



A G E N D A
CITY OF SEASIDE
CITY COUNCIL

REGULAR MEETING
VIRTUAL ONLY
Thursday, November 5, 2020
7:00 PM

This meeting is compliant with Governor Newsom's Executive Order N-29-20 which allows local legislative bodies to hold public meetings electronically only, without a physical location for public participation, accessible only telephonically or otherwise electronically (video conferencing) to all members of the public seeking to observe and address the local legislative body, in order to avoid public gatherings, and until further notice.

REMOTE PUBLIC COMMENTS To make a public comment, the following options are available:

- Before the Meeting via Email: Written comments can be emailed to CityClerk@ci.seaside.ca.us Include the following subject line: "Public Comment Item # (insert the agenda item number relevant to your comment). Written comments must be received by 5:00 p.m. on the day of the meeting. All submitted comments will be provided to the City Council or the Board for consideration, compiled as part of the record, and may be read into the record.
- During the Meeting via Oral Comments: When the Chair calls for public comment, attendees can queue to speak with the "Raise Hand" feature. On the Zoom application, click the "Raise Hand" button. On the phone, press *9. The Secretary to the Board will call speaker names and unmute speaker microphones. You will have up to 2 minutes to provide your comments, with time set by the discretion of the Mayor. Please note, if you chose to make comments orally, your written comments will not be read but will be included in the final record.

In an effort to ensure the virtual process closely follows our normal process, public comment will be accepted in writing during the meeting, but may not be read into the record during the meeting, but will be included as part of the final administrative record. Please do not plan to use the chat or Q&A features to put a comment on record. These resources are for tech support only

1. CALL TO ORDER

This meeting can be watched via the City of Seaside You Tube channel https://www.youtube.com/channel/UC1Cu7854Ohtjpr_XV1tDvRg

Or by joining the Zoom webinar link
<https://us02web.zoom.us/j/81936832059>

Call in phone number: 669-900-9128
Zoom Meeting Id 819 3683 2059

2. ROLL CALL – ESTABLISHMENT OF QUORUM

Ian N. Oglesby	Mayor
David R. Pacheco	Mayor Pro Tem
Jason Campbell	Council Member
Jon Wizard	Council Member
Alissa Kispersky	Council Member

3. INVOCATION AND PLEDGE OF ALLEGIANCE

4. REVIEW OF AGENDA

If there are any items that arose after the 72-hour posting deadline, this is the point in the meeting where a vote may be taken to add the item to the agenda. (A 2/3-majority vote is required).

5. PUBLIC COMMENT

Members of the public wishing to address the City Council on matters within the jurisdiction of the City of Seaside, but not on this agenda, may do so during the Public Comment period for up to two minutes. Public Comments on specific agenda items are heard under that item. For the public record, please state your name.

6. PUBLIC AGENCY COMMUNICATIONS

This is a time specifically set aside for representatives of public agencies to make brief comments of general interest to the City Council and the community.

7. PRESENTATIONS

A. COMMUNITY DEVELOPMENT BLOCK GRANT-COVID 19 FUNDS PUBLIC INPUT

B. FIRST QUARTER FINANCIAL REPORT

8. CONSENT AGENDA

A. APPROVE MINUTES FROM OCTOBER 15, 2020

RECOMMENDATION: Approve at presented.

B. APPROVE AND FILE CITY CHECKS

RECOMMENDATION: Approve and file the accounts payable and wired payments made during the period of October 4, 2020 through October 16, 2020 including the payroll and benefits checks, direct deposits and wired payments related to the pay period ending October 8, 2020. Total Accounts Payable and Payroll for the above referenced period is \$1,297,454.70.

C. ADOPT A RESOLUTION AWARDING A PROFESSIONAL SERVICE AGREEMENT TO HARRIS & ASSOCIATES IN THE AMOUNT OF \$33,470 FOR BID SUPPORT AND DESIGN SERVICES DURING CONSTRUCTION FOR THE EUCALYPTUS ROAD INFILTRATION REPAIR PROJECT, PAID FOR BY FORA FUNDS, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

RECOMMENDATION: Adopt a Resolution awarding a professional service agreement to Harris & Associates to provide bid support and engineering services during construction for the Eucalyptus Road Infiltration Repair project. Costs were pre-paid through a Memorandum of Understanding agreement with FORA prior to dissolution.

D. APPROVE TRAFFIC ADVISORY COMMITTEE (TAC) RECOMMENDATIONS TO INSTALL TWO HOUR LIMITED PARKING ALONG FREMONT BOULEVARD

RECOMMENDATION: Approve the Traffic Advisory Committee (TAC) recommendations to install two hour limited parking along the east side of Fremont Boulevard between Trinity Avenue and Harcourt Avenue.

9. PUBLIC HEARING

A. SEASIDE MUNICIPAL CODE AMENDMENT SMA-20-06: WAIVER OF FIRST READING AND INTRODUCTION OF A PERMANENT SMALL CELL WIRELESS FACILITIES ORDINANCE (SEASIDE MUNICIPAL CODE CHAPTER 17.55) AND ASSOCIATED UPDATES TO THE CITY'S FEE SCHEDULE

RECOMMENDATION: Introduction and Waiver of First Reading of an amended Ordinance adopting amended Chapter 17.55 to establish reasonable, uniform and comprehensive standards and procedure for small cell wireless facilities within the City. Also included are updates to the Planning Fee Schedule, establishing fees for Small Cell Permits and associate independent experts and consultants.

10. BUSINESS ITEMS

A. DISCUSS AND PROVIDE DIRECTION FOR NEXT STEPS ON REFERENDUM AGAINST ORDINANCE No. 1095 PROHIBITING ALL FIREWORKS

RECOMMENDATION: Discuss options and provide direction to staff to either rescind the ordinance in it's entirety, or to direct the ordinance to be placed as a ballot measure on a future election.

B. RENTAL ASSISTANCE & EVICTION MORATORIUM UPDATE

RECOMMENDATION: Authorize implementation of a rental assistance program, limited to the \$35,000 of funding available through the United Way's Emergency Food & Shelter Program.

11. COUNCIL MEMBER REQUESTS

A. REPORT ON OPERATIONAL REVENUES AND EXPENSES AT THE SWIM CENTER

12. MAYOR, CITY COUNCIL, CITY MANAGER AND CITY ATTORNEY COMMENTS AND REPORTS ON COMMITTEE ASSIGNMENTS

This is a time specifically set aside for members of the City Council, the City Manager and City Attorney to make brief comments of general interest to the community, make requests that items be added to future City Council meeting agendas as necessary and report on committee assignments.

13. ADJOURNMENT

Next Regularly Scheduled Meeting:
November 17, 2020
7:00 PM

The City of Seaside is committed to providing accessible facilities and accommodating people with disabilities in all of its services programs and activities. If special considerations are needed by any person to fully participate in this meeting, contact the City Clerk at 899-6707 no fewer than two business days prior to the meeting to allow reasonable arrangements. Agendas are posted at:

<http://www.ci.seaside.ca.us/129/City-Council-Committee-Agendas>

Agenda-related writings or documents provided during public meetings are available for public inspection during the meeting or from the office of the City Clerk. This agenda is posted in compliance with California Governor Newsom's Executive Orders N-29-20 and N-33-20.



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 7.A.

TO: City Council

FROM: Craig Malin, City Manager

BY: Gloria Stearns, Community Development Manager

DATE: November 5, 2020

**SUBJECT: COMMUNITY DEVELOPMENT BLOCK GRANT-COVID 19 FUNDS
PUBLIC INPUT**

PURPOSE & RECOMMENDATION

Accept a presentation and discuss the public outreach for the use of CDBG-CV funds .

BACKGROUND

The City of Seaside has received two rounds of CDBG-CV funding from HUD to be used to prevent, prepare for, and respond to coronavirus. The first round was for \$199,874 and is to be used for: \$2,000 for masks; \$2,000 for administrative fee; \$195,874 for Monterey Food Bank. The second round is for \$339,767. The presentation will briefly review the first round funding, and then illustrate a potential use, as well as the public participation plan for the second round of funding. Staff welcomes a discussion.

FISCAL IMPACT

None by accepting the presentation, but significant financial benefit to the public by how the funds are ultimately spent.

ATTACHMENTS

None

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 7.B.

TO: City Council

FROM: Craig Malin, City Manager

BY: Victor Damiani, Finance Director

DATE: November 5, 2020

SUBJECT: FIRST QUARTER FINANCIAL REPORT

PURPOSE & RECOMMENDATION

To receive and discuss the first quarter report.

BACKGROUND

Routine updates on the fiscal health of the city will allow for better management of City funds. A detailed written report about the first quarter FY 2020-2021 will be available at or before the meeting and a verbal presentation will be made on the details of that report.

FISCAL IMPACT

None with receiving and discussing the report.

ATTACHMENTS

1. Q1 FY 21
-

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager

First Quarter FY 2020-21 Financial Report (Unaudited)



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INTRODUCTION

This is the first quarterly report for Fiscal Year 2020-21, and comprises results for the three month period ending September 30, 2020. While a few other notable funds are reviewed, this report focuses primarily on the City's general fund. General Fund operating revenues and expenditures as compared to previous years are presented, and any notable changes or trends in these numbers are explained. The report is presented on a cash basis, which means that revenues are recognized at the time revenues are received and expenditures are recognized at the time payment is processed. The City does not accrue any revenues or expenditures in the first quarter.

The purpose of this report is twofold. First, it ensures that the City is consistently monitoring its revenues and expenditures so that it may proactively respond to unanticipated changes or emerging trends. Second, and equally important, consistent reporting increases the transparency of the City's finances. Quarterly reporting provides the City Council, City Administration, taxpayers and ratepayers with information that demonstrates the City is meeting this standard.

The information in this report is the most accurate and up-to-date information available at the time of publication. It is not meant to be inclusive of all financial and accounting transactions. It is intended only to provide the Council, Management and the public with an overview of the state of the City's general fiscal condition. It should be noted that this report is not an audited financial statement, and the numbers provided herein are preliminary and subject to change as the year progresses. No data on revenues and expenditures are final until the City has completed its annual audit and finalized its Comprehensive Annual Financial Report (CAFR), released in the winter of each year for the prior fiscal year

ECONOMIC OUTLOOK

In March of 2020, the City declared a local emergency in response to the COVID-19 worldwide pandemic. The ensuing statewide shelter in place orders coupled with various levels of "reopening" created financial turmoil in the fourth quarter of FY 2019/20 and continues to wreak havoc on the U.S. and worldwide economies at all levels.

In late summer and early fall many areas of the U.S. experienced a much welcomed slowing of the spread of the virus. Unfortunately as fall has progressed infection rates have again begun to increase and may portend a winter coronavirus spike. Until such time as a vaccine is developed and widely distributed the economy is likely to be turbulent and erratic.

NATIONAL & STATE ECONOMIC OUTLOOK

Hdl (The City's revenue enhancement consultant) expects the national economy to grow 12.4% in FY 20-21, before slowing to 2.4% in FY 21-22. The large growth rate is in comparison to FY20 which saw recession.

- California's unemployment rate is expected to remain high at 9.9% in FY 20-21
- Sales & Use Tax is expected to increase 0.6% in FY 20-21 and grow by 8.4% in FY 21-22

Source: Hdl

Early in the pandemic the Federal Government passed and implemented the \$2.2 trillion CARES Act stimulus bill. The Federal Reserve also lowered the Federal Funds rate to between 0% and .25% where it remains today. In many ways the federal stimulus may have slowed the economic damage caused by the pandemic response and stabilized the economy. With the expiration in late July of many programs within the CARES Act, however, the stabilizing effect may decrease in the coming months. As of the writing of this report it looks highly unlikely that the Federal government will pass any further stimulus until after the November election.

LOCAL ECONOMIC OUTLOOK

At the local level, the City of Seaside unemployment rate increased from 3.4% in March to 20% in April of 2020 and currently stands at 11.2%. Many of the City's small businesses continue to struggle due to closure or capacity reduction orders. In response, the City of Seaside City Council approved a \$200k revolving loan fund to assist small businesses locally. Additionally, the City pursued and was awarded grant funding to assist residents locally with utility payments and rental assistance.

In August, the City was awarded \$414k of the CARES Act stimulus mentioned previously and continues to use those funds for pandemic emergency response.

Additionally the City will continue to pursue FEMA reimbursement for emergency response costs as appropriate as well as various other grant sources.

A major sector of Seaside's local economy is based on tourism. The severe dropping of the local Hotel Tax (Transient Occupancy Tax) serves as a clear indicator of just how hard that sector has been hit. It is not unusual for businesses that rely on tourism to count on strong spring and summer months to carry them through the winter months. With only tepid spring and summer months in 2020, the winter months may end up being particularly difficult.

While there have been some bright spots, overall the local economy continues to be tentative.

GENERAL FUND

FY 2020-21 BUDGET RECAP:

General Fund Changes in Fund Balance:	FY2019-20 Adopted Budget	Increases	Decreases	FY 2020-21 Adjusted Budget
Revenues	<u>\$ 36,646,330</u>		<u>\$ (5,974,110)</u>	<u>\$ 30,672,220</u>
Expenditures				
Personnel Services	26,372,360		(1,927,939)	24,580,161
Non-personnel Services	11,472,904		(2,593,461)	8,751,295
Community/Social Services	-	500,000	-	500,000
Expenditures Subtotal	<u>37,845,264</u>	<u>500,000</u>	<u>(4,521,399)</u>	<u>33,831,456</u>
Surplus (Deficit)	<u>\$ (1,198,934)</u>	<u>\$ (500,000)</u>	<u>\$ (1,452,711)</u>	<u>\$ (3,159,236)</u>

In June of 2020, the City of Seaside City Council adopted the FY 2020-21 annual budget. Due to a projection of significant decreases in revenues, a deficit budget was adopted including an operating deficit of \$2.7M. The budget showed a deficit despite a concerted effort to reduce personnel costs by approximately \$5.2M from the original projected personnel costs. General Fund personnel cost reductions were \$1.9M below the FY19-20 budget. Personnel cost reductions included the following:

- The reduction of twenty positions through elimination or budgetary freeze: 3 Police Sergeants, 2 Police Corporals, 5 Police Officers, as well as the reduction of one (1) of each of the following positions: Accountant II, Human Resources Specialist, Geographical Information Systems Coordinator (replaced with lower level position), Executive Assistant, Senior Administrative Assistant, Administrative Assistant, Senