURES FOR DELIVERY OF ACCEPTABLE WASTE BY
CITY OF CAPITOLA TO MONTEREY PENINSULA LANDFILL (SEC. 5.1)**

1. The City will not deliver any Acceptable Waste to the Landfill after 4:00 P.M. Monday-Saturday except in the case of an emergency, or with prior approval of the District General Manager or his/her designee.
2. The types of vehicles to deliver Acceptable Waste will be Transfer Trucks or Refuse Collection Packer Trucks only.
3. The City will participate in a Household Hazardous Waste Program that complies with state law.

City delivery vehicles shall proceed to the Districts' regular vehicle weighing scale system upon arrival at the Monterey Peninsula Landfill for all loads accepted. District staff will invoice the City monthly based upon weight provided by the Districts' regular vehicle weighing scale system. Terms of payment will be net 30 day's upon receipt of invoice

EXHIBIT B

Monterey Regional Waste Management District

GUIDING PRINCIPLES FOR ACCEPTANCE OF REGIONAL WASTE (SEC. 6.2)

September 16, 2005
(Rev. 11/16/07)

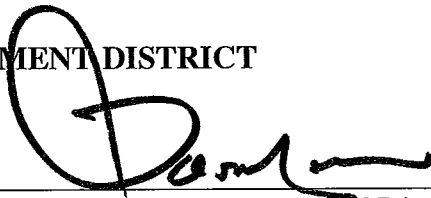
The “Guiding Principles for the Acceptance of Regional Waste” were developed to address the parameters for offering certain limited, excess landfill capacity to public agencies for the disposal of regional (“out-of-District”) waste at the Monterey Peninsula Landfill. Three potential buyers of this excess landfill capacity include the City of Watsonville, the Salinas Valley Solid Waste Authority (SVSWA) and the County of Santa Cruz. The purpose of the sale of excess capacity is to stabilize disposal rates to the Monterey Regional Waste Management District (MRWMD) member agencies, provide funding for future expansion of the MRWMD’s diversion and recycling programs, and to permit the City of Watsonville, the SVSWA and the County of Santa Cruz adequate time to identify and develop additional long-term disposal capacity within their respective jurisdictions.

Guiding Principles for Acceptance of Regional (Out-Of-District) Waste

1. Regional waste received will be from public agencies only, by written agreement.
2. The primary need of the public agency will be for short to intermediate-term landfill space while they work to find a long-term solution to their solid waste disposal needs.
3. The sale of the MRWMD excess landfill capacity will be subject to a contract approved by the MRWMD Board of Directors.
4. A “reserve landfill capacity” shall be established to provide an initial 75 year landfill life which will serve projected waste streams generated by the MRWMD member agencies to at least the year 2080. In other words, the amount of regional waste to be accepted will not reduce the MRWMD’s certified landfill capacity below 75 years (to 2080). Certified landfill capacity exceeding 75 years would be considered to be “excess landfill capacity”, which could be made available for sale to public agencies, such as the County of Santa Cruz and the SVSWA.
5. The regional waste brought to the MRWMD will have been subject to recycling and diversion programs acceptable to meet the State-mandated diversion goals.
6. The MRWMD will have the ability to shorten the contract term should the public agency not demonstrate adequate progress in meeting its long-term solution to solid waste disposal.
7. The acceptance of regional waste will utilize only MRWMD landfill operations and airspace. The regional waste will not require the use of any of the following MRWMD services: materials recovery facility, public recycling drop-off facility, Last Chance Mercantile reuse facility, household hazardous waste collection program, composting facility, and public awareness program.
8. The negotiated landfill disposal fee will include an escalation clause to compensate the MRWMD for future annual increases in costs. The regional waste will be transported to the MRWMD in either large transfer-trailer type trucks or waste collection packer trucks to minimize the impact on public roads and maximize the efficiency of transportation and landfill operations.


MONTEREY REGIONAL WASTE MANAGEMENT DISTRICT

Date: 23 Jan 2010

By 
Chairperson of the Board of Directors

CITY OF CAPITOLA

Date: 7-14-10

By 
City Manager

ATTEST:

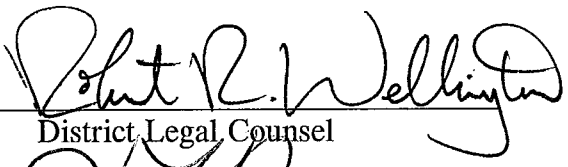
Date: 6.21.10

By 
MRWMD Board Secretary

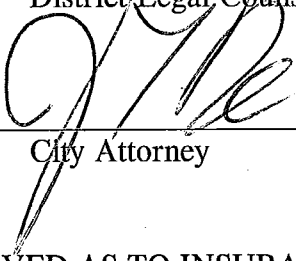
Date: 7/15/10

By 
City Clerk

APPROVED AS TO FORM:

By 
District Legal Counsel

Date: _____

By 
City Attorney

Date: 7-29-10

APPROVED AS TO INSURANCE:

By _____
City Risk Manager

Date: _____

Attachment: Monterey_Regional_Waste_Management_District_8-1-10 (Solid Waste Program Update)

REFUSE, RECYCLING AND YARD WASTE SERVICES
FRANCHISE AGREEMENT

THIS Franchise Agreement (the "Franchise") is granted this 24th day of April, 2008, by the City of Capitola, a Municipal Corporation within the State of California (hereafter "City") to Green Waste Recovery, Inc., a California Corporation (hereafter "Franchisee"), with an effective date of September 1, 2008, and an expiration date of December 31, 2018.

RECITALS:

WHEREAS, the Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 ("AB 939") established a solid waste management process which requires cities and other local jurisdictions to implement source reduction, reuse and recycling as integrated waste management practices; and

WHEREAS, AB 939 authorizes and requires local agencies to make adequate provisions for solid waste handling within their jurisdictions; and

WHEREAS, the City of Capitola is obligated to protect the public health and safety of its residents and has determined that arrangements by waste haulers for the collection of Solid Waste should be made in a manner consistent with the protection of public health and safety; and

WHEREAS, the Franchisee has represented and warranted to the City that it has the experience, responsibility, and qualifications to conduct the services detailed herein for the collection, safe transportation and processing or disposal of Franchise Materials as described herein; and

WHEREAS, Public Resources Code Section 40059 permits the City to impose terms and conditions on the award of a solid waste franchise if, in the opinion of the governing body, the public health, safety and well-being require the imposition of those terms and conditions; and

WHEREAS, the City Council of the City of Capitola determines and finds that, the public interest, health, safety and well-being would be served if the Franchisee performs the solid waste handling services described herein for single family residences, multi-family dwellings and commercial service customers; and

WHEREAS, the City Council of the City of Capitola adopted Resolution No. ____ on the 24th day of April, 2008, approving an Exclusive Refuse, Recycling, and Yard Waste Collection Franchise to Green Waste Recovery, Inc., and authorizing the City Manager to execute this Franchise Agreement on behalf of the City of Capitola.

NOW, THEREFORE, the City of Capitola grants the Franchisee the Franchise described herein on the terms and conditions established hereby:

DEFINITIONS

SECTION 1.1. DEFINITIONS. The following capitalized names and terms shall have the meanings set forth below:

"Act" means the California Integrated Waste Management Act of 1989 (Division 30 of the California Public Resources Code), as amended, supplemented, superseded and replaced from time to time.

"Appendix" means an appendix to this Franchise, as the same may be amended or modified from time to time in accordance with the terms hereof.

"Applicable Law" means any law, rule, regulation, requirement, guideline, permit, action, determination or order of any Governmental Body having jurisdiction, applicable from time to time to the Franchise Services; the Operating Assets; the siting, design, acquisition, permitting, construction, equipping, financing, ownership, possession, shakedown, testing, operation or maintenance of any of the Operating Assets; or any other transaction or matter contemplated hereby (including any of the foregoing which concern health, safety, fire, environmental protection, labor relations, mitigation monitoring plans, building codes, non-discrimination and the payment of minimum wages, and further including the City Municipal Code and the County Integrated Waste Management Plan.

"Bin" means any container other than Cart, bin or compactor provided by and/or serviced by the Franchisee having a capacity of approximately one to eight cubic yards, meeting the specifications contained in Appendix C hereto.

"Bin Customer" means any person who subscribes to Bin service provided by the Franchisee pursuant to this Franchise.

"Bulky Goods" means large and small household appliances, furniture, tires, carpets, mattresses and similar large items of Solid Waste.

"Cart" means a receptacle meeting the requirements of Appendix B, for disposal of Franchise Refuse Materials, Franchise Yard Waste, Wood Waste, Food Waste and Recyclables in a range of sizes set forth in Appendix B, or as hereafter agreed between the parties, with wheels, a handle for ease of movement, and a tight-fitting lid.

"Cart Customer" means any person who subscribes to Cart Service provided by the Franchisee pursuant to this Franchise.

"Change in Law" means any of the following events or conditions which have a material and adverse effect on the performance by the parties of their respective obligations under this Franchise (except for payment obligations), or on the siting, design, permitting, acquisition, construction, equipping, financing, ownership, possession, management, operation or maintenance of the Operating Assets or other matters to which Applicable Law applies:

- (1) The enactment, adoption, promulgation, issuance, modification, or written change in administrative or judicial interpretation on or after the Franchise Date of any Applicable Law; or
- (2) The order or judgment of *any* Governmental Body, on or after the Franchise Date, to the extent such order or judgment is not the result of willful or negligent action, error or omission or lack of reasonable diligence of the City or

of the Franchisee, whichever is asserting the occurrence of a Change in Law; provided, however, that the contesting in good faith or the failure in good faith to contest any such order or judgment shall not constitute or be construed as such a willful or negligent action, error or omission or lack of reasonable diligence.

"City" means the City of Capitola, California

"City Indemnified Parties" has the meaning specified in Section 10.1 hereof.

"City Facility" means any building, park, right of way or other site owned, leased or used regularly and significantly by employees or contractors of the City of Capitola.

"City Manager" means the City Manager for the City of Capitola, California.

"Commercial Customer" means any person, including an owner of a multi-family building, who subscribes to Commercial service provided by the Franchisee pursuant to this Franchise.

"Commercial Premises" means any building or site in the Franchise Area, other than Residential Premises, from which any business, service, non-profit, governmental, institutional, commercial or industrial activity is conducted, including without limitation motels, hotels, recreational vehicle parks, restaurants, professional offices, clubhouses, places of entertainment, manufacturing plants and private schools.

"Containers" means Carts and Bins.

"Customer" means Residential Customer or Commercial Customer.

"Customer Rate Schedule" means the Customer Rate Schedule attached hereto as Appendix _C

"Designated Disposal Site," means the facility or facilities designated by the City for the disposal of Franchise Refuse Materials as specified in Section 4.7 (A).

"Enclosure" means a walled or fenced storage area for Containers that is only accessible by a door or gate.

"Excluded Materials" means (1) Hazardous Waste, (2) Medical Waste, (3) Qualified Household Hazardous Waste, (4) Self-hauled Waste, (5) Excluded Recyclable Materials, (6) Tires, (7) Dead animals and animal waste and remains from slaughterhouses or butcher shops, (8) By-products of sewage treatment, including sludge, grit and screenings

"Fees-and-Costs" means reasonable fees and expenses of employees, attorneys, architects, engineers, expert witnesses, contractors, consultants and other persons, and costs of transcripts, printing of briefs and records on appeal, copying and other reimbursed expenses, and of any Legal Proceeding.

"Franchise" means the license and other rights enjoyed by, and obligations imposed upon, the Franchisee under this Agreement between the City of Capitola and the Franchisee. Where the context so indicates, it may also refer to this Agreement.

"Franchise Area" is that geographic area comprising the city limits of the City of Capitola, California.

"Franchise Date" means the date of execution of this Franchise by both parties hereto.

"Franchisee" means **Green Waste Recovery, Inc.**, and its successors and assigns permitted hereby.

"Franchisee Operating Assets" and "Operating Assets" means all real and personal property of any kind, which is owned, leased, managed or operated by or under contract to the Franchisee for providing the Franchise Services, including without limitation, containers, vehicles, transfer stations, processing facilities, maintenance and storage facilities, administrative facilities, and other equipment, machinery, parts, supplies and tools.

"Franchise Materials" means Solid Waste generated in the Franchise Area, and shall include Franchise Refuse, Franchise Recyclable Materials and Franchise Yard Waste; provided, however, that "Franchise Materials" shall not include Excluded Materials.

"Franchise Recyclable Materials" means the same as Recyclables

- a. "Franchise Refuse" means that portion of Franchise Materials which does not constitute Recyclable Materials or Franchise Yard Waste.

"Franchise Services" means all of the duties and obligations of the Franchisee hereunder.

"Franchise Yard Waste" means that portion of Franchise Materials, (other than Franchise Recyclable Materials) which is separated from other Franchise Materials for Recycling, consisting of all tree and plant trimmings, grass cuttings, dead plants, weeds, leaves, branches, Wood Waste dead trees, and similar materials, and *any* other similar materials mutually agreed by the parties; provided, however, that Franchise Yard Waste shall not include any materials identified in Section 3.1 (C) or otherwise mutually agreed by the parties to be excluded from the definition.

"Franchise Year" means the calendar year beginning on January 1 and ending on the following December 31, except that that the first Franchise Year shall begin on the Franchise Date and end on the following December 31, and the last Franchise Year shall begin on the January 1 preceding the last day of the Term of this Franchise and end on such last day of Term.

"Governmental Body" means any Federal, State, county, city, local or regional, legislative, executive, judicial or other governmental board, agency, authority, commission, administration, court or other body, or any officer thereof acting within the scope of his or her authority.

"Hazardous Waste" means (1) any waste which by reason of its quality, concentration, composition or physical, chemical or infectious characteristics may do either of the following: cause, or

significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness, or pose a substantial threat or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of or otherwise mismanaged, or any waste which is defined or regulated as a hazardous waste, toxic substance, hazardous chemical substance or mixture, or asbestos under Applicable Law, as amended from time to time including, but not limited to: (1) the Resource Conservation and Recovery Act and the regulations contained in 40 CFR Parts 260-281; (2) the Toxic Substance Control Act (15 U.S.C. Section 2601 et seq.) and the regulations contained in 40 CFR Parts 761-766; (3) the California Health and Safety Code, §25117 (West 1984 & Supp. 1991); (4) the California Public Resources Code, §40141; and (1) future additional or substitute federal, state or local laws pertaining to the identification, treatment, storage or disposal of toxic substances or hazardous wastes; and (2) radioactive materials which are source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954 (42 U.S.C. Section 2011 et seq.) and the regulations contained in 10 CFR Part 40.

"Insurance Requirement" means any rule, regulation, code, or requirement issued by any fire insurance rating bureau or any body having similar functions or by any insurance company, which has issued a policy with respect to the Operating Assets or the Franchise Services.

"Legal Entitlement" means all permits, licenses, approvals, authorizations, consents and entitlements of whatever kind and however described which are required under Applicable Law to be obtained or maintained by any person with respect to the Operating Assets or the performance of any obligation under this Franchise or the matters covered hereby.

"Legal Proceeding" means every action, suit, litigation, arbitration, administrative proceeding, and other legal or equitable proceeding having a bearing upon this Franchise.

"Medical Waste" means waste capable of producing an infection or pertaining to or characterized by the presence of pathogens, including without limitation certain waste generated by medical practitioners, hospitals, nursing homes, medical testing labs, mortuaries, taxidermists, veterinarians, veterinary hospitals and medical testing labs.

"Operating Assets." See "Franchisee Operating Assets."

"Premises" means any Residential Premises or Commercial Premises.

"Public Refuse and Recycling Containers" means containers designated by the City for the collection of respectively, Franchise Refuse, Franchise Yard Waste, Wood Waste or Recyclables at City facilities or public places.

"Qualified Household Hazardous Waste" means waste materials determined by the State Integrated Waste Management Board, the Department of Health Services, the State Water Resources Control Board, or the Air Resources Board to be:

1. of a nature that they must be listed as hazardous in State statutes and regulations;
2. Toxic/ignitable/corrosive/reactive; and
3. Carcinogenic/mutagenic/teratogenic; which are discarded from households as opposed to businesses. Qualified Household Hazardous Waste shall not include Hazardous waste.

"Recycle," "Recycled" or "Recycling" means the process of separating, collecting, sorting, cleansing, treating, reconstituting or otherwise processing materials that are or would otherwise be disposed of in a landfill and returning them to the economic mainstream in the form of raw material for new, reused or reconstituted products which meet the quality standards necessary to be used in the marketplace.

"Recyclables" means that portion of Solid Waste, which can be separated from other Solid Waste and Franchise Yard Waste for Recycling. "Recyclables" include newspaper, cardboard, office paper, mixed waste paper (including junk mail, catalogs, craft bags and craft paper, paperboard, egg carton, phone books, brown paper, grocery bags, colored paper, construction paper, envelopes, legal pad backings, shoe boxes, cereal and other similar food boxes, computer paper, magazines, aseptic packaging, milk and juice cartons glass, aluminum (cans, trays, foil and lids), tin cans and lids, steel cans and lids, bi-metal cans and lids, empty aerosol cans, metal scrap, appliances small enough to fit within the supplied recycling Container but no larger than 18" in any dimension or containing hazardous materials, PETE, HDPE, and mixed plastic containers (all types of #3 through #5), polyethylene film plastics (including grocery bags, dry cleaning bags, produce and bread bags, bubble wrap and other stretchable plastic films), used motor oil, used automotive oil filters, dry cell batteries and any other materials mutually agreed by the parties. It does not include Residue.

"Residential Customer" means any person who subscribes to Residential Service provided by the Franchisee pursuant to this Franchise.

"Residential Premises" means any building in the City used for or designated as a residential dwelling, including condominium projects, apartments, duplexes, townhouse projects, or mobile home parks.

"Residue" means materials which have been collected by Franchisee in the recycling collection process but which remain after processing and which cannot be recycled, marketed, or otherwise utilized, including but not limited to materials such as rocks, contaminated paper or cardboard, putrescibles and other debris.

"Routing and Collection System" means the routing and collection system as currently in use by the Franchisee to provide the Franchise Services, as it may be modified from time to time in accordance with Sections applicable to Franchise Refuse, Franchise Yard Waste, Wood Waste, and Recycle Material collection practices.

"Self-Hauled Waste" means Solid Waste collected and hauled by Self Haulers.

"Self-Hauler" means any person not engaged commercially in waste haulage who collects and hauls solid waste generated from residential, commercial or industrial activities conducted solely by such person.

"Service Fee" means the fees as specified in Section 7.1(A) and in the fee schedules in Appendix C.

"Service Fee Schedule" means the Service Fee Schedule attached hereto as Appendix C.

"Solid Waste" means all garbage, refuse, rubbish and other materials and substances

discarded or rejected as being spent, useless, worthless or in excess to the generator thereof at the time of such discard or rejection and which are normally disposed of by or collected from residential (single family and multi-family), commercial, industrial, governmental and institutional establishments, which are acceptable at Class III landfills under Applicable Law.

"State" means the State of California.

"Term" has the meaning specified in Article IX hereof.

"Ton" means a "short ton" of 2,000 pounds

"Uncontrollable Circumstance" means only the following acts, events or conditions, whether affecting the Operating Assets, the City, or the Franchisee, to the extent that it materially and adversely affects the ability of either party to perform any obligation under the Franchise (except for payment obligations), if such act, event or condition is beyond the reasonable control and is not also the result of the willful or negligent act, error or omission, or failure to exercise reasonable diligence, on the part of the party relying thereon as justification for not performing an obligation, or complying with any condition, required of such party under this Franchise; provided, however, that the contesting in good faith or the failure in good faith to contest such action or inaction shall not be construed as willful or negligent action or a lack of reasonable diligence of either party:

- A. An "Act of God", including, hurricane, typhoon, landslide, lightning, earthquake, fire, explosion, flood (but not including reasonably anticipated weather conditions for the geographic area of the facility); sabotage or similar occurrence; acts of a public enemy; extortion; war; blockade or insurrection;
- B. A change in law;
- C. The failure of any appropriate Governmental Body or private utility having operational jurisdiction in the area in which the Operating Assets are located to provide and maintain the disposal site, utilities, services, water and sewer lines and power transmission lines to the Operating Assets, which are required for the performance of the Franchise Services and which directly results in a delay or curtailment of the performance of the Franchise Services; and
- D. Pre-emption of materials or services by a Governmental Body in connection with a public emergency or any condemnation or other taking by eminent domain of any portion of the Operating Assets.

It is specifically understood that none of the following acts or conditions shall constitute Uncontrollable Circumstances: (a) general economic condition, interest or inflation rates, or currency fluctuation or changes in the cost of availability of fuel, commodities, supplies or equipment unless impacted by those circumstances listed above; (b) changes in the financial condition of the City, the Franchisee or any of its Affiliates or parent company(s) or any Subcontractor affecting their ability to perform their obligations; (c) the consequences of errors, neglect or omissions by the Franchisee, any of its Affiliates or any subcontractor of any tier in the performance of the Franchise Services; (d) the failure of the Franchisee to secure patents or licenses in connection with the technology necessary to perform its obligations hereunder; (e)

union work rules, requirements or demands which have the effect of increasing the number of employees employed in connection with the Operating Assets or otherwise increase the cost to the Franchisee of operating and maintaining the Operating Assets or providing the Franchise Services; (f) strikes, work stoppages or other labor disputes or disturbances occurring with respect to any activity performed or to be performed by the Franchisee or any of the Franchisee's Subcontractors or suppliers in connection with the Operating Assets or the Franchise Services; (g) any failure of any subcontractor or supplier to furnish labor, materials, service or equipment for any reason; (h) equipment failure; (i) any impact of prevailing wage law, customs or practices on the Franchisee's construction or operating costs; (j) changes in market prices for, or the unavailability of markets for, the sale or purchase of Recyclables or Qualifying Franchise Yard Waste, or Qualifying Wood Waste; or (k) any act, event or circumstance occurring outside of the State of California.

"Wood Waste" means dimensional lumber, post-consumer and other wood products, pallets and tree trunks, and other wood products all of which are without paint or chemical treatment of any kind.

SECTION 1.2. INTERPRETATION. In this Franchise, unless the context otherwise requires:

- A. References Hereto. The terms "hereby," "hereof," "herein," "hereunder" and any similar terms refer to this Agreement, and the "hereafter" means after, and the term "heretofore" means before, the date of execution of this Agreement.
- B. Gender and Plurality. Words of the masculine gender mean and include correlative words of the feminine and neuter genders and words importing the singular number mean and include the plural number and vice versa.
- C. Persons. Words importing persons include firms, companies, associations, general partnerships, limited partnerships, trusts, business trusts, corporations, non-profit corporations and other legal entities, including Governmental Bodies, as well as individuals.
- D. Headings. The table of contents and any headings preceding the text of the Articles, Sections and subsections of this Franchise shall be solely for convenience of reference and shall not constitute a part of this Franchise, nor shall they affect its meaning, construction or effect.
- E. Entire Agreement. This Agreement contains the entire agreement between the parties hereto with respect to the transactions contemplated by this Agreement, and nothing in this Agreement is intended to confer on any person other than the parties hereto and their respective permitted successors and assigns hereunder any rights or remedies under or by reason of this Agreement.
- F. Reference to Days. All references to days herein are to calendar days, including Saturdays, Sundays and holidays, except as otherwise specifically provided.
- G. Counterparts. This Agreement may be executed in any number of original

counterparts. All such counterparts shall constitute but one and the same Agreement.

- H. Applicable Law. This Agreement shall be governed by and construed in accordance with the applicable laws of the State of California.
- I. Severability. If any clause, provision, subsection, Section or Article of this Agreement shall be determined to be invalid by any court of competent jurisdiction, then the parties hereto shall: (1) promptly meet and in good faith attempt to negotiate a substitute for such clause, provision, section or Article which shall, to the greatest extent legally permissible, effect the intent of the parties; (2) if necessary or desirable to accomplish item (1) above, apply to the court having declared such invalidity for a judicial construction of the invalid portion of this Agreement; (3) negotiate such changes in, substitutions for or additions to the remaining provisions of this Agreement as may be necessary in addition to and in conjunction with items (1) and (2) above to effect the intent of the parties in the invalid provision. The invalidity of such clause, provision, subsection, Section or Article shall not affect any of the remaining provisions hereof, and this Agreement shall be construed and enforced as if such invalid portion did not exist. Notwithstanding the foregoing, however, the provisions of this Agreement reserving to the City the right and power to designate the Designated Disposal Site for franchise refuse materials, as provided in Section 4.7 hereof and otherwise herein, shall not be deemed to be severable from the other provisions hereof. In the event such provisions are held in any Legal Proceeding which is binding upon the City to be null, void, in excess of the City's powers or otherwise invalid or unenforceable, and the Franchisee as a result thereof, utilizes a disposal site other than the Designated Disposal Site, this entire Agreement shall immediately terminate without any liability of the City to the Franchisee.
- J. Defined Terms. Should there appear to be any uncertainty, ambiguity or discrepancy in terms or provisions hereof, or should any misunderstanding arise as to the interpretation to be placed upon any portion hereof or the performance required hereunder, the City of Capitola Manager shall be consulted and his/her decision thereon shall be final and conclusive.

ARTICLE II
REPRESENTATIONS AND WARRANTIES OF FRANCHISEE

SECTION 2.1 REPRESENTATIONS AND WARRANTIES OF THE FRANCHISEE.

The Franchisee, by acceptance of this Franchise, represents and warrants that:

- A. Existence and Powers. The Franchisee is duly organized and validly existing as a corporation under the laws of the State of California, with full legal right, power and authority to enter into and perform its obligations under this Franchise.
- B. Due Authorization and Binding Obligation. The Franchisee has duly authorized the execution and delivery of this Franchise. This Franchise has been duly executed and delivered by the Franchisee and constitutes the legal, valid and binding obligation of the Franchisee, enforceable against the Franchisee in accordance with its terms except insofar as such enforcement may be affected by bankruptcy, insolvency, moratorium and other laws affecting creditors' rights generally.
- C. No Conflict. Neither the execution nor the delivery by the Franchisee of this Franchise nor the performance by the Franchisee of its obligations hereunder (1) conflicts with, violates or results in a breach of any law or governmental regulations applicable to the Franchisee; (2) conflicts with, violates or results in a breach of any term or condition of any judgment, decree, agreement (including, without limitation, the certificate of incorporation of the Franchisee) or instrument to which the Franchisee is a party or by which the Franchisee or any of its properties or assets are bound, or constitutes a default under any such judgment, decree, agreement or instrument, or (3) will result in the creation or imposition of any encumbrance of any nature whatsoever upon any of the properties or assets of the Franchisee.
- D. No Litigation. There is no action, suit or other proceeding as of the Franchise Date, at law or in equity, before or by any court or governmental authority, pending or, to the Franchisee's best knowledge, threatened against the Franchisee which is likely to result in an unfavorable decision, ruling or finding which would materially and adversely affect the validity or enforceability of this Franchise or any such agreement or instrument entered in to by the Franchisee in connection with the transactions contemplated hereby, or which would materially and adversely affect the performance by the Franchisee of its obligations hereunder or by the Franchisee under any such other agreement or instrument.
- E. No Legal Prohibition. The Franchisee has no knowledge of any Applicable Law in effect on the Agreement Date, which would prohibit the performance by the Franchisee of this Franchise and the transactions hereby.
- F. Information Supplied by the Franchisee. The information supplied by the Franchisee in all submittals made in connection with negotiation and execution of this Franchise is correct and complete in all material respects.
- G. Waiver of Certain Rights The Franchisee hereby:

1. Waives any right it may possess to contest the legal right, power or authority of the City to enter into and perform this Franchise, including particularly the provisions thereof providing for the delivery to the Designated Disposal Site of franchise refuse, and agrees to cooperate with and assist the City in supporting the legal validity of, and authorization for, such provisions in the event of any legal challenge thereto brought or made in any manner by a third party; and
 2. Agrees to observe and comply with the operating rules and regulations established or approved by the City with respect to the Designated Disposal Site, including without limitation those governing delivery procedures, receiving hours, vehicle and waste inspection, Hazardous Waste screening, litter control and safety measures.
- H. Free Market Decision. The Franchisee, without constraint and as a free market business decision in accepting this Franchise, agrees to use the Designated Disposal Site for disposal of Franchise Materials and such decision in no way constitutes a restraint of trade, notwithstanding any change in law regarding flow control limitations or any definition thereof.
- I. Franchisee Investigation. The Franchisee has made an independent investigation to its satisfaction of matters, conditions, and circumstances relating to its execution and delivery of this Franchise Agreement and its obligations hereunder, including the nature and amount of franchise refuse materials generated within the City of Capitola and the source reduction and recycling programs now in effect or currently planned to be put into effect in the City.

ARTICLE III

FRANCHISE

SECTION 3. 1. GRANT AND ACCEPTANCE OF FRANCHISE.

- A. Franchise Service. Pursuant to Sections of the Act, The City of Capitola hereby grants an exclusive franchise, on the terms and conditions set forth herein, to the Franchisee for the service in the Franchise Area of collecting, transporting, handling, processing and/or disposing of Solid Waste, except Excluded Materials. By its executed acceptance hereof the Franchisee accepts the franchise, license and privilege so granted by the City on and subject to the terms and conditions contained herein and agrees to perform all of the duties and obligations of a franchisee thereunder. Specifically, the Franchisee agrees to provide Franchise Services to any person within the Franchise Areas requesting such- service, subject to the payment by such person of the Fees specified in this Franchise. The Franchisee shall provide Residential and Commercial Service, as requested by the Customer, for the Service specified in this Franchise Agreement.
- B. Franchise Area. The area with respect to which this Franchise is granted is the Franchise Area contained within the city limits of the City of Capitola, California.
- C. Materials to Which Franchisee is not entitled. The franchise granted in this Franchise Agreement does not give the Franchisee the exclusive right to collect the materials listed below in this subparagraph C.
1. Materials which would otherwise constitute Recyclable Materials but which are collected by City approved youth, civic, and charitable organizations, and private recyclers (without payment of compensation of any type by the generator of such materials to such collectors).
 2. Yard Waste or Wood Waste, removed from a premises by a contractor as an incidental part of a gardening, landscaping, tree trimming, cleaning, maintenance, construction or similar service offered by that contractor rather than as a hauling service.
 3. Further, the provisions of this Franchise shall not preclude or prohibit the City or any officer or employees thereof or any employee of the State of California, or any governmental subdivision thereof, from collecting, removing, and disposing of Solid Waste from City or State facilities. In addition, the provisions of this Franchise shall not preclude or prohibit the owner or occupant of any Premises from collecting, removing and disposing of Solid Waste.
- D. Haulage by Third Parties. This Franchise shall not prohibit haulers of Solid Waste other than Franchise Refuse Materials, Wood Waste, Franchise Yard Waste or Recyclables from hauling such waste over city streets in accordance with Applicable Law.
- E. Non-Franchise Services by Franchisee. This Agreement does not, however, limit the right of the Franchisee to provide other services. If the Franchisee elects to provide any such

other services, it shall not be governed by the terms of this Agreement, but shall be subject to Applicable Law.

SECTION 3.2. ASSIGNMENT AND TRANSFER OF FRANCHISE.

- A. Consent of City Required. This Franchise shall not be transferred, sold, pledged, hypothecated, leased, or assigned, nor shall any of the rights or privileges herein be transferred, sold, pledged, hypothecated, leased or assigned, either in whole or in part, nor shall title hereto or thereto, either legal or equitable, or any right, interest, or property herein or therein, pass to or vest in any person, except the Franchisee, either by action or inaction of the Franchisee or by operation of law, without the prior consent of the City, which may be withheld or delayed in its sole and absolute discretion with or without cause. Any attempt by the Franchisee to effectuate any of the foregoing without the consent of the City shall be null and void.
- B. Imposition of Conditions. The City may impose conditions and restrictions on any approval it may elect to give of any transaction described in Sections 3.2(A) and 3.3 hereof, including without limitation, conditions relating to payment of all costs relating to such transfer and an additional fee of \$10,000 and requiring acceptance of amendments of this Franchise.

SECTION 3.3 CHANGE IN FRANCHISEE OWNERSHIP OR CONTROL.

- A. Current Ownership and Control. The Franchisee represents that, as of the Franchise Date, all the voting stock of the Franchisee is owned by Green Waste Recovery Inc.
- B. Maintenance of Corporate Existence. The Franchisee covenants that during the Term of the Franchise it will maintain its corporate existence, will not dissolve or otherwise dispose of all or substantially all of its assets, and will not take any other action which would materially impair the ability of the Franchisee to perform the Franchise Services.
- C. Consolidation, Merger, Sale, Transfer and Change in Control. The Franchisee shall not, without the prior written consent of the City, which may be withheld or delayed in its sole and absolute discretion, acquire any entity, consolidate with or merge with another entity, or permit one or more other entities to consolidate with or merge into it, in any manner which results in loss by Franchisee of operational or voting control of the Franchise.
- D. Transfer of Voting Stock. The City of Capitola's written consent, which may be withheld or delayed in its sole and absolute discretion, shall be required for the sale or transfer by any means whether by agreement or by operation of law (including transfers resulting from death, bankruptcy or divorce) of any of the voting stock of the Franchisee, which results in loss by Green Waste Recovery of operational or voting control of Franchisee. "Voting control," means the ownership of, and the right to vote, stock possessing at least 51 percent of the total combined voting power of all classes of Franchisee's capital stock issued, outstanding, and entitled to vote for the election of directors. Upon transfer of any of Franchisee's voting stock, City shall be given immediate notice of the class and number of shares transferred and of the number of outstanding shares of the class.

SECTION 3.4. PAYMENT OF CERTAIN COSTS BY FRANCHISEE. If the Franchisee requests the consent of the City for any transaction described in Section 3.2 or Section 3.3 hereof, the Franchisee shall reimburse the City for all costs and expenses incurred by the City in reviewing, examining, analyzing and acting on the request, including all direct and indirect administrative expenses of the City and consultants and attorneys' fees and expenses. In addition, the Franchisee shall pay a transfer fee in the amount of \$10,000 as described in Section 3.2(B). Bills shall be supported with evidence of the expense or cost incurred. The Franchisee shall pay such bills within thirty (30) days of receipt.

**ARTICLE IV
SERVICES**

SECTION 4.1 COLLECTION AND PROCESSING SERVICES.

- A. Commencement of Service. The Franchisee shall provide the Franchise Services, as more particularly described below and implemented according to the schedule provided in Appendix A.
- B. Residential Service
1. Franchise Refuse. The Franchisee shall, not less than once per week, but not on either Saturday or Sunday (1st amendment) collect and deliver to the Designated Disposal Site all Franchise Refuse Materials generated by Residential Customers and placed for collection in Franchisee provided wheeled Carts. Collection shall not commence prior to 7:00 a.m. In response to a special Customer request, Franchisee may collect refuse materials from a Residential Customer on Saturday. The Customer shall select the size of Cart(s), as listed in Appendix B. Collection will be performed with automated refuse collection vehicles (as described in Appendix B) appropriate in each case to provide service to the particular Residential Customers in the Franchise Area, based on the size and service level requested by each Residential Customer. In unusual situations, such as when a resident is moving, Franchisee, upon request will pick up materials that are reasonably bagged, bundled or contained. The customer will be charged a reasonable rate, based upon the estimated volume (expressed in terms of equivalents to the volume of a 32 gallon container) of the material not in containers.
 2. Recyclable Materials Collection. The Franchisee shall collect Recyclable Materials generated by Residential Customers and delivered for curbside collection not less than once per week but not on Saturday or Sunday. Collection shall not commence prior to 7:00 a.m. In response to a special Customer request, Franchisee may collect Recyclable Materials from a Residential Customer on Saturday. Collection will be performed with dedicated automated recycling collection vehicles appropriate in each case to provide service to the particular Residential Customer in the Franchise Area. Attached Appendix E is a list of the specific Recyclable Materials. This list may not be reduced without City Manager approval. This list may not be reduced without City Manager approval. City Manager will approve changes reasonably necessitated by the markets or distribution channels for such materials. The collection of Recyclables will primarily, but not exclusively, be effectuated by customers depositing materials in containers provided by the Franchisee, but Subsections 5 and 7 of this subsection 4.1 (B) provide additional methods. All Franchisee communications to customers shall be in accordance with this sub-section (B) and Appendix E. To facilitate the efficient collection of recyclable materials, Franchisee shall provide at no extra cost to residential customers at least one Franchisee-owned and maintained 64 gallon cart as listed in Appendix B for each Residential Premises served by Franchisee in the Franchise Area. It is understood that with regard to multi-unit Residential Premises the total recycling cart capacity accorded those premises will increase in the same proportion as the capacity increase accorded single-family residences.

3. Franchise Yard and Wood Waste Curbside Collection Franchisee shall provide a Franchise Yard Waste and Franchise Wood Waste Curbside Collection Program at no additional charge to customers. The Franchisee shall provide each Residential Customer with a Franchisee-owned and maintained curbside 64 gallon automated yard waste Cart for the collection of Franchise Yard Waste and Franchise Wood Waste generated by the Residential Customer. Unless otherwise approved by the City Manager, the Franchisee will collect, at least once per week, but not on a Saturday or Sunday all Franchise Yard Waste and Franchise Wood Waste contained within the Franchisee-supplied 64 gallon yard waste wheeled Cart placed at the curb by the Residential Customer on the same scheduled day of Residential Franchise Refuse and Franchise Recyclable Material Collection. Said collection shall not take place prior to 7:00 am. The Franchisee will provide ordinary (normal wear and tear) Cart repairs for all Franchisee-supplied yard waste Carts at no cost to the Residential Customer. All Residential Franchise Yard Waste must be placed within the automated 64 gallon yard waste Cart placed at the curb for collection on the scheduled day of service, or in other feasible containers approved by the City Manager. The Franchisee will provide special yard waste collection services subject to notification by the City Manager and City approval of fees. At the request of Commercial Customers, Franchisee shall provide bin locks at no additional charge to the Customer.
4. Special Services. The Franchisee shall provide, without additional charge or compensation, special manual carry-out services for those Residential Customers who are determined by the City Manager, or his or her designee, to have exceptional difficulty doing so themselves due to physical disabilities or frailty.
5. Drop Box/Roll Off Collection will be provided, as requested by customers with the fees shown in Appendix C.
6. Used Motor Oil and Filter Collection. Franchisee shall provide, without additional charge or compensation, a used motor oil and filter collection program for all Residential Customers. Franchisee shall collect used motor oil, in amounts up to five gallons, from Residential Customers when placed alongside the recyclable materials cart in City Manager approved containers with screw top lids. Franchisee shall accept used motor oil in containers provided by the Residential Customer and shall also provide containers to Residential Customers, upon request. Franchisee shall also accept oil filters, which are placed in sealed zip-lock type plastic bags alongside the recyclable materials cart. Franchisee shall provide educational materials about preparing used motor oil and filters for collection and to promote used motor oil and filter collection.
7. Residential Cart Weight Limitations. When set upon the curb for collection, no residential Cart or recycling bin shall exceed the following weight: maximum weight for 35-gallon carts - 125 lbs.; maximum weight for 64-gallon carts - 200 lbs.; maximum weight for 96-gallon carts - 250 lbs.; maximum weight for 33 gallon cans – 70lbs.
8. Used Household Battery Collection: Franchisee shall collect used household batteries when the customer has bagged and placed them on top of recycling cart. Franchisee

shall dispose of the used household batteries through a qualified disposal company at the Franchisee's cost.

C. Commercial Services

1. Franchise Refuse Materials Collection. The Franchisee shall provide the number and kind of industry standard containers and shall collect and deliver to the Designated Disposal Facility all Franchise Refuse Materials generated by Commercial Customers, as scheduled with such Commercial Customers, but not less than once per week or as required by Applicable Law. The collection will be performed with collection vehicles using commercial steel (or other material approved by the City Manager) refuse containers provided by the Franchisee.
 2. Commercial Recycling Collection. The Franchisee shall, without additional charge or compensation, provide the kind of industry standard containers for recyclables as set forth in Appendix B in adequate numbers. At a minimum, Franchisee shall provide one-64 gallon Recyclables Cart to Commercial Customers for the collection of recyclable materials. Collection from these containers and of recyclable materials bundled or assembled in a manner approved by the City Manager will be made without charge. Cardboard pick-ups for Commercial Customers shall be made at least twice per week and, upon request of the Commercial Customer, three (3) times per week. At the request of Commercial Customers, Franchisee shall provide bin locks at no additional charge to the Customer.
 3. Drop Box / Roll Off. If requested by a Commercial Customer, the Franchisee shall provide drop box/roll off service according to the needs of the Commercial Customer with the fees shown in Appendix C.
 4. Upon request of the a minimum 10 commercial customers within the Capitola Village area the franchisee will provide Sunday pick-up for a surcharge listed in the enclosed rate schedule. Commercial customers may drop their Tuesday pickup to be replaced with the Sunday pickup for an increased \$ 40.00 surcharge to existing 6 day per week pickup rate schedule based on container size. This would only take effect upon the request of 10 commercial businesses within the village. If 10 commercial businesses request this service, then the Franchisee will also pick up all public refuse & recycling containers in the Village for the same duration.
- D. Commercial Technical Assistance. The Franchisee shall, without additional charge or compensation expeditiously provide a Commercial Technical Assistance Plan for review and modification by the City Manager. The plan shall be designed to encourage Commercial Customers to subscribe to the combination of Commercial Refuse and Commercial Recycling Containers that will reduce the amount of over flow of Commercial Containers in the City. The Franchisee shall encourage Customers to use the free Commercial Recycling Containers to reduce the amount of overflow in the Commercial Refuse Containers. The Franchisee shall report to the City Manager, on a quarterly basis, the status of the technical assistance program.
- E. Days of Operation. Franchisee shall provide Commercial Service, including Recycling Collection, to Commercial Customers so requesting the service six (6) days per week. In the

Capitola Village, the frequency of pick-up may include Saturday and Sunday service on weeks in summer and peak periods if the City Manager determines that to be necessary to keep the area clean. Commercial pick-ups shall not begin any earlier than 6:30 a.m.; however, commercial pick-ups at the Brown Bulb Ranch Shopping Center and the Capitola Avenue and Bay Avenue corridors shall not begin any earlier than 8:00 a.m. and commercial pickups at the Capitola Village shall not begin any earlier than 7:00 a.m.

F. Multi-Family Services. The Franchisee shall work with the landlord to ensure that the premises receive an adequate level of service, including recycling and Franchise Yard and Wood Waste collection equivalent to that described in Section 4.1 (B). Disputes between the Franchisee and owners of multi-family buildings regarding the type and level of service required shall be referred to the City Manager who may determine the appropriate type and level of service at his or her discretion.

G. Services to Public Facilities and of Public Containers

1. Public Refuse and Recycling Containers. The Franchisee shall, without charge or compensation, collect Franchise Refuse Material from Public Refuse Containers and Recyclables from Public Recycling Containers located at city centers, parks and other City facilities at locations and schedules as listed in Appendix D. The City Manager, in his or her sole discretion may amend Appendix D when reasonably necessary to achieve adequate collection. Franchisee shall empty all Public Refuse Containers located within the Village Area (as described in Appendix D) six (6) days per week, two of which may be Saturday and Sunday if the City Manager determines that to be necessary. The City Manager may approve a less frequent schedule for those portions of the year where adequate service can be maintained.
2. Recycling Promotion Programs. Each calendar year, on or before November 1, Franchisee shall pay \$4,200 to the City to be used in any manner the City Council determines is appropriate for promoting recycling. This includes, but is not limited to, grants or reimbursements to schools for recycling programs. Amounts, if any, not so utilized by the time the next year's payment is due shall be credited against the Franchisee's then due payment.

H. Community Events. Each franchise year, the Franchisee shall, without additional compensation, provide and collect one equivalent 30 cubic yard roll off collection container (or such other size and number of containers as may be reasonably designated by the City Public Works Director) for the disposal of franchise refuse materials and containers for Recyclables for 4 major community event's (such as the Begonia Festival, Art & Wine Festival or the Rod & Custom Car Show) designated by the City Manager.

I. Bulky Goods. The Franchisee shall collect Bulky Goods and excess amounts of franchise refuse materials from Residential Customers and Commercial Customers in accordance with this Section at the rates provided for in Appendix C of this Franchise Agreement. To arrange for a Bulky Goods pickup, a Customer must call the local office of the Franchisee Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m. to arrange for a mutually acceptable time and day for the collection of said material. The Franchisee shall then pick up the material at the agreed upon day and time. Unless otherwise agreed by the Customer, this day and time shall be within the week following the date when the Customer first called for

this service.

- J. Spring and Fall Cleanup Program. At least twice each calendar Year, over a two-week period, on dates designated by the City Manager, the Franchisee shall, without additional charge or compensation, undertake a "Spring and Fall Cleanup" program, pursuant to which the Franchisee shall collect and remove certain Franchise Refuse Materials, Recyclables, Wood Waste and Franchise Yard Waste. Franchisee shall collect from each residential unit up to seven (7) of the following items: industry standard trash bags, garbage cans weighing not more than 50 pounds each, and one bulky item, provided all such items are placed at the curb by any Residential Customers or at Residential Premises. Recyclables and Franchise Yard and Wood Waste shall be processed in the normal manner. Franchisee will bear the costs of processing and marketing the Recyclables.
- K. Illegal Dumping Abatement. Upon request of the City Manager, the Franchisee shall within seven days collect and remove from the City's streets, alleys, parks and other public areas which are located in the City, Bulky Goods and Solid Waste in any volume which has been unlawfully abandoned or discarded.
- L. Future Collection of Food Waste for Composting. The City and the Franchisee agree that both parties will reopen this Agreement upon City's request solely for the purpose of defining the terms and conditions, and compensation, for the future collection of food waste, as will be defined by City, from residential and commercial sources using cart and/or bin collection.
- M. Large Event Recycling Collection. The Franchisee, at no charge, shall collect and deliver to the Recyclables Processing Facility all Franchise Recyclables generated at large events in the City including, but not limited to: Begonia Festival, Art & Wine Festival, Capitola Rod & Custom Car Show, and the Wharf-to-Wharf Race, and other events as City may designate, up to a maximum of ten (10) per year. Franchisee shall be responsible for supplying an appropriate number of collection receptacles, such as carts or bins, with signage for said events. Franchisee shall also collect, at no charge, source-separated food waste from such events provided event organizers have a City-approved food waste recovery system in place. A large event is a publicly or privately sponsored gathering, which may or may not charge an admission fee, attended by 1,000 or more persons each day of operation of the event.
- N. Processing Services.
1. Recyclables Processing and Marketing. The Franchisee shall be responsible for the following activities:
 - a) The receipt, storage and processing of all Recyclables properly placed for collection in the City of Capitola, California.
 - b) The marketing of products recovered from the processing of Recyclable Materials in a manner, which allows City to receive AB939 diversion credit. City understands that market availability and AB 939 compliance will control the extent to which collected materials are actually recycled.
 2. Payment for Recyclables Processing, Marketing and Residue Disposal Costs. The Franchisee shall be responsible for the payment of all costs and expenses associated with

the transportation, processing and marketing of Recyclables collected or delivered by it under this Franchise, including any costs incurred by the Franchisee for processing. In addition, the Franchisee will bear the costs of and is solely responsible for the proper and lawful disposal of all processing Residues at the Designated Disposal Site.

3. Franchisee Responsibility for Marketing. The Franchisee shall have full responsibility for marketing the Recyclables. The City shall have no responsibility for the availability of market for recycled products, nor shall it have any liability associated with or resulting from the markets for, or end-uses of, recycled products, and the Franchisee shall indemnify and hold the City harmless from same. Notwithstanding the foregoing, the Franchisee agrees to aggressively explore its ability to collect, process, and market additional materials when the markets for such material become viable.
 4. Recycling Market Development Zone. The Franchisee shall make recyclables available to remanufacturing businesses, identified by the City Manager, within reasonable distances, at the prevailing market prices, for those collected Recyclable Materials, or at such other prices agreed to by the parties hereto. The Franchisee will use reasonable efforts to process Recyclable Materials to the specifications desired by such businesses.
 5. Franchise Yard and Wood Waste Processing. The Franchisee shall be responsible for the following activities:
 - a. Collection of Franchise Yard Waste and Wood Waste.
 - b. The storage, processing, and marketing of all Franchise Yard and Wood Waste collected from customers for a use consistent with an end use that provides City with AB939 diversion credit (i.e., other than disposal in the working face of a landfill).
 6. Payment of Franchise Yard Waste and Wood Waste Processing, Marketing Costs and Residue Disposal Costs. The Franchisee shall be responsible for the payment of all costs and expenses associated with the processing, transportation and marketing of Franchise Yard Waste and Wood Waste. In addition, the Franchisee will bear the costs of, and is solely responsible for, the proper and lawful disposal of all processing Residues at the Designated Disposal Site.
- L. Public Outreach and Education. The Franchisee shall provide, without charge or compensation, a public outreach and education program to properly utilize the Franchise Services, enhance program participation and maximize diversion of Recyclables and Yard Waste. Within sixty (60) days of the effective date of this Agreement, the Franchisee shall submit a Public Outreach and Education plan for review and approval of the City Manager. At a minimum, the Public Outreach and Education program will include: information distribution, media relations, video and radio programming, publications, special events, displays and programs, community presentations, school activities, newsletters, billing inserts, and consumer surveys. Outreach materials shall target the generator, including renters, and be distributed directly to the generator (especially if the generator is not the property owner or billing party). The programs and budgets for each Franchise Year shall be submitted to the City Manager for approval prior to implementation of such.

- M. Customer Service Level Determination. The Franchisee shall regularly monitor the amount of Franchise Refuse Materials from each Customer, and, unless the Customer specifically requests otherwise, shall only provide that level of service, which the Customer is entitled to receive as a result of its classification.
- N. Changes in Classification. Any change in service level shall become effective on the first day of the week following the date of the request. The Franchisee shall provide information on changes in classifications to the City Manager as a part of the quarterly reports.
- O. Christmas Trees. The Franchisee shall, without additional compensation, collect for diversion all Christmas trees discarded by any Residential Customer or Commercial Customer on their first two (2) regularly scheduled collection days after New Year's Day, free of any additional charge to the City or such Customer. The Franchisee shall be responsible for individual Customer notification and newspaper advertisement prior to the collection program informing residents of the dates of collection. In addition, for the first two (2) weeks for each calendar year, the Franchisee shall provide, without additional compensation, up to two drop boxes or roll off boxes for Christmas trees, of at least 40 cubic yards in size (or smaller if requested by the City Manager), at locations designated by the City Manager. Franchisee shall be responsible for processing Christmas trees so collected without additional compensation.
- P. Annual Food Bank Drive. Each year the Franchisee shall participate, at no additional charge or compensation, in a food bank drive to benefit local agencies, such as the Second Harvest Food Bank of the Central Coast, or other local agency as designated by the City Council. The Franchisee shall pickup donated food from its customers and deliver it to the designated agency. The food bank drive will be publicized by the Franchisee at its own cost and expense.
- Q. Additional Services. The Franchisee shall provide those special services, if any, identified in the Service Fee Schedule, Appendix C, at the rates specified therein. The Franchisee shall also have the right, but not the obligation, to provide additional special services requested by any Customer, which are directly related and ancillary to any of the other Franchise Services authorized hereunder. Such special services may include, without limitation, steam cleaning of containers, providing roll-off containers to Customer for special events or other special collection needs, and compactor maintenance services.
- R. Service Coordinator The Franchisee shall designate in writing on or immediately following the Franchise Date a person to transmit instructions, receive information and otherwise coordinate service and community relation's matters arising pursuant to this Franchise Agreement (each a "Service Coordinator"). The City Service Coordinator shall be the City Manager. Either party may designate a successor or substitute Service Coordinator at any time by written correspondence to the other party.

SECTION 4.2. COLLECTION SERVICE OPERATING REQUIREMENTS.

- A. Collection Routes and Schedules. The Franchisee shall establish and maintain collection routes in such manner as to provide for the uniform and efficient collection of Franchise Materials herein specified. Residential Customers shall be on a Monday - through - Friday

basis. For all Residential Customers and Commercial Customers who require more than one (1) collection per week, the Franchisee shall schedule collections at appropriately spaced intervals throughout the work week, or as requested by the Customer.

- B. Collection Schedule Revisions. Franchisee shall notify all affected Customers at least seven (7) days prior to implementing changes to any established collection schedule. Collection schedule revisions shall not be made by Franchisee without the City Managers prior consent.
- C. Route Books and Maps. The Franchisee shall prepare and maintain route books or computer print out route schedules and maps, which outline specific routing information regarding the scheduled daily collection of Refuse Materials. The route books shall be kept current and copies shall be provided to the City Manager for ready reference.
- D. Hours of Service. Except for special pickups, collecting missed pickups, or due to emergencies, the Franchisee, unless otherwise approved by the City Manager, shall schedule no collection earlier than 7:00 a.m. and no later than 4:00 p.m. for any Residential Customer, Monday through Friday and no earlier than 6:30 am or later than 4:00 p.m. for any Commercial Customer; however, commercial pick-ups at the Brown Bulb Ranch Shopping Center and at the Capitola Avenue and Bay Avenue corridors shall take place no earlier than 8:00 a.m. and commercial pick-ups at the Capitola Village shall take place no earlier than 7:00 am. In addition, the Franchisee shall use reasonable efforts to revise collection routes to address any noise complaints. Should noise complaints persist, the Franchisee shall revise collection routes or collection hours, as necessary to resolve such complaints, at the direction and sole discretion of the City Manager.
- E. Holidays. Collection of Franchise Refuse Materials shall not be required on the following legal holidays: New Year's Day, Thanksgiving Day and Christmas Day, except in case of emergency or as otherwise required by the City Manager. Whenever a regular collection falls on such a holiday, the collection shall be made on the following working day, and collections shall become current within one (1) week immediately thereafter.
- F. Contaminated Recyclable and Franchise Yard Waste and Wood Waste Material. As stated in Section 4.6(D), which does not apply to Franchise Yard Waste and Wood Waste, Franchisee is not required to pick up materials from Recycling Containers containing 10% (by weight) or more Residue. In the event that Franchisee determines that a particular Container contains more than that amount of Residue, the Franchisee shall place a tag on such Container informing the Customer of the reason for non-collection. The standard form for such tag is subject to the approval of the City Manager. Franchisee may request that customers assist the recycling process with actions such as rinsing out food containers, but failure to rinse or clean residue from food containers is not a valid reason to refuse pick up, except in repetitive and extreme cases approved by the City Manager. In the event that the City determines that excessive amounts of contamination are being deposited in containers for Recyclable Materials or Wood Waste or Yard Waste collected by the Franchisee, it may so notify the Franchisee and the Franchisee shall take steps to identify Customers who are the source of such excessive contamination and instruct them to curtail such contamination. Such steps may include heightened examination of containers by drivers or other employees of the Franchisee, increased educational efforts, or other steps directed by the City Manager.

SECTION 4.3 CONTAINERS.

- A. City Regulations. The type, size and other specific physical requirements for Containers are specified in Appendix B for Commercial Customers, Residential Recyclable and Residential Yard Waste Cart Customers, and may not be changed without the prior written approval of the City Manager.
- B. Repair. The Franchisee shall repair or replace, at its own expense, any Container provided by the Franchisee: (i) damaged by the Franchisee; (ii) damaged by the Customer (through normal wear and tear); (iii) damaged by others; or (iv) stolen. Commercial containers will be replaced by next service day available. Residential containers will be replaced next business day.
- C. Franchisee Provision of Containers to Residential Customers and Commercial Customers
1. Provision of Containers and Recycling Bins - Residential
 - a) The Franchisee shall provide each Residential Customer with separate Carts for Franchise Refuse Materials and for Recyclables, Franchise Wood Waste and Yard Waste. The Customer may choose the size of the Cart(s) for Refuse Materials. The Franchisee shall supply 64 gallon Carts for Franchise Yard and Wood Waste and Recycling Bins Carts for Recyclable Material. Upon request from any Customer due to repeated incidents of tipped Carts due to animals, the Franchisee shall provide, without additional charge or compensation, such Customer with a secure closing mechanism for the Cart lid.
 - b) Provision of Home Composting Bins. Franchisee shall maintain an adequate supply of backyard home composting bins, including worm composting bins, and provide such bins to residential customers who request such bins. Brand or specifications for home composting bins shall be approved by the City Manager prior to purchase of such bins. The fee for such bins shall be 80% of Franchisee's actual cost.
 2. Provision of Commercial Containers. The franchisee shall supply each Commercial Customer with separate Containers for Franchise Refuse and Recyclable Materials. The Commercial Customer may choose the size of the Container(s) for Franchise Refuse Materials based on the options listed in the Commercial Service Schedule in Appendix C. All such Franchisee provided containers will remain the property of the Franchisee.
 3. Minimum Container Requirement. All Containers shall meet the requirements of Appendix B and Federal O.S.H.A requirements and minimum industry standards for safety and effectiveness. Each such container to be used to contain commercial Refuse Materials with some liquids shall be supplied with watertight liners or shall be watertight. Watertight containers shall be provided with an additional one-time charge to all Commercial Customers requiring such containers. Upon request of any Commercial Customer, due to repeated incidents of illegal dumping or scavenging, the Franchisee shall provide such Customer with a locking mechanism for the Container for an additional one-time charge.

4. Franchisee Responsible for Cost of Containers. The Franchisee shall provide all Containers at the Franchisee's cost and expense without any compensation beyond that set forth in Appendix C.
5. Assembly and Distribution, Repair, Maintenance of Containers. The Franchisee shall assemble and distribute all Containers required pursuant to this Franchisee and the Franchisee's cost and expense without any compensation in addition to the Service Fee.

The Franchisee shall be responsible for the general maintenance and repair of Commercial Refuse Containers as provided to the Commercial Customers, and shall institute and maintain an effective program to repair, clean and repaint all such Commercial Containers twice per year without interruption in service. Franchisee shall clean Commercial Containers used by restaurants as needed (determined by City Manager) without additional charge or compensation. If more frequent repairing, maintenance, cleaning, and or repainting is required as a result of neglect or misuse on the part of any Customer, the Franchisee shall be entitled to charge such a Commercial Customer a fee, as approved by the City Manager, to compensate the Franchisee for the cost thereof. The Franchisee shall, within five (5) working days from the date such request is received or the Franchisee otherwise becomes aware of the need for such repair or replacement, repair or replace any damaged or dilapidated Container.

SECTION 4.4 COLLECTION LOCATIONS.

- A. General. The Franchisee is responsible for the collection of all Franchise Refuse Materials placed for collection in a legal manner at the roadside, or in the event that physical conditions prohibit roadside placement, at a location within a reasonable distance of roadside, visible to the Franchisee. The Franchisee shall immediately notify the City Manager or City Public Works Director of any condition at or near any collection location, which creates a safety hazard or accessibility problem. In such circumstances, upon authorization by City staff, the Franchisee shall arrange with the Customer for a temporary collection location until the safety hazard or accessibility problem is corrected. The Franchisee shall, where necessary, traverse private roads in order to collect Containers deposited by Customers for collection; provided, however, that the Franchisee shall not be required to utilize private roads if the owner of such road prohibits the use of such road by the Franchisee. The Franchisee shall also provide any other special services reasonably requested by a Customer; provided, however, that the Franchisee shall be entitled to reasonable compensation for providing such services, as specified in Appendix C, or if no rate is specified in Appendix C, at such rates as may be determined by the City Manager.
- B. Enclosures. Where the collection location is within a private Commercial Customer enclosure constructed pursuant to the requirement of, or approved by, the City, the Franchisee shall be responsible for the removal, replacement and closure of all lids and doors of all Containers properly placed therein. The Franchisee shall use sufficient care in the handling of such Containers so as to prevent any damage to the enclosure, the enclosure doors, and adjacent facilities or improvements. The Franchisee shall repair at its own expense, and within thirty (30) working day after notification from the City Manager, any such City code constructed enclosures or adjacent facilities or improvements damaged by it.

SECTION 4.5 GENERAL REQUIREMENTS RELATING TO COLLECTION.

- A. Clean Up. The Franchisee shall cause all spills of Franchise Refuse Materials, Yard Waste, or Recyclables occurring during the collection process (including waste spills due to tipping by animals or vandals of containers legally placed for collection) to be cleaned up immediately upon occurrence or discovery of the spill. Franchisee shall close all gates after making collections and shall avoid crossing private or public planting areas and grounds or jumping over hedges and fences.
- B. Employees Uniform. The Franchisee shall take all steps necessary to ensure that its employees performing collection services conduct themselves in a workmanlike manner, and as quietly as possible. All such employees shall at all times of employment be dressed in industry standard uniforms with suitable identification. No employee may remove any portion of his or her uniform while working.
- C. Record of Non-Collection. When any Franchise Refuse Materials, Recyclables, or Franchise Yard Waste deposited for collection are not collected by the Franchisee, the Franchisee shall leave a tag indicating the reason(s) for such non-collection and the local telephone number of the Franchisee at which the Customer can inquire as to the circumstances relating to the non-collection. This information shall be in writing or by means of a check mark on a form tag. The Franchisee shall maintain, at its place of business, a log listing all such circumstances in which collection is denied. The logbooks shall contain the names of the Premises involved, the date of such tagging, the reason for non-collection, and the date and manner of disposition of each case. The log shall be kept so that it may be conveniently inspected by the City Manager upon request. The log relating to any particular tagging shall be retained for a period of one year following the tag date.
- D. Fees and Gratuities. The Franchisee shall not, nor shall it permit, any agent, employee or subcontractor employed by it, to request, solicit, demand or accept, directly or indirectly, any compensation or gratuity for the collection of Franchise Refuse materials or other Franchise Services, except such compensation as is specifically provided for herein.

SECTION 4.6 EVENTS ALLOWING FRANCHISEE TO REFUSE COLLECTION.

The Franchisee is not required to pick up the following:

- A. Excluded Materials
- B. Materials left for pick up which are neither deposited in the appropriate container nor packaged, assembled, or bundled in a manner approved by the City Manager.
- C. Materials not left for pick up at the proper locations, as provided in Section 4.4 and Section 4.1.B.
- D. Recyclables when more than 10% of the contents of a recycling container, bundle, or package consist of residue or other material not meeting the definition of Recyclable.
- E. Overweight Materials. The Franchisee may decline to collect any manually dumped Containers which weigh in excess of 100 pounds per Franchisee provided Residential

Customer 64 gallon refuse or yard waste Carts, or have been compacted or otherwise placed, kept or accumulated in a manner such that the Franchise Refuse materials will not, of their own weight, fall out of the Container in which they were placed, when the Container is turned upside down. The Franchisee shall tag any Container, which it does not collect, pursuant to this Section, identifying the reason for such non-collection.

SECTION 4.7 DISPOSAL

- A. Disposal Location and Methods. The City shall have the right during the Term hereof to designate the Designated Disposal Site, or multiple concurrent Designated Disposal Sites, in its sole and absolute discretion. The Designated Disposal Sites shall be the Marina Landfill owned by the Monterey Waste Management District. The City Manager shall have the right to designate alternative Designated Disposal Sites (subject to the indemnification requirements described in Section 10.1 of this Franchise). The City shall notify the Franchisee in writing of any changes in, or additions to, the Designated Disposal Site. The Franchisee shall transport and dispose of all Franchise Refuse materials, which it collects, and does not divert from landfill disposal at the Designated Disposal Site, in accordance with the requirements of Applicable Law, and shall comply with the requirements, rules and regulations of the owner or operator of the Designated Disposal Site. The Franchisee agrees that it shall not dispose of Recyclable Materials or Franchise Yard Waste or Wood Waste at any disposal site as wastes, through any other type of disposal or, in the case of Recyclable Materials, through incineration, except as may be required in emergencies resulting from Uncontrollable Circumstances with the prior written approval of the City Manager.
- B. Disposal Records. The Franchisee shall keep and maintain such logs, records, manifest, bills of lading or other documents as the City Manager may deem to be necessary or appropriate to confirm compliance by the Franchisee with this Franchise and shall retain all weight slips or other call information provided to the Franchisee's drivers by the owner or operator of the Designated Disposal Site.
- C. Payment of Disposal Fees. The Franchisee shall pay, or make arrangements for the payment of, all tipping fees and other transfer or disposal charges imposed by the owner or operator of the Designated Disposal Site for the disposal or processing of Franchise Refuse Materials generated by the City of Capitola.

ARTICLE V OPERATING ASSETS

SECTION 5.1 FRANCHISEE OPERATING ASSETS.

- A. Obligation to Provide. The Franchisee shall acquire and maintain at its own cost and expense Franchise Operating Assets which in number, nature and capacity, shall be sufficient to enable the Franchisee to provide the Franchise Services in accordance with the terms hereof.
- B. Vehicle and Equipment Identification. The Franchisee's name, local, toll-free phone number and vehicle or equipment number shall be visibly displayed on both sides of its vehicles or other collection equipment used by the Franchisee. No other signs or markings, other than safety or recycling related, shall be placed upon the Franchisee's vehicles or equipment without prior approval of the City Manager.
- C. Vehicle Specifications, Maintenance and Appearance. All vehicles used by the Franchisee in providing the Franchise Services shall be kept clean and in good repair, and shall be uniformly painted. Vehicles used to collect or transport franchise refuse materials shall be kept covered at all times except when such material is actually being loaded or unloaded or when the vehicles are moving along a collection route in the course of collection. Any cover or screen shall be so constructed and used that Waste shall not blow, fall or leak out of the vehicle onto the street. Franchise Refuse Materials collection vehicles shall be washed at least once every seven (7) days and cleaned and painted as required to maintain a sanitary, like-new, appearance. No advertisement or other display shall be carried on any Franchise Refuse Materials collection vehicle, other than those specified in Section 5.1(B), without the prior written approval of the City Manager. All Franchisee vehicles used in connection with this Franchise may be required to be inspected by the City Manager on an annual basis for compliance with this sub-section (C). He/she may also require an inspection conducted by the California Highway Patrol, or other similar designated governmental agency.
- D. Inventory of Operating Assets. The Franchisee shall furnish the City Manager with an inventory of Operating Assets used by the Franchisee to provide Franchise Services under this Franchise, and shall update the inventory so provided at least annually. Such inventory shall indicate the type, capacity and location of each vehicle and of each piece of equipment, and the date of acquisition and disposition.

SECTION 5.2 OPERATING AND MAINTENANCE OF THE OPERATING ASSETS.

The Franchisee, at its sole cost and expense, shall at all times operate, or cause to be operated, the Operating Assets properly and in a sound and economical manner; shall maintain, preserve, and keep the Operating Assets or cause the Operating Assets to be maintained, preserved and kept in good repair, working order and condition; shall staff the Operating Assets with the appropriate number of hourly and salaried employees consistent with good management practice; and shall from time to time make, or cause to be made, all necessary and proper repairs, replacements and renewals so that at all times the operation of the Operating Assets may be properly and advantageously conducted. The Franchisee shall maintain the safety of the Operating Assets at a level consistent with Applicable Law and prudent solid waste management practices. Franchisee shall obtain and maintain all insurance necessary to comply with this section.

SECTION 5.3 COMPLIANCE WITH APPLICABLE LAW. The Franchisee shall comply with the rules and regulations governing the operation, use and services of the Designated Disposal Site, shall observe and perform all of the terms and conditions contained in the Act, the Municipal Code and all other Applicable Law, shall obtain and maintain all Legal Entitlements required for the Operating Assets and the Franchise Services, and shall comply with all valid acts, rules, regulations, order and directions of any Governmental Body applicable to the Operating Assets and the Franchise Services provided hereunder.

SECTION 5.4 TAXES, FEES AND UTILITY CHARGES. The Franchisee shall pay all Taxes and Fees lawfully levied or assessed upon or in respect of the Operating Assets or the Franchise Services, or upon any part thereof or upon any revenues of the Franchisee there from, and provide and pay the cost of all Utilities necessary for the operation of the Operating Assets and the provision of the Franchise Services, when the same shall become due.

**ARTICLE VI
GENERAL REQUIREMENTS**

SECTION 6.1. PUBLIC ACCESS TO THE FRANCHISEE.

- A. Office Facilities. The Franchisee shall establish and maintain at all times during the Term hereof a local access toll free customer service number that shall be identified on all publications, bills and correspondence.
- B. Office Hours. The Franchisee's office hours shall be, at a minimum, from 8:00 a.m. to 5:00 p.m. daily, except Saturdays, Sundays and holidays. A weekend/after hour's voicemail service shall be provided. Calls to the weekend/after hours voicemail system will be responded to on the next businesses day.
- C. Availability of Representatives. A representative of the Franchisee shall be available at the Franchisee's office hours for communication with the City Manager and the public. This requirement is not met merely by providing a message recorder, voice mail, etc. The phone system used during regular business hours must be such that callers can ordinarily directly speak with a knowledgeable representative within thirty (30) seconds of the first ring.
- D. Emergency Telephone Number. The Franchisee shall maintain an emergency telephone number for use during other than normal business hours. The Franchisee shall have a representative, or an answering service to contact such representative, available at the emergency telephone number during all hours other than normal office hours. The Franchisee shall provide the City Manager with night and weekend telephone numbers for senior officials of the Franchisee for use by the City Manager in case of emergencies.
- E. Continuation of Franchise Services During Labor Actions. Franchisee shall prepare and submit to the City Manager, a contingency plan for uninterrupted continuation of Franchise services in the event of labor actions such as strikes, sick-outs, work stoppages or slow downs, or any other reasonably foreseeable labor action intended to negatively impact, reduce or stop Franchisee services. The plan shall not prevent the Franchisee, workers or labor organizers from exercising their lawful rights as defined by applicable law.

SECTION 6.2 SERVICE COMPLAINTS AND DEFICIENCIES.

- A. Complaints to Franchisee. The Franchisee shall maintain during office hours a complaint service satisfactory to the City Manager. All service complaints will be directed to the Franchisee. The Franchisee shall provide bilingual, Spanish-speaking customer service representatives. Copies of all complaints shall be given to the City Manger upon request. The Franchisee shall record all complaints, including date and time, complainant name and address, and nature and date and time of resolution of complaint. This log shall be available to the City.
- B. Required Response to Complaints. Missed pick-ups that are called in by 12:00 p.m. and are not late put outs, shall be picked up on the same day; missed pick-ups called in after 12:00 p.m. and are not late put outs, shall be picked up on the next scheduled business day.

Drivers shall call in to the Dispatch office between 11:30 a.m. and 1:00 p.m. daily to receive and act on missed pick-ups. For service complaints, the field supervisor shall have 48 hours to resolve or attend to the complaint. Customer services representatives shall call customer after complaint resolution to confirm satisfactory results. For all other valid complaints or failure to provide a Franchise Service to a customer, corrective action shall commence the next business day following the complaint.

- C. Annual Review of Performance and Quality of Service. At the City's sole option, with 30 days written notification to the Franchisee, it may conduct a public hearing at which the Franchisee will be present and will participate, to review the Franchisee's performance and quality of service and provide for evaluation of technological and regulatory changes. The reports required by the service contract regarding customer complaints may be utilized as a basis for review. Performance and service quality review hearings may be scheduled by the City at its discretion throughout the term of the service contract. Within 30 days after the conclusion of the public hearing, the City may issue a report on the adequacy of performance and quality of service. If any noncompliance with the contract is found, the City may direct the Franchisee to correct the inadequacies in accordance with the terms of the service contract. Franchisee's failure to timely correct material performance inadequacies in a reasonable time are a valid grounds for termination of the Franchise and this Agreement.
- D. Penalties for Failure to Meet Requirements of Franchise. The City Manager may establish and collect penalties in the amounts listed below for Franchisee's failure to meet the requirements of this Franchise. The provisions of this sub-paragraph D shall not constitute a mandatory election of remedies. The City Manager's decision to not impose any such penalty shall not be deemed a waiver of any breach by the Franchisee under this Franchise. Specifically, without limitation, the City Manger may impose the penalties listed below for the corresponding deficiency in performance by the Franchisee.
1. Failure to correct a missed pick ups within the times set forth in 6.2(B): \$100.00 per occurrence; each additional 24-hour working day period: \$100.00;
 2. Failure to provide Containers to initial Customer within seven days of request for service: \$100.00 per day;
 3. Failure to deliver collected Franchise Refuse Materials to the Designated Disposal Site: \$1,000 per incident;
 4. Failure to repair or replace any Container, when so required by this Agreement: \$100.00 per occurrence;
 5. Undertaking Residential collection operations earlier or later than specified in Section 4.2(D): \$100.00 per occurrence;
 6. Failure to maintain Operating Assets in neat and orderly manner, after notice by the City Manager and within a reasonable time to remedy: \$100.00 per day;
 7. Failure to record a response to a Customer complaint or request within 24 hours of resolution: \$100 per occurrence;

8. Failure to clean up spillage or litter during Franchisee collection activity: \$100.00 per occurrence;
9. Failure to take reasonable steps to resolve a legitimate billing complaint within seven working days from the complaint: \$100.00 per occurrence;
10. Additional penalty when Franchisee receives more than 25 valid service-related complaints in any 30-day period: \$500.00;
11. Failure to tag materials not collected due to contamination or inappropriately prepared: \$100.00 per occurrence;
12. Failure to attain final complete deployment of containers and automated pick up vehicles for Recycling or Franchise Yard Waste on the date required by this agreement: \$500.00 per day;
13. Failure to remit City fees by the fifteenth of the month: \$100.00 per occurrence plus late fees of three-quarters of one percent per month for every month thereafter until paid;
14. Failure to maintain or submit documents and reports as required under the terms of this Agreement after ten days notice: \$100 per incident per day;
15. An improper refusal to pick up materials when the stated or ostensible basis for the refusal is one of the grounds listed in Section 4.6 \$100 per incident per day.

Any penalty due under this section shall be paid to the City in accordance with Section 7.1(B).

SECTION 6.3 ACCOUNTING AND RECORDS.

- A. Maintenance and Audit of Records. The Franchisee shall maintain in its principal office full and complete financial and accounting records prepared on an accrual basis in accordance with generally accepted accounting principles. Such records shall be subject to audit and inspection by the City and its authorized officers, agents or employees, at any reasonable time at the Franchisee's principal office. The gross receipts derived from the Franchise Services under this Franchise, whether such services are performed by the Franchisee or by a subcontractor or subcontractors, shall be recorded as revenues in the accounts of the Franchisee. The Franchisee shall maintain and preserve all disposal records and service level records for a period of not less than three (3) years following the expiration or termination of the Franchise. The City Manager may require a customer audit in order to verify that customers are receiving the level of service for which they are being billed.
- B. Inspection of Franchisee's Accounts and Records. The Franchisee's service levels and disposal records shall be available at the Franchisee's local office at any time during regular business hours for inspection by the City Manager during the term of this Franchise and for a period of three (3) years following the expiration or termination of the Franchise.
- C. Delivery of Financial Reports to City. Annually the Franchisee shall furnish at its sole cost and expense complete annual financial statements of the Franchisee to the City Manager

necessary in order for the City to reconcile any financial determination related to this Franchise. Such statements should include those records applicable to the services defined in this Franchise. The statement shall be examined by an independent Certified Public Accountant, and shall include the unqualified opinion of such accountant as to whether such statement is a fair representation of the data included therein. The financial information shall include a report on the service classification of each Customer within the Franchise Area. The Franchisee shall have a complete audited financial statement available to the City by July 15 of each year.

- D. Recycling and Franchise Yard Waste/Wood Waste Information. The Franchise shall maintain in its principal office full and complete financial and accounting records pertaining to cash, billing, purchase, processing, shipping and sale of all Recyclable Materials, Franchise Yard Waste and Wood Waste collected, processed and sold under the provisions of this Franchise. Said records shall be subject to inspection by the City Manager.
- E. Computer System. The Franchisee shall maintain a computer database which specifies the service address of each Customer within the Franchise Area covered by the Franchise Agreement, the service classification applicable to each Premises, and any special services provided to such Premises. The Franchisee computer system shall allow the City to review for each Customer:
1. Record of missed pick ups or late put out by the customer,
 2. Records of daily container (refuse, recycling, yard waste, home composting) delivery,
 3. Route identification,
 4. Container servicing, and
 5. Tagging for contamination, placement or other reasons.

The Franchisee shall provide the City convenient access to this information, including printouts, if requested.

SECTION 6.4 RULES AND REGULATIONS OF THE CITY MANAGER. The City Manager shall have the power to establish rules and regulations relating to the accumulation, collection, recycling and disposal of Franchise Refuse Materials not inconsistent with the provisions of this Franchise, providing such rules and regulations are found to be reasonably necessary by the City Manager for enforcement of the provisions of this Franchise, or any and all Applicable Laws.

SECTION 6.5 PERFORMANCE BOND. The Franchisee shall furnish to the City and maintain and file with the City of Capitola no later than 30 days after the Franchise Date a corporate surety bond, or other acceptable surety, approved as to form by the City of Capitola City Attorney executed by the Franchisee as principal and by a corporate surety, in the sum of \$500,000.00. Such bond shall permit the City to draw upon it in the event the Franchisee fails to perform its obligations hereunder and fails to pay any liquidated damages required to be paid as a result of such non-performance. The surety bond shall serve to secure the performance of the Franchise Services, and the amount thereof shall in no way limit the damages which may be payable hereunder upon any breach hereof by the Franchisee.

SECTION 6.6 SUBCONTRACTORS. The Franchisee shall not utilize any subcontractors for the performance of the Franchise Services except with the consent of the City, which may be withheld or delayed in its sole and absolute discretion.

SECTION 6.7 MONITORING AND REPORTING.

- A. Records. The Franchisee shall maintain in its local office records for the City of the quantities of (i) Franchise Refuse Materials collected and disposed under the terms of this Franchise, (ii) recyclable materials, by type, collected, processed, sold, donated or given for no compensation, and residue disposed, and (iii) yard waste and wood waste materials collected, received, purchased, processed, sold, donated or given for no compensation, and residue disposed. Quantities by type of recyclable materials collected by Franchisee may be determined by estimate based on load sampling to characterize the contents of each commingled material load, using a sample protocol established by mutual agreement of the City and Franchisee. Said records shall be subject to inspection by the City Manager.
- B. Waste Disposal and Characterization Studies. The Franchisee shall, at no additional compensation, conduct one seasonal characterization study per year during the course of this agreement on the Franchise Recyclables and Refuse in order to determine the content of said material for marketing and public outreach purposes.
- C. Collection Monitoring. The Franchisee shall allow a person designated by the City Manger to ride with the Franchisee collection vehicles on any route or routes with the proper Franchisee indemnification of liability, or liability waiver provided by the City of Capitola. The City Manager will inform the Franchisee at lease one week in advance prior to date of route monitoring.
- D. Reporting. Unless waived in writing, the Franchisee shall submit the following reports to the City
1. Monthly Report Submittals. Monthly reports shall be submitted no later than the 25th of the month following the reporting period.
 2. Franchise Refuse Materials Data – Monthly. Identify residential and commercial quantities collected.
 3. Recycling and Diversion Data – Monthly. Identify, by diversion type (residential and commercial), amounts of collected materials, which are recycled or diverted from landfill disposal.
 4. Franchise Yard Waste Data - Monthly. Identify residential Franchise Yard and Wood Waste quantities collected, processed and delivered to the end-user. Include gross tons collected weekly.
 5. Praises Complaints Missed Pickups and Resolutions-Monthly. Provide the City Manager with a monthly report summary of compliments and complaints received in any one month. In particular, such summary will specifically identify any complaints, which require the payment by the Franchisee of liquidated damages pursuant to this Article.

6. Public Education and Information - Annually. Provide a summary description of public education and information activities undertaken. Include distribution of individual customer literature, collection notification tags, community information and events, tours and other activity involvement.
7. Problems and Actions Taken - Monthly. Provide summary narrative of problems encountered with collection and processing activities and actions taken. Indicate instances of and responses to property damage or injury, poaching or scavenging, significant changes in operation in response to such problems.
8. Annual Report Submittals. Unless another date is provided herein, or specified by the City Manager, Annual reports shall be submitted no later than the 25th of the month following the end of the Franchise Year.
9. Annual Report Contents. The Annual Report shall summarize: the numerical information contained in the monthly reports, changes, and customer complaints or comments.

SECTION 6.8. RESEARCH AND DEVELOPMENT. Franchisee agrees to take a proactive approach on its own initiative and, in addition, to cooperate with the City in pursuing new technologies, management techniques and markets through pilot programs or other similar activities to improve cost-efficiencies and product quality and to increase material recovery from the collection and processing services described herein. The Franchisee and the City, by mutual agreement, will determine the scope of work, timing, costs, and compensation, if any, due Franchisee to accomplish the purposes of this paragraph. The Franchisee shall provide the City, on request, with a written summary report identifying the results and conclusions of such research or pilot programs. In the context of the objectives of this paragraph, the Franchisee will meet with the City, as requested, to evaluate the performance of the Franchise Services and to examine new market opportunities for the processed materials produced by the Franchise services.

SECTION 6.9. CITY RIGHT TO DIRECT CHANGES. The City may direct the Franchisee to perform additional services or modify the manner in which it performs existing services. Franchisee shall be entitled to an adjustment in its compensation for providing such additional or modified services.

- A. Franchisee Proposal Process If requested by the City, the Franchisee shall present, within 30 days of the request, a proposal to provide additional or modified services. The proposal shall contain a complete description of the following when applicable; (i) collection methodology to be employed, (ii) equipment to be utilized, (iii) labor requirements, (iv) type of containers to be utilized, (v) provision of program marketing and public education, (vi) a projection of the financial results of the program's operations for the remaining Term of the Agreement in a balance sheet and operating statement format including documentation of key assumptions underlying the projections and the support for the assumptions, (vii) materials processing facility to be used, and (viii) proposed rate adjustment.
- B. Arbitration. If 1) the City and the Franchisee have negotiated in good faith on matters described in this Section 6.9, and; 2) the City and the Franchisee have not come to agreement within 90 days, then the City and Franchisee shall submit to binding arbitration through the American Arbitration Association.

ARTICLE VII COMPENSATION

SECTION 7.1. SERVICE FEE/BILLING PROCEDURES.

- A. Formula. Commencing with the first regular billings mailed after the effective date of this Agreement, the Franchisee shall be entitled to receive, from the Customer Revenue only, a monthly Service Fee for the Franchise Services provided by the Franchisee hereunder in accordance with the provisions of this Article. Service fees may be adjusted from time to time as provided in this Franchise. The Service Fee schedule provided by Franchisee shall make available to qualifying Customers a 40 percent service fee reduction. To qualify for this 40 percent reduction, the Customer must: (1) be a Residential Customer; (2) use a single 35-gallon cart or less, once a week for franchise refuse waste service; and (3) participate in the PG&E Care Program. Except as otherwise expressly provided in this agreement (see Section 6.9), the monthly Service Fee constitutes the entire compensation of the Franchise for the Franchise Services. The Franchisee waives any right it has or may have at any time during the Term of this Franchise to seek to have the monthly Service Fee increased in a manner not set forth in this agreement under any theory of fact or law by any Governmental Body.
- B. Damages. All penalties and/or damages shall be paid by the Franchisee directly to the City, or persons subject to receive payment for damages, within 25 days following the end of the month in which determination for payment has been concluded.
- C. Modification of the Service Fee Schedules. Commencing on January 1, 2009 and on January 1st of each subsequent year during the Term of the Franchise, amounts contained in the Service Fee Schedules herein provided in Appendix C shall be changed by 100% of the change in the C.P.I. (All Urban Consumers Index, San Francisco-Oakland-San Jose) for the latest 12 month period for which data are available in time to compute and bill the fee change. Rate changes will not be applied to services, which have already been billed (whether or not performed) prior to Franchisee's mailing of notice of rate increase. The City Manager or designee shall perform rate change calculations. For fee changes in the 2009 calendar year and thereafter, and commencing 30 days after written notice has been provided to all of Franchisee's Capitola Customers, Franchisee can additionally increase (or decrease) rates, by the percentage resulting from the following formula: to determine the increase in tipping fee, less CPI%, weighted to the ratio of total prior year Tipping Fees paid to Total Revenues Collected, grossed up for Next Year Franchise % and then, add to the CPI%. The calculation is as illustrated in table 1 below:

Table 1

CPI %	
San Francisco - Oakland - San Jose - CPI (u) - All Items	
October 2007	217.949
October 2006	211.000
Increase	6.949
Percentage increase	3.29%
Tipping Fee Adjustment:	
Tipping fee as of January 2008	\$ 45
Tipping fee as of January 2007	\$ 43
Increase	\$ 2
Percentage increase	4.65%
Total revenues 2006	\$ 2,006,206
Total Tipping fees for 2006	\$ 367,235
Tipping Fee Ratio	18.30%
Calculation of Increase:	
% Increase in Tipping Fee	4.65%
Less CPI Increase	-3.29%
Net Amount	1.36%
Times Tipping Fee Ratio	18.30%
Divide by 1 less Franchise % (10%)	0.90
Tipping Fee Adjustment	0.277%
Plus CPI, above	3.29%
Total Rate Adjustment	3.57%

SECTION 7.2. MONTHLY SERVICE FEE CUSTOMER STATEMENT. Franchisee shall continue to bill (frequency and timing) in accordance with its present practices in City. No significant changes shall occur without City Manager approval.

SECTION 7.3. FRANCHISE FEE. Commencing upon the date that the City executes the Franchise Agreement, Franchisee shall be assessed by the City a Franchise Fee equal to ten percent of all Fees and Assessments charged by Franchisee to Residential and Commercial Customers.

SECTION 7.4. CITY SURCHARGES. The City may, at its sole and absolute discretion, require the Franchisee to include in its bill to Customers, collect, and pass through to City without any additional charge, any applicable fees or surcharges as may be imposed by the City Council, including but not limited to recycling fees, disposal fees or AB 939 fees. The Franchisee may separately list and describe any such fees or charges.

SECTION 7.5. DISPUTES REGARDING EXTRA SERVICES. If the Residential or Commercial Customer disputes any statement billing amount for extra customer requested service above the established Service Fee, the Franchisee shall provide the Residential or Commercial Customer with a written verification of the amount billed. If the Customer and the Franchisee are not able to resolve such dispute within 30 days after the date of Customer's written objection, either party may refer such dispute to the City Manager for review. If the City

Manager accepts the matter for review, the City Manager's determination shall be final. The City Manager may decline to accept the matter for review, in which case the parties shall have normal recourse to the courts.

Attachment: Green Wate Recovery Refuse_Recycling_Yard_Waste_Francis_Agreement_4-24-08 (Solid Waste Program Update)

**ARTICLE VIII
DEFAULT, TERMINATION FOR CAUSE AND DISPUTE
RESOLUTION**

SECTION 8.1. TERMINATION, PRE-CONDITION FOR BREACH. The parties agree that, in the event that either party breached any obligation under this Franchise or any representation made by either party hereunder is untrue in any material respect, the other party shall have the right to take any action and seek any remedy at law or in equity it may have to enforce the payment of any damages for the performance of such other obligation hereunder. The Franchisee acknowledges that the City intends to rely on the Franchisee to provide Franchise Refuse Materials collection, transportation to the Designated Disposal Site, recycling and other services hereunder for the protection of the public health, safety and welfare, and that therefore the City may enforce any action for specific performance of the Franchisee's obligations hereunder to provide the Franchise Services on the terms and conditions provided herein. Neither party shall have the right to terminate this Franchise for cause except after an Event of Default determined in accordance with the provisions of this Article VIII has occurred, and has not been remedied.

SECTION 8.2. RIGHT OF THE CITY TO PERFORM SERVICES IN CERTAIN CIRCUMSTANCES. Franchisee Failure to Collect for any Reason. Should the Franchisee, for any reason whatsoever, fail, refuse or be unable to collect, transport and dispose of any or all Franchise Refuse Materials which it is herein obligated to collect, transport and dispose of in the time and manner as herein in the Franchise provided, for a period of more than seventy-two (72) hours, or if in any lesser time period Franchise Refuse Materials should accumulate in the City to such an extent, in such manner, or for such time that the City Manager or City Council should find that such accumulation endangers or menaces the Public Health, safety or welfare, then, in any of those events, the City shall have the right, upon notice to the Franchisee, after such notice, to cause the Franchise Refuse Materials to be collected. All of the costs of such collection shall be paid by Franchisee. In such event the City shall submit a reimbursement statement to the Franchisee. Each statement shall list such costs and expenses, and the reimbursement shall be made no later than five (5) days from and after each such submission. In the event the reimbursement is not made, the City may draw upon any bond or other security required to be maintained thereunder.

SECTION 8.3. EVENTS OF DEFAULT OF FRANCHISEE.

A. Event of Default Defined. Each of the following shall constitute an Event of Default on the part of the Franchisee:

1. Certain Events of Non-Compliance. Any transaction not complying with the requirements of Section 3.2. or Section 3.3. hereof.
2. Failure of Deliveries to the Designated Disposal Site. Except for Uncontrollable Circumstances, the failure by the Franchisee for any reason, without any requirement of notice or cure opportunity, to deliver to the Designated Disposal Site, on a consecutive or cumulative basis though out the Term of this Franchise, franchise refuse that it collects in any significant amount.
3. Missed Collections. The failure of the Franchisee, except as may be excused by

Uncontrollable Circumstances, to, in any Franchise Year, make at least 99.95% of the gross number of scheduled collections placed at the curb by Residential - Customers or at the designated collection points by Commercial Customers.

4. Improper Disposal of Recyclable Materials, Franchise Yard Waste or Wood Waste. Disposal by the Franchisee in any landfill of Franchise Wood Waste or Recyclables.
5. Refusal to Timely Provide or Falsification of Report. Intentional refusal to timely provide, or falsification by the Franchisee of, any report or document required to be provided by the Franchisee under this Franchise.
6. Voluntary Bankruptcy. The written admission by either the Franchisee or Guarantor that it is bankrupt, or the filing by the Franchisee or either Guarantor of a voluntary petition under the Federal Bankruptcy Code, or the consent by the Franchisee or either Guarantor to the appointment by a court of a receiver or trustee for all or a substantial portion of its property or business, or the making an assignment to a trustee, receiver or similar fiduciary, regardless of how designated, of all or a substantial portion of the Franchisee's or either Guarantor's property or business.
7. Involuntary Bankruptcy. The final adjudication of the Franchisee or either Guarantor as a bankrupt after the filing of an involuntary petition under the Bankruptcy Act, but no such adjudication shall be regarded as final unless and until the same is no longer being contested by the Franchisee nor until the order of the adjudication shall be regarded as final unless and until the same is no longer being contested by the Franchisee nor until the order of the adjudication is no longer appealable.
8. Failure to Provide Performance Bond. The failure of the Franchisee to provide or maintain the performance bond required pursuant to Section 6.5. hereof.
9. Other Failure to Perform, Notice. Failures described in sub-paragraphs 1, 2, 6, 7 and any falsification of reports are events for which City may, at its sole election, terminate this Franchise without prior notice. On all other matters listed in this section, and for Franchisee's failure or refusal to perform any material term, covenant, obligation or condition contained in the Franchise, the City shall have the right to terminate this Franchise under this Section when:
 - (a) The City has given prior written notice to the Franchisee, stating that a specific failure or refusal to perform exists which will, unless corrected, constitute a material breach of this Franchise on the part of the Franchisee and which will, in its opinion, give the City a right to terminate this Franchise for cause under this Section unless such default is corrected within the time specified in Part B of this Section 8.3; and
 - (b) The Franchisee has neither challenged in an appropriate forum the City's conclusion that such failure or refusal to perform has occurred or constitutes a material breach of this Franchise nor corrected or diligently taken steps to correct such default within 15 days from receipt of the notice given. However, if the Franchisee has diligently taken steps to correct such default within a reasonable period of time,

the same shall not constitute an Event of Default for as long as the Franchisee is expeditiously continuing to take such steps to correct such default.

B. Termination Liquidated Damages Payable to the Cities. If this Franchise is terminated by the City for cause as a result of an Event of Default by the Franchisee hereunder, the Franchisee immediately upon receipt of the City termination notice shall pay to the City as damages:

1. All amounts payable to the City by the Franchisee as damages for actions occurring prior to such date of termination,
2. An amount equal to the sum of all increased payments, damages, penalties incurred by or on behalf of the City under or Applicable Law as a result of the termination of this Franchise, and
3. \$150,000.00 as compensation for the cost (including but not limited to staff and consultant time) and dislocation, which results from having to hurriedly obtain other service and another Franchisee.

C. Adequacy of Termination Liquidation Damages. The parties agree that upon termination of the Franchisee for cause under Section 8.3, actual damages would be difficult or impossible to ascertain, that the termination liquidated damages provided for are herein intended to place the City in an economic position equivalent to that which it would have been in the Event of Default or material breach permitting termination for cause had not occurred. The obligation to pay such termination liquidated damages shall not impair or limit the obligation of the Franchisee or the City under any other provision of this Franchise, which expressly survives termination hereunder.

SECTION 8.4. EVENT OF DEFAULT BY THE CITY.

A. Event of City Default Defined. The following shall constitute an Event of Default on the Part of the City:

The failure of the City to pay undisputed amounts due and owing to the Franchisee under this Franchise within 90 days following receipt of a Franchisee invoice therefore relative to direct payment of invoices submitted in excess of the free service provided to the City under the terms of this Franchise Agreement only.

SECTION 8.5. NO WAIVERS.

No action of the City or Franchisee pursuant to this Franchise (including, but not limited to, any investigation or payment), and no failure to act, shall constitute a waiver by either party of the other party's compliance with any term or provision of this Franchise. No course of dealing or delay by the City or Franchisee in exercising any right, power or remedy under this Franchise shall operate as a waiver thereof or otherwise prejudice such party's rights, powers and remedies. No single or partial exercise of (or failure to exercise) any right, power or remedy of the City or of the Franchisee under this Franchise shall preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

SECTION 8. 6. PUNITIVE DAMAGES. In no event shall either party hereto be liable to the

other or obligated in any manner to pay to the other any punitive or similar damages (except for penalties herein provided) based upon claims arising out of or in connection with the performance or non-performance of its obligations or otherwise under this Franchise, or the material inaccuracy of any representation made in this Franchise, whether such claims are based upon contract, tort, negligence, warranty or other legal theory.

SECTION 8.7. FORUM FOR DISPUTE RESOLUTION. All legal actions and proceedings related to this Franchise or to the Franchise Services or to any rights or any relationship between the parties arising therefrom shall, unless precluded by federal jurisdiction mandates, be solely and exclusively initiated and maintained in the courts of the State of California.

SECTION 8.8. ADMINISTRATIVE REVIEW OF DISPUTES. Either party hereto may give the other party written notice of dispute relating to matters, which are ongoing or unresolved. The parties shall try to arrange a mutually satisfactory time and place to meet. If they cannot agree, the City Manager shall set a time, during business hours, approximately one week from the date of the notice, for a meeting at City Hall. The parties shall attempt to resolve such dispute. The City Manager shall keep a record of the proceedings conducted and information presented during such meeting. In the event that such dispute cannot be resolved by the parties hereto within 30 days of delivery of the initial notice, either party may avail itself of any other remedy. This Section shall not apply: when City has declared a default under Section 8.3; when city has assessed a penalty under Section 6.2(D); when City claims reimbursement under Section 8.2 or for matters covered by Section 8.9.

SECTION 8.9. CRIMINAL ACTIVITY OF THE FRANCHISEE. Should the Franchisee or any of its officers or directors be "found guilty" of felonious conduct relating to the Franchise Services, or other felonious conduct involving (i) a price fixing conspiracy in connection with Franchise Services, (ii) illegal transport or disposal of hazardous or toxic materials, or (iii) bribery of public officials, the City reserves the right to do any of the following:

1. To unilaterally terminate this Franchise Agreement; or
2. Exercise all other remedies available to the City in instances of default; or
3. Accept such other sanctions (which may include financial sanctions or any other condition deemed appropriate short of termination) as the City and Franchisee shall mutually agree.

Such action shall be taken after the Franchisee has been given notice and an opportunity to present evidence in mitigation. The term "found guilty" shall be deemed to include any judicial determination that the Franchisee or any of its officers, directors or employees is guilty, and any admission of guilty by the Franchisee, or any of its officers, directors, or employees including, but not limited to, the pleas of "guilty", nolo contendere", "no contest" or "guilty of a lesser felony" entered as part of any plea bargain. Notwithstanding the foregoing, if such officers, director or employees are acting in their own behalf in their individual capacities as officer, directors or employees, the Franchisee shall dismiss or remove such officers, directors or employees and take all action necessary and appropriate to remedy any breach of this Franchise Agreement.

ARTICLE IX

TERM

SECTION 9. 1. TERM. The term of this Franchise shall commence on September 1, 2008 and shall end on December 31, 2018. The City hereby grants Franchisee the exclusive option to submit a proposal for extending the Franchise Agreement beyond December 31, 2018. Franchisee must submit any such proposal no later than August 31, 2017 and if no such proposal is forthcoming on or before August 31, 2017, Franchisee's exclusive option to submit a proposal as herein set forth shall automatically terminate. If Franchisee submits such a proposal but City and Franchisee have not agreed to terms for a Franchise Agreement extension on or before March 1, 2018, City at its sole discretion, may solicit proposals for waste and recycling collection services of the types provided for in this Franchise Agreement from any other firm or vendor.

**ARTICLE X
MISCELLANEOUS PROVISIONS**

SECTION 10.1 INDEMNIFICATION. The Franchisee agrees that it will protect, indemnify and hold harmless the City and its representatives, officers, employees and subcontractors (as applicable in the circumstances), (the "City Indemnified Parties") from and against (and pay the full amount of) all "Loss-and-Expenses."

Franchisee will defend the City Indemnified Parties in any suit, including appeals, for personal injury to, or death of, any person, or loss or damage to property arising out of:

- A. The negligence or wrongful conduct of the Franchisee or any of its officers, members, employees, agents, representatives or Subcontractors in connection with its obligations or rights under this Franchise,
- B. The collection, transportation, handling, storage, processing, marketing, or disposal of Franchise Refuse Materials,
- C. Any Franchisee Breach,
- D. Any claim for any finder's or brokerage fee or other commission resulting from any services alleged to have been rendered to or performed on behalf of the Franchisee with respect to this Franchise or any of the transactions contemplated hereby,
- E. Any action taken by the City pursuant to its rights under Section 8.2. hereof upon a failure to collect, transport, process, or dispose of Franchise Refuse Materials,
- F. The performance or non-performance of the Franchisee's obligations under this Franchise,
- G. Non-compliance with the Act, excluding instances where non-compliance is the result of city's action and not to activities herein contemplated to be performed by Franchisee,
- H. Any alleged violation of the Comprehensive Environmental Response, Compensation and Liability Act 42 U.S.C. Section 9601 et seq.,
- I. Any liability associated with the use of any designated disposal site.
- J. The Franchisee shall not however, be required to reimburse or indemnify any City Indemnified Party for any Loss-and-Expense to the extent any such Loss-and-Expense is due to (1) any City Breach, or (2) the negligence or other wrongful conduct of any City Indemnified Party. "Loss-and-Expense" means any and all loss, liability, obligation, damage, delay, penalty, judgment, deposit, cost, claim, demand, charge, tax, or expense including all Fees-And-Costs.

A City Indemnified Party shall promptly notify the Franchisee of the assertion of any claim against it for which it is entitled to be indemnified hereunder, shall give the Franchisee the

opportunity to defend such claim and shall not settle the claim without the approval of the Franchisee. These indemnification provisions are for the protection of the City Indemnified Parties only and shall not establish, of themselves, any liability to, third parties. The provisions of this subsection shall survive termination of this Franchise.

SECTION 10.2 UNCONTROLLABLE CIRCUMSTANCES GENERALLY.

- A. Performance Excused. Except as otherwise specifically provided in this Franchise, neither the Franchisee nor the City shall be liable to the other for any failure or delay in the performance of any obligation under this Franchise (other than any payment at the time due and owing) to the extent such failure or delay is due to the occurrence of an Uncontrollable Circumstance.
- B. Notice, Mitigation. The party experiencing an Uncontrollable Circumstance shall notify the other party by telecommunication or telephone and in writing, within 24 hours after the party experiencing such Uncontrollable Circumstance first knew of the commencement thereof, followed within two days by a written description of:
1. The Uncontrollable Circumstance and the cause thereof (to the extent known),
 2. The date the Uncontrollable Circumstance began and the cause thereof, its estimated duration, the estimated time during which the performance of such party's obligations hereunder will be delayed, and
 3. Potential mitigating actions, which might be taken by the Franchisee or City.

Each party shall provide written notice of the cessation of such Uncontrollable Circumstance within 24 hours thereof. Whenever such act, event or condition shall occur, the party claiming to be adversely affected thereby shall, as promptly as reasonably possible, use its best efforts to eliminate the cause therefore and resume performance under this Franchise. While the delay continues, the Franchisee or City shall give daily notice to the other party updating the information. Neither party to this Franchise shall have any responsibility whatsoever with respect to services provided or contractual obligations or liabilities assumed by the other party.

SECTION 10.3. RELATIONSHIP OF THE PARTIES. The Franchisee is an independent contractor and franchise holder and nothing in this Franchise shall be deemed to constitute either party a partner, agent or legal representative of the other party.

SECTION 10.4. NO DISCRIMINATION. The Franchisee shall not discriminate nor permit discrimination by any of its officers, employees, agents and representatives against any person because of age, race, color, religion, national origin, sex, sexual orientation or physical or mental disability. The Franchisee will take all actions deemed reasonably necessary to ensure that applicants are employed, and that employees are treated during employment, without regard to their age, race, color, religion, national origin, sex, sexual orientation or physical or mental disability. Such action shall include, without limitation, recruitment and recruitment advertising; layoff or termination; upgrading, demotion, transfer, rate of pay or other form of compensation; and selection for training, including apprenticeship. The Franchisee shall impose the non-discrimination provision of this Section by contract on all Subcontractors hired with City consent

to perform work related to performance of its obligations hereunder and shall take all reasonable actions necessary to enforce such provisions.

SECTION 10.5. ACTIONS OF CITY IN ITS GOVERNMENTAL CAPACITY. Nothing in this Franchise shall be interpreted as limiting the rights and obligations of the City in a governmental or regulatory capacity, or as limiting the right of the Franchisee to bring any legal action against the City, not based upon this Franchise, arising out of any act of omission of the City in governmental or regulatory capacity.

SECTION 10.6. BINDING EFFECT. This Franchise shall bind and inure to the benefit of the parties hereto and any successor or assignee acquiring an interest hereunder consistent with the provision hereof.

SECTION 10.7. AMENDMENTS. Neither this Franchise nor any provision hereof may be changed, modified, amended or waived except by written agreement duly executed by both parties.

SECTION 10.8. NOTICE OF LITIGATION. Each party shall deliver written notice to the other of any Legal Proceeding to which it is a party and which questions the validity or enforceability of this Franchise or any other related agreement executed by the Cities or the Franchisee or Legal Entitlement issued in connection herewith.

SECTION 10.9. NOTICES. Any notices or communications required or permitted hereunder to be given to the City shall be writing and shall be sufficiently given only if delivered in person to the City Manager. Notices and communications given by mail hereunder shall be deemed to have been given 5 days after the date of dispatch; all other notices shall be deemed to have been given upon receipt.

SECTION 10.10. FURTHER PERFORMANCE. Each party agrees to execute and deliver any instruments and to perform any acts as may be necessary or reasonably requested by the other in order to give full effect to this Franchise.

CITY OF CAPITOLA

BY: [Signature]
City Manager

Date: 5/2/08

GREEN WASTE RECOVERY, INC.

BY: [Signature]
Frank Weigel
Chief Operating Officer

Date: 5/20/08

Approved as to form:
[Signature] 5-28-08
CITY ATTORNEY

Attachment: Green Waste Recovery Refuse Recycling Yard Waste Franchise Agreement_4-24-08 (Solid Waste Program Update)

APPENDIX A**SERVICE IMPLEMENTATION SCHEDULE**

1. Agreement start date is September 1, 2008.
2. A 12.1% rate increase effective January 1, 2009 for Residential, Commercial and Roll Off customers.
3. CPI Increase effective January 1, 2009 for Residential, Commercial and Roll Off Customers.
4. Payment for recycling promotion program – November 1 of each year
5. Commercial Technical Assistance Program (See Section 4.1D)
6. Public Outreach and Education Program due 60 days after acceptance of agreement.

APPENDIX B EQUIPMENT AND CONTAINER SPECIFICATIONS

The Franchisee agrees to provide refuse carts, recycling crates or carts and yard waste carts to Cart Customers and refuse bins, recycling carts and recycling bins to Bin Customers as describe below.

Residential Cart Customers		
Service	Container Type	Sizes (approximate)
Refuse	Wheeled Carts (Made with at least 25% post-consumer recycled material, with attached secure-fitting lids and large wheels.	10 gallons 20 gallons 35 gallons 64 gallons 96 gallons
Recyclables	Wheeled Carts (Made with at least 25% post-consumer recycled material, with attached secure-fitting lids and large wheels.	64 gallons
Yard Waste	Wheeled Carts (Made with at least 25% post-consumer recycled material, with attached secure-fitting lids and large wheels.	64 gallons

Commercial Bin Customers		
Refuse	Collection Bins (leak-proof with attached lids)	1 cubic yard 2 cubic yards 3 cubic yards 4 cubic yards 6 cubic yards 8 cubic yards
Recyclables	Wheeled Carts (Made with at least 25% post-consumer recycled material, with attached secure-fitting lids and large wheels.	64 gallons
	Collection Bins (with attached lids and, if requested, available locks), provide distinguishing lid or body color (different from Refuse Bins),	1 cubic yard 2 cubic yards 3 cubic yards 4 cubic yards 6 cubic yards 8 cubic yards

**APPENDIX B
(Continued)**

DROP BOXES OF THE FOLLOWING CAPACITIES:

15 Yd Drop Box
20 Yd Drop Box
30 Yd Drop Box
40 Yd Drop Box

COLLECTION VEHICLES: All collection vehicles with diesel engines shall be in full compliance with Monterey Bay Unified Air Pollution Control District and California Air Resources Board regulations.

Rear Loader
Front Loader
Roll-off
Fully Automated Side Loader

**APPENDIX C
RESIDENTIAL FEE SCHEDULE**

Capitola

1. #	Residential Carts	Current Rate	Rate		Total	Estimated		New Capitola Total
			Increase	12.1%		CPI Jan. '09	3%	
1	10G	\$ 8.84	\$ 1.07	\$ 9.91	\$ 0.30	\$ 10.21		
1	20G	\$ 10.52	\$ 1.27	\$ 11.79	\$ 0.35	\$ 12.15		
1	35G	\$ 11.92	\$ 1.44	\$ 13.36	\$ 0.40	\$ 13.76		
2	35G	\$ 23.84	\$ 2.88	\$ 26.72	\$ 0.80	\$ 27.53		
3	35G	\$ 36.70	\$ 4.44	\$ 41.14	\$ 1.23	\$ 42.37		
4	35G	\$ 49.09	\$ 5.94	\$ 55.03	\$ 1.65	\$ 56.68		
5	35G	\$ 61.19	\$ 7.40	\$ 68.59	\$ 2.06	\$ 70.65		
6	35G	\$ 73.44	\$ 8.89	\$ 82.33	\$ 2.47	\$ 84.80		
7	35G	\$ 85.70	\$ 10.37	\$ 96.07	\$ 2.88	\$ 98.95		
8	35G	\$ 95.48	\$ 11.55	\$ 107.03	\$ 3.21	\$ 110.24		
1	64G	\$ 20.28	\$ 2.45	\$ 22.73	\$ 0.68	\$ 23.42		
2	64G	\$ 40.56	\$ 4.91	\$ 45.47	\$ 1.36	\$ 46.83		
3	64G	\$ 162.24	\$ 19.63	\$ 181.87	\$ 5.46	\$ 187.33		
1	96G	\$ 28.74	\$ 3.48	\$ 32.22	\$ 0.97	\$ 33.18		
2	96G	\$ 57.45	\$ 6.95	\$ 64.40	\$ 1.93	\$ 66.33		
3	96G	\$ 86.18	\$ 10.43	\$ 96.61	\$ 2.90	\$ 99.51		
4	96G	\$ 111.68	\$ 13.51	\$ 125.19	\$ 3.76	\$ 128.95		
5	96G	\$ 143.63	\$ 17.38	\$ 161.01	\$ 4.83	\$ 165.84		

Items 2 through 6 will not be changed during Franchise Term, i.e., will not receive the

2) Special Pickup for service not on regular schedule

\$25.00 plus \$2.50 per bag, \$2.75 per 32 gallon can. For other means of bundling or containing, \$2.75 for each equivalent in volume to a 32 gallon can.

3) Special Service for walk-in by driver

\$5.00 per can or bag plus the monthly rate. Except as provided in Section 4.1.B(4).

4) Extra containers picked up at time of regular service shall be billed as in #2 above, but without the \$25.00 charge.

5) Bulky Goods Items Pricing

Furniture	\$15.00 per large item	\$10.00 per small item
Non-CFC Appliance	\$25.00 per large item	\$15 per small item
Carpet	\$.50 per square foot	

6) Service Re-Start Charge \$25.00

Attachment: Green Waste Recovery Refuse Recycling Yard Waste Franchise Agreement_4-24-08 (Solid Waste Program Update)

**APPENDIX C
COMMERCIAL FEE SCHEDULE**

Capitola

Commercial Bins

#	Bin size	Current Rate	12.1% Rate	Total as of	Estimated	Total as of
			Increase	Aug 09	3% CPI Increase	Jan 09
			0.121		0.03	
1	1yd x1	\$ 121.09	\$ 14.65	\$ 135.74	\$ 4.07	\$ 139.81
1	1yd x2	\$ 183.02	\$ 22.15	\$ 205.17	\$ 6.15	\$ 211.32
1	1yd x3	\$ 244.84	\$ 29.63	\$ 274.47	\$ 8.23	\$ 282.70
1	1yd x4	\$ 306.90	\$ 37.13	\$ 344.03	\$ 10.32	\$ 354.36
1	1yd x5	\$ 368.84	\$ 44.63	\$ 413.47	\$ 12.40	\$ 425.87
1	1yd x6	\$ 430.77	\$ 52.12	\$ 482.89	\$ 14.49	\$ 497.38
				\$ -		
2	1yd x1	\$ 183.02	\$ 22.15	\$ 205.17	\$ 6.15	\$ 211.32
2	1yd x2	\$ 306.90	\$ 37.13	\$ 344.03	\$ 10.32	\$ 354.36
2	1yd x3	\$ 430.77	\$ 52.12	\$ 482.89	\$ 14.49	\$ 497.38
2	1yd x4	\$ 554.66	\$ 67.11	\$ 621.77	\$ 18.65	\$ 640.43
2	1yd x5	\$ 678.52	\$ 82.10	\$ 760.62	\$ 22.82	\$ 783.44
2	1yd x6	\$ 802.39	\$ 97.09	\$ 899.48	\$ 26.98	\$ 926.46
3	1yd x1	\$ 244.96	\$ 29.64	\$ 274.60	\$ 8.24	\$ 282.84
3	1yd x2	\$ 430.78	\$ 52.12	\$ 482.90	\$ 14.49	\$ 497.39
3	1yd x3	\$ 616.71	\$ 74.62	\$ 691.33	\$ 20.74	\$ 712.07
3	1yd x4	\$ 802.41	\$ 97.09	\$ 899.50	\$ 26.99	\$ 926.49
3	1yd x5	\$ 988.22	\$ 119.57	\$ 1,107.79	\$ 33.23	\$ 1,141.03
3	1yd x6	\$ 1,174.01	\$ 142.06	\$ 1,316.07	\$ 39.48	\$ 1,355.55
4	1yd x1	\$ 306.90	\$ 37.13	\$ 344.03	\$ 10.32	\$ 354.36
4	1yd x2	\$ 554.66	\$ 67.11	\$ 621.77	\$ 18.65	\$ 640.43
4	1yd x3	\$ 802.65	\$ 97.12	\$ 899.77	\$ 26.99	\$ 926.76
4	1yd x4	\$ 1,050.17	\$ 127.07	\$ 1,177.24	\$ 35.32	\$ 1,212.56
4	1yd x5	\$ 1,297.92	\$ 157.05	\$ 1,454.97	\$ 43.65	\$ 1,498.62
4	1yd x6	\$ 1,545.63	\$ 187.02	\$ 1,732.65	\$ 51.98	\$ 1,784.63
1	2yd x1	\$ 183.05	\$ 22.15	\$ 205.20	\$ 6.16	\$ 211.36
1	2yd x2	\$ 306.90	\$ 37.13	\$ 344.03	\$ 10.32	\$ 354.36
1	2yd x3	\$ 430.77	\$ 52.12	\$ 482.89	\$ 14.49	\$ 497.38
1	2yd x4	\$ 554.66	\$ 67.11	\$ 621.77	\$ 18.65	\$ 640.43
1	2yd x5	\$ 678.52	\$ 82.10	\$ 760.62	\$ 22.82	\$ 783.44
1	2yd x6	\$ 802.39	\$ 97.09	\$ 899.48	\$ 26.98	\$ 926.46
2	2yd x1	\$ 306.90	\$ 37.13	\$ 344.03	\$ 10.32	\$ 354.36
2	2yd x2	\$ 554.66	\$ 67.11	\$ 621.77	\$ 18.65	\$ 640.43
2	2yd x3	\$ 802.40	\$ 97.09	\$ 899.49	\$ 26.98	\$ 926.48
2	2yd x4	\$ 1,050.16	\$ 127.07	\$ 1,177.23	\$ 35.32	\$ 1,212.55
2	2yd x5	\$ 1,297.93	\$ 157.05	\$ 1,454.98	\$ 43.65	\$ 1,498.63
2	2yd x6	\$ 1,545.68	\$ 187.03	\$ 1,732.71	\$ 51.98	\$ 1,784.69

Attachment: Green Waste Recovery Refuse Recycling Yard Waste Franchise Agreement_4-24-08 (Solid Waste Program Update)

3	2yd x1	\$ 430.77	\$ 52.12	\$ 482.89	\$ 14.49	\$ 497.38
3	2yd x2	\$ 802.40	\$ 97.09	\$ 899.49	\$ 26.98	\$ 926.48
3	2yd x3	\$ 1,174.04	\$ 142.06	\$ 1,316.10	\$ 39.48	\$ 1,355.58
3	2yd x4	\$ 1,545.68	\$ 187.03	\$ 1,732.71	\$ 51.98	\$ 1,784.69
3	2yd x5	\$ 1,917.30	\$ 231.99	\$ 2,149.29	\$ 64.48	\$ 2,213.77
3	2yd x6	-				

#	Bin size	Current Rate	12.1% Rate		Estimated	
			Increase	Total	3% CPI	Total
			0.121		Increase	
1	3yd x1	\$ 244.95	\$ 29.64	\$ 274.59	\$ 8.24	\$ 282.83
1	3yd x2	\$ 429.54	\$ 51.97	\$ 481.51	\$ 14.45	\$ 495.96
1	3yd x3	\$ 616.59	\$ 74.61	\$ 691.20	\$ 20.74	\$ 711.93
1	3yd x4	\$ 802.40	\$ 97.09	\$ 899.49	\$ 26.98	\$ 926.48
1	3yd x5	\$ 988.23	\$ 119.58	\$ 1,107.81	\$ 33.23	\$ 1,141.04
1	3yd x6	\$ 1,174.04	\$ 142.06	\$ 1,316.10	\$ 39.48	\$ 1,355.58
2	3yd x1	\$ 430.77	\$ 52.12	\$ 482.89	\$ 14.49	\$ 497.38
2	3yd x2	\$ 802.40	\$ 97.09	\$ 899.49	\$ 26.98	\$ 926.48
2	3yd x3	\$ 1,174.04	\$ 142.06	\$ 1,316.10	\$ 39.48	\$ 1,355.58
2	3yd x4	\$ 1,545.68	\$ 187.03	\$ 1,732.71	\$ 51.98	\$ 1,784.69
2	3yd x5	\$ 1,917.30	\$ 231.99	\$ 2,149.29	\$ 64.48	\$ 2,213.77
2	3yd x6	\$ 2,288.94	\$ 276.96	\$ 2,565.90	\$ 76.98	\$ 2,642.88
3	3yd x1	\$ 616.58	\$ 74.61	\$ 691.19	\$ 20.74	\$ 711.92
3	3yd x2	\$ 1,174.04	\$ 142.06	\$ 1,316.10	\$ 39.48	\$ 1,355.58
3	3yd x3	\$ 1,731.49	\$ 209.51	\$ 1,941.00	\$ 58.23	\$ 1,999.23
3	3yd x4	\$ 2,288.94	\$ 276.96	\$ 2,565.90	\$ 76.98	\$ 2,642.88
3	3yd x5	\$ 2,846.39	\$ 344.41	\$ 3,190.80	\$ 95.72	\$ 3,286.53
3	3yd x6	\$ 3,403.84	\$ 411.86	\$ 3,815.70	\$ 114.47	\$ 3,930.18
4	3yd x1	\$ 802.40	\$ 97.09	\$ 899.49	\$ 26.98	\$ 926.48
4	3yd x2	\$ 1,545.68	\$ 187.03	\$ 1,732.71	\$ 51.98	\$ 1,784.69
4	3yd x3	\$ 2,288.94	\$ 276.96	\$ 2,565.90	\$ 76.98	\$ 2,642.88
4	3yd x4	\$ 3,032.20	\$ 366.90	\$ 3,399.10	\$ 101.97	\$ 3,501.07
4	3yd x5	\$ 3,775.49	\$ 456.83	\$ 4,232.32	\$ 126.97	\$ 4,359.29
4	3yd x6	\$ 4,518.72	\$ 546.77	\$ 5,065.49	\$ 151.96	\$ 5,217.45
1	4yd x1	\$ 306.90	\$ 37.13	\$ 344.03	\$ 10.32	\$ 354.36
1	4yd x2	\$ 554.66	\$ 67.11	\$ 621.77	\$ 18.65	\$ 640.43
1	4yd x3	\$ 802.40	\$ 97.09	\$ 899.49	\$ 26.98	\$ 926.48
1	4yd x4	\$ 1,050.16	\$ 127.07	\$ 1,177.23	\$ 35.32	\$ 1,212.55
1	4yd x5	\$ 1,297.93	\$ 157.05	\$ 1,454.98	\$ 43.65	\$ 1,498.63
1	4yd x6	\$ 1,545.68	\$ 187.03	\$ 1,732.71	\$ 51.98	\$ 1,784.69
2	4yd x1	\$ 554.66	\$ 67.11	\$ 621.77	\$ 18.65	\$ 640.43
2	4yd x2	\$ 1,050.16	\$ 127.07	\$ 1,177.23	\$ 35.32	\$ 1,212.55
2	4yd x3	\$ 1,545.68	\$ 187.03	\$ 1,732.71	\$ 51.98	\$ 1,784.69
2	4yd x4	\$ 2,099.96	\$ 254.10	\$ 2,354.06	\$ 70.62	\$ 2,424.68

Attachment: Green Waste Recovery Refuse Recycling Yard Waste Franchise Agreement_4-24-08 (Solid Waste Program Update)

2	4yd x5	\$ 2,536.68	\$ 306.94	\$ 2,843.62	\$ 85.31	\$ 2,928.93
2	4yd x6	\$ 3,032.20	\$ 366.90	\$ 3,399.10	\$ 101.97	\$ 3,501.07
3	4yd x1	\$ 802.40	\$ 97.09	\$ 899.49	\$ 26.98	\$ 926.48
3	4yd x2	\$ 1,545.68	\$ 187.03	\$ 1,732.71	\$ 51.98	\$ 1,784.69
3	4yd x3	\$ 2,288.94	\$ 276.96	\$ 2,565.90	\$ 76.98	\$ 2,642.88
3	4yd x4	\$ 3,032.20	\$ 366.90	\$ 3,399.10	\$ 101.97	\$ 3,501.07
3	4yd x5	\$ 3,775.49	\$ 456.83	\$ 4,232.32	\$ 126.97	\$ 4,359.29
3	4yd x6	\$ 4,518.72	\$ 546.77	\$ 5,065.49	\$ 151.96	\$ 5,217.45

Estimated

#	Bin size	Current Rate	12.1% Rate		Total	3% CPI	
			Increase	0.121		Increase	0.03
4	4yd x1	\$ 1,050.16	\$ 127.07	\$ 1,177.23	\$ 35.32	\$ 1,212.55	
4	4yd x2	\$ 2,041.19	\$ 246.98	\$ 2,288.17	\$ 68.65	\$ 2,356.82	
4	4yd x3	\$ 3,032.21	\$ 366.90	\$ 3,399.11	\$ 101.97	\$ 3,501.08	
4	4yd x4	\$ 4,023.21	\$ 486.81	\$ 4,510.02	\$ 135.30	\$ 4,645.32	
4	4yd x5	\$ 5,014.29	\$ 606.73	\$ 5,621.02	\$ 168.63	\$ 5,789.65	
4	4yd x6	\$ 6,005.24	\$ 726.63	\$ 6,731.87	\$ 201.96	\$ 6,933.83	
5	4yd x1	\$ 1,335.28	\$ 161.57	\$ 1,496.85	\$ 44.91	\$ 1,541.75	
5	4yd x2	\$ 2,536.69	\$ 306.94	\$ 2,843.63	\$ 85.31	\$ 2,928.94	
5	4yd x3	\$ 3,775.48	\$ 456.83	\$ 4,232.31	\$ 126.97	\$ 4,359.28	
5	4yd x4	\$ 5,014.23	\$ 606.72	\$ 5,620.95	\$ 168.63	\$ 5,789.58	
5	4yd x5	\$ 6,253.08	\$ 756.62	\$ 7,009.70	\$ 210.29	\$ 7,219.99	
5	4yd x6	\$ 7,491.78	\$ 906.51	\$ 8,398.29	\$ 251.95	\$ 8,650.23	
1	6yd x1	\$ 430.77	\$ 52.12	\$ 482.89	\$ 14.49	\$ 497.38	
1	6yd x2	\$ 802.40	\$ 97.09	\$ 899.49	\$ 26.98	\$ 926.48	
1	6yd x3	\$ 1,174.04	\$ 142.06	\$ 1,316.10	\$ 39.48	\$ 1,355.58	
1	6yd x4	\$ 1,545.68	\$ 187.03	\$ 1,732.71	\$ 51.98	\$ 1,784.69	
1	6yd x5	\$ 1,917.30	\$ 231.99	\$ 2,149.29	\$ 64.48	\$ 2,213.77	
1	6yd x6	\$ 2,288.94	\$ 276.96	\$ 2,565.90	\$ 76.98	\$ 2,642.88	
2	6yd x1	\$ 802.40	\$ 97.09	\$ 899.49	\$ 26.98	\$ 926.48	
2	6yd x2	\$ 1,545.68	\$ 187.03	\$ 1,732.71	\$ 51.98	\$ 1,784.69	
2	6yd x3	\$ 2,288.94	\$ 276.96	\$ 2,565.90	\$ 76.98	\$ 2,642.88	
2	6yd x4	\$ 3,032.18	\$ 366.89	\$ 3,399.07	\$ 101.97	\$ 3,501.05	
2	6yd x5	\$ 3,775.48	\$ 456.83	\$ 4,232.31	\$ 126.97	\$ 4,359.28	
2	6yd x6	\$ 4,518.74	\$ 546.77	\$ 5,065.51	\$ 151.97	\$ 5,217.47	
1	8yd x1	\$ 554.66	\$ 67.11	\$ 621.77	\$ 18.65	\$ 640.43	
1	8yd x2	\$ 1,050.16	\$ 127.07	\$ 1,177.23	\$ 35.32	\$ 1,212.55	
1	8yd x3	\$ 1,545.68	\$ 187.03	\$ 1,732.71	\$ 51.98	\$ 1,784.69	
1	8yd x4	\$ 2,041.18	\$ 246.98	\$ 2,288.16	\$ 68.64	\$ 2,356.81	
1	8yd x5	\$ 2,536.70	\$ 306.94	\$ 2,843.64	\$ 85.31	\$ 2,928.95	
1	8yd x6	\$ 3,032.18	\$ 366.89	\$ 3,399.07	\$ 101.97	\$ 3,501.05	

Attachment: Green Waste Recovery Refuse Recycling Yard Waste Franchise Agreement 4-24-08 (Solid Waste Program Update)

#	Commercial Carts	<u>Current Rate</u>	<u>12.1% Rate</u>		Estimated		<u>Total</u>
			<u>Increase</u>		<u>3% CPI</u>		
			0.121		0.03		
1	35G	\$ 15.87	\$ 1.92	\$ 17.79	\$ 0.53	\$ 18.32	
1	64G	\$ 32.09	\$ 3.88	\$ 35.97	\$ 1.08	\$ 37.05	
1	96G	\$ 47.74	\$ 5.78	\$ 53.52	\$ 1.61	\$ 55.12	

#	Commercial Cans	<u>Current Rate</u>	<u>12.1% Rate</u>		Estimated		<u>Total</u>
			<u>Increase</u>		<u>3% CPI</u>		
			0.121		0.03		
1	32G	\$ 12.13	\$ 1.47	\$ 13.60	\$ 0.41	\$ 14.01	
2	32G	\$ 24.26	\$ 2.94	\$ 27.20	\$ 0.82	\$ 28.01	
3	32G	\$ 36.40	\$ 4.40	\$ 40.80	\$ 1.22	\$ 42.03	

#	Drop Box Rates	<u>Current Rate</u>	<u>12.1% Rate</u>		Estimated		<u>Total</u>
			<u>Increase</u>		<u>3% CPI</u>		
			0.121		0.03		
1	15yd.	\$ 343.12	\$ 41.52	\$ 384.64	\$ 11.54	\$ 396.18	
1	20yd.	\$ 412.27	\$ 49.88	\$ 462.15	\$ 13.86	\$ 476.02	
1	30yd.	\$ 552.16	\$ 66.81	\$ 618.97	\$ 18.57	\$ 637.54	
1	40yd.	\$ 736.00	\$ 89.06	\$ 825.06	\$ 24.75	\$ 849.81	
1	Compactor per pull plus disposal fees	\$ 262.45	\$ 31.76	\$ 294.21	\$ 8.83	\$ 303.03	

Attachment: Green Waste Recovery Refuse Recycling Yard Waste Franchise Agreement_4-24-08 (Solid Waste Program Update)

APPENDIX D

PUBLIC REFUSE AND RECYCLING CONTAINER AND LOCATIONS

LOCATION	FREQUENCY OF PICK-UP	NUMBER & TYPE	SIZE
City Hall	Twice Per Week	3- Recycle Carts 1 – Cardboard Bin 1 – Bin Refuse Bin	64g 3 yard bin 2 yard bin
Village Area	Six Days Per Week	45- Refuse 15 - Recycling	55g
Esplanade Park	Once Per Week in Winter, Twice a Week in Summer	2 – Refuse Bins	4 yard bin
Community Center	Two times per week Two times per week	2 – Recycle Carts 2- Refuse Carts	64g 64g
New Brighton Gymnasium	Three times per week	1 – Recycle Cart 1 – Refuse Cart	64g 64g
Corporation Yard	Once per week	2 – Recycle Bin 1 – Refuse Bin 1 – Yard Waste Bin 1 - Metal Waste Bin 1 - Card Board Bin	64g 30 yard bin 20 yard bin 30 yard bin 2 yard bin
Library	Once per week	2 – Recycle Cart 1 – Refuse Cart	64 g 64g
Pacific Cove Mobile Home Park	Once per week	Recycle Carts Yard Waste Carts Refuse Carts	Every coach By request Every coach

1. Can and Cart sizes are approximate. Actual size depends upon those made available by Franchisee
2. “Village Area” and “Esplanade Park” are shown on the attached map.
(referring to recycling in the village)

APPENDIX E

RESIDENTIAL AND COMMERCIAL RECYCLABLE MATERIALS

- newspaper,
- cardboard,
- office paper,
- mixed waste paper (including junk mail, catalogs, craft bags and craft paper, paperboard, egg carton, phone books, brown paper, grocery bags, colored paper, construction paper, envelopes, legal pad backings, shoe boxes, cereal and other similar food boxes, computer paper, magazines)
- aseptic packaging,
- milk and juice cartons
- glass,
- aluminum (cans, trays, foil and lids),
- tin cans and lids,
- steel cans and lids,
- bi-metal cans and lids,
- empty aerosol cans,
- metal scrap,
- appliances small enough to fit within the supplied recycling container but no larger than 18" in any dimension or containing hazardous materials,
- PETE, HDPE, and mixed plastic containers (all types of #3 through #5), polyethylene film plastics (including grocery bags, dry cleaning bags, produce and bread bags, bubble wrap and other stretchable plastic films),
- used motor oil, used automotive oil filters,
- dry cell batteries

Note: Franchisee, through education and information, may promote customers emptying and rinsing of containers, but may only reject such materials by application of paragraph.

BOARD OF DIRECTORS
 BRUCE DELGADO
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 LIBBY DOWNEY
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MONTEREY REGIONAL
 WASTE MANAGEMENT DISTRICT
Home of the Last Chance Mercantile

TIMOTHY S. [REDACTED]
 General Manager
 GUY PETRABORG, P.E., G.F.
 Director of Engineering & Compliance
 JEFF LINDENTHAI
 Director of Communications & Sustainability
 PETER SKINNEF
 Director of Finance & Administration
 TIM BROWNELI
 Director of Operations
 ROBERT WELLINGTON
 Legal Counsel

August 8, 2017

Mr. Jamie Goldstein, City Manager
 City of Capitola
 420 Capitola Avenue
 Capitola, CA 95010

RE: Waste Disposal Agreement; Notice of Termination for Convenience

Dear Mr. Goldstein:

The Monterey Regional Waste Management District (MRWMD), pursuant to Section 7.1 of its Waste Disposal Agreement with the City of Capitola dated August 1, 2010, is hereby providing the required 30-days' prior written notice to terminate that Agreement for convenience. Upon the expiration of the 30-day period following this Notice, a five-year final term of that Agreement, upon the same terms and conditions as set forth therein, shall commence.

As previously discussed with you or city staff, this termination for convenience is necessary because of several significant changes in applicable California law that have occurred since this Agreement was entered into seven years ago, including but not limited to:

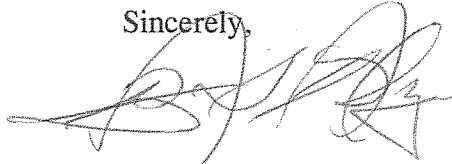
- 1) AB 341, Mandatory Commercial Recycling, requiring mandatory recycling participation from commercial businesses and multi-family apartment buildings,
- 2) SB 1826, Mandatory Commercial Organics Recycling, which requires mandatory separation of food scrap organic materials in accordance with a phased-in schedule based on volume of material generated,
- 3) SB 1383, Short-Lived Climate Pollutants (SLCP): Organic Waste Methane Emissions Reductions, which establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025, and
- 4) the 2016 California Green Building Standards Code (CalGreen), effective January 1, 2017, which requires 65% diversion from residential and commercial construction projects.

Attachment: Capitola_30-Day_Notice_Agmt_Termination817 (Solid Waste Program Update)

Mr. Jamie Goldstein
August 8, 2017
Page 2

Thank you for your attention to this matter. The MRWMD welcomes the opportunity to have further discussions relative to any adjustments or changes to your operations, and to ours, that might facilitate development of a new mutually beneficial agreement.

Sincerely,



Timothy S. Flanagan
General Manager

cc: MRWMD Board of Directors
Larry Laurent

Attachment: Capitola_30-Day_Notice_Agmt_Termination817 (Solid Waste Program Update)



CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 26, 2019

FROM: Public Works Department
SUBJECT: Update on the Capitola Branch Library Project

RECOMMENDED ACTION: Receive report.

BACKGROUND: The walls are going up and the library building is taking form. Last week staff met with PG&E to start the undergrounding design process. PG&E is now working on design details that will be used to construct the underground conduit required for the work. PG&E will also be preparing an estimate of costs for the work. Staff is hopeful that undergrounding construction can be initiated in early October. Negotiations with the design team regarding responsibility for the undergrounding costs will continue once the costs are better established.

DISCUSSION: The contractor, Otto Construction, has begun construction of the walls and structural elements of the building. Roof trusses will begin to be set by the end of September at which time all efforts will go toward roof and wall weatherproofing to protect the interior of the building as winter nears.

No additional change orders have been processed in the past two months. Change Order No. 4 in the amount of \$17,674 is in process. This change order is for additional costs for earthwork changes related to storm drain systems and handling of unacceptable fill material discovered under the old library. Ten contract payments made have been made to date totaling \$3,155,838.

Original Contract Award:	\$	12,325,000
Net Contract Change Order to Date (thru C.O. 3)	\$	(689,927)
Current Contract Value	\$	11,635,073

Percentage Complete to Date: 28.6%

All change orders issued have followed the adopted Field Order and Change Order Policy adopted for this project and no Council action is required at this time.

Construction is currently anticipated to be completed in May 2020 with the opening in mid-summer.

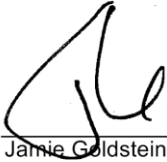
FISCAL IMPACT: Although the current contingency is at \$838,000, the undergrounding estimate of \$500,000 and additional extra work items estimated at \$250,000 could significantly reduce the contingencies.

Report Prepared By: Steve Jesberg

Library Update
September 26, 2019

Public Works Director

Reviewed and Forwarded by:



Jamie Goldstein, City Manager

9/19/2019



CAPITOLA CITY COUNCIL AGENDA REPORT

MEETING OF SEPTEMBER 26, 2019

FROM: City Manager Department

SUBJECT: Consider Elimination of Art and Cultural Commission Term Limits

RECOMMENDED ACTION: Approve the Capitola Art and Cultural Commission's recommended changes to the bylaws to remove term limits of the commissioners.

BACKGROUND: At its regular meeting on September 10, 2019, the Capitola Art and Cultural Commission discussed the removal of term limits from the bylaws of the Commission and voted unanimously to recommend the removal of the term limits to retain experienced commissioners. A limit of three consecutive terms has been in the bylaws since 2004. Term limits are not included in section 2.56 of the Capitola Municipal Code which established the commission.

DISCUSSION: The Capitola Art and Cultural Commission felt that it was important to have the ability to maintain continuity and not to lose those who have experience managing some of the events and projects. In addition, recruiting new commissioners has often been difficult. In 2015, the number Art and Cultural Commissioners was reduced from 12 to nine due to difficulty in recruitment. One current commissioner is set to term out at the end of 2019.

In December 2017, the Commission recommended amending its bylaws and among the changes was allowing commissioners to be reappointed after reaching the maximum six years (three full terms). That version of the bylaws required a two-year hiatus before reappointment and was approved by City Council in January 2018 in Resolution No. 4098. The Commission is now recommending removal on the limit of three consecutive terms, which again requires Council approval.

The Commission wants to keep the term appointments at two years so the Commission can continue to evaluate applicants and commissioners for appointment by the City Council.

FISCAL IMPACT: No anticipated fiscal impact.

Report Prepared By: Larry Laurent
Assistant to the City Manager

Art and Cultural Commission Term Limits
September 26, 2019

Reviewed and Forwarded by:



Jamie Goldstein, City Manager

9/19/2019

Art and Cultural Commission Term Limits
September 26, 2019

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA
AMENDING RESOLUTION NO. 4098 AND ARTICLE III, SECTION 3 OF THE BYLAWS OF
THE CAPITOLA ART AND CULTURAL COMMISSION REGARDING TERM LIMITS**

WHEREAS, the bylaws of the Capitola Art and Cultural Commission were last amended on January 11, 2018, with the approval of Resolution No. 4098.; and

WHEREAS, any changes to the Art and Cultural Commission Bylaws must be approved by the City Council; and

WHEREAS, at its regular meeting of September 10, 2019, members of the Art and Cultural Commission voted to amend the Commission's Bylaws to remove any term limit for commissioners.

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

1. Resolution No. 4098 is hereby amended and the City of Capitola Art and Cultural Commission Bylaws, attached hereto as Exhibit A, are hereby approved.

I HEREBY CERTIFY that the foregoing Resolution was passed and adopted by the City Council of the City of Capitola on the 26th day of September, 2019, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Jacques Bertrand, Mayor

ATTEST:

Linda Fridy, City Clerk

EXHIBIT A

Bylaws

CAPITOLA ART & CULTURAL COMMISSION

City of Capitola, California

ARTICLE I. NAME AND AUTHORITY

Section 1. Name

The name of this organization shall be the CAPITOLA ART & CULTURAL COMMISSION of the City of Capitola, California, hereinafter referred to as the "Commission".

Section 2. Authority

The Commission is established pursuant to the authority of Chapter 2.56 of the City of Capitola Municipal Code.

ARTICLE II. POWERS AND DUTIES

The Capitola Art & Cultural Commission shall have the function and duties set forth in Municipal Code Section 2.56.050 and any amendments thereto. The Municipal Code Section currently provides for the following functions and duties:

- a. Advise the City Council as to the allocation of public funds for the support and encouragement of existing and new programs in the arts, and for the acquisition by purchase, gift or otherwise, of works of art;
- b. Subject to City Council approval, initiate, sponsor or direct special programs which will enhance the artistic and cultural climate of the City;
- c. Establish close liaison with other commissions and civic organizations in order to foster public interest in the arts;
- d. Advise the City Council concerning the interpretation and implementation of the City's established art and cultural policies and practices, including the Art & Cultural Master Plan, as they relate to the Art & Cultural Commission's objectives;
- e. In February of each year, prepare for City Council review an assessment of the Art & Cultural Commission's goals, plans and objectives from the prior fiscal year and recommend for Council approval the Art & Cultural Commission's goals, plans and objectives for the next fiscal year.
- f. Perform such other functions and duties as may be directed by the City Council.

ARTICLE III. MEMBERSHIP AND TERM OF OFFICE

Art and Cultural Commission Term Limits
September 26, 2019

Section 1. Number and Qualifications

The Art & Cultural Commission shall consist of the number and type of members in accordance with Capitola Municipal Code Section 2.56.010.

Members do not need to be a resident of Capitola.

Section 2. Selection and Appointment of Members

Applications for Art & Cultural Commission members will be received by the City and forwarded to the Chairperson of the Art & Cultural Commission. Applicant(s) will attend a minimum of one Commission meeting, conference with the Chair and Commissioner(s) regarding the obligations and duties of being a commissioner prior to receiving approval for appointment. The Chair will forward the Commission's recommendation(s) for approval of applicant(s) to the City Clerk/Mayor.

The Council Member and Planning Commissioner appointees shall be selected by a majority vote of their respective boards. The remaining appointees shall be appointed to the Art & Cultural Commission by a majority vote of the City Council.

Section 3. Term of Office

Except as otherwise provided in Municipal Code Section, 2.56.030 the members shall serve for a term of two (2) years and may be reappointed for successive two-year terms. ~~with a term limit set at a maximum of three (3) consecutive terms, two-year terms. Termed-out members may reapply after a minimum of two years has passed since the most recent term.~~

Section 4. Removal of Members

As established in Administrative Policy I-5, any member who is absent for three meetings, and who fails to provide an excuse that is determined by the Chair to be reasonable, may be removed by the City Council. All members of the Commission serve at the pleasure of the City Council and therefore may be removed from office, without cause, and at any time, by the affirmative vote of three City Council members.

Section 5. Other Members

The commission will also allow youth members as described in Capitola Administrative Policy I-38.

ARTICLE IV. OFFICERS

Section 1. Selection of Officers

As soon as practicable, following the first day of January of each year, there shall be elected as officers for the Commission a Chairperson and a Vice Chairperson. An election shall be held at the next regular meeting to fill any office that becomes vacant during the calendar year.

Section 2. Chairperson

Art and Cultural Commission Term Limits
September 26, 2019

The Chairperson shall be elected by a majority vote of the members from among their membership. The Chairperson shall preside at all regular meetings and shall call all special meetings. The Chairperson shall use Roberts Rules of Order to conduct the meetings. He or she shall represent the Commission before the Council.

Section 3. Vice Chairperson

The Vice Chairperson shall be elected by a majority vote of the Commission members. He or she shall assume all duties of the Chairperson in the absence of the Chairperson.

Section 4. Staff Representative

The Staff Representative shall be hired by the City Manager. General duties include:

1. Preparing, assembling and mailing meeting packets;
2. Correspondence and communication;
3. Record keeping;
4. Staff reports;
5. Financial reports;
6. Meeting minutes;
7. Liaison to the public;
8. Other tasks as assigned.

ARTICLE V. COMMITTEES

Section 1. Establishment of the Committees

The Art & Cultural Commission may designate specific committees as follows: Public Art, Volunteers, Fundraising, Marketing and any other committee as necessary. Committees shall be composed of no more than (3) commissioners. The committees may include volunteer members as deemed necessary by the Art & Cultural Commission. The committees shall report to the Art & Cultural Commission on no less than a quarterly basis.

Section 2. Membership of Committees

The Chairperson shall make all assignments and appoint the Chairperson of each committee with the consensus of the commission.

ARTICLE VI. MEETINGS

Section 1. Open Meetings

All regular and special meetings of the Commission are subject to the Brown Act and therefore are advertised and open meetings to which the public and the press shall be invited.

Section 2. Regular Meetings

Art and Cultural Commission Term Limits
September 26, 2019

Regular meetings of the Commission shall be held monthly on a day, time and location to be decided upon by the Commission on an annual basis. Any changes to regular meeting day, time and location will be provided to the Office of the City Clerk for calendaring purposes.

Section 3. Special Meetings

A special meeting may be called by the Chairperson of the Commission or by vote of the Commission. Notice of such special meeting shall be given as required by law; and the purpose of or the business to be transacted during such special meeting shall be stated in the notice.

Section 4. Quorum

A quorum shall consist of a majority of the members of the Commission in accordance with Capitola Municipal Code Section 2.56.010.

Section 5. Absence of Quorum

In the absence of a quorum at any meeting, such meeting shall be adjourned to the next regular meeting date by any member present. No meeting may be declared adjourned for lack of a quorum until a fifteen (15) minute period after the scheduled time of the meeting has elapsed.

Section 6. Conduct of Meeting

At the time and place established for any meeting, when a quorum is present, the Chairperson shall call the meeting to order. The normal order of business shall include at least the following:

Section 6. Conduct of Meeting (Continued)

- a. Roll call
- b. Adoption of the Agenda
- c. Oral communications (open to the public items not on the agenda)
- d. Approval of minutes of previous meetings
- e. Discussion of old or unfinished business; review of recommendations and action on same
- f. New business
- g. Commissioner Reports
- h. Staff Reports
- i. Communications
- j. Future Agenda Items
- k. Adjournment

Section 7. Voting

All questions shall be resolved by a majority vote of the members present. The vote shall be taken by roll call vote, voice vote, or by the raising of hands; provided that, at the request of any member, the vote shall be taken by a roll call vote.

ARTICLE VII. AMENDMENTS

Art and Cultural Commission Term Limits
September 26, 2019

These Bylaws may be amended from time to time by a vote of the Commission and approval by the City Council.

ARTICLE VIII. ADOPTION AND EFFECT

Section 1. Adoption

Immediately upon a majority vote of the Commission and approval by the City Council these Bylaws shall be in full force and effect; any and all provisions of previously adopted Bylaws, policies, or procedures which may be totally or partially in conflict herewith are hereby repealed.

Section 2. Effect

These Bylaws shall not be considered or construed as superseding any ordinance or directive of the City Council of the City of Capitola, nor shall they preclude the preparation and adoption of further procedural manuals and policies by which the Commission may direct its activities.

Revisions to Art & Cultural Commission Bylaws

01/22/04 Resolution No. 3326 Original Bylaws approved by City Council
 05/26/05 Resolution No. 3463 Amended Article VI, Section 2, Regular Meetings
 04/26/12 Resolution No. 3915 Amended Article III, Section 1, of the Bylaws
 11/26/13 Resolution No. 3971 (Repealed) Amended Exhibit A of Resolution 3463,
 Article III, Section 1, of the Bylaws
 11/24/15 Resolution No. 4035 Repealed Resolution No. 3971, Article III,
 Section 1, of the Bylaws
 1/11/18 Resolution No. 4098 Amended Resolution No. 4035 Article III,
 Section 1, of the Bylaws, Add Section 5
9/26/19 Resolution No. _____ Amended Article III, Section 3, Term-limits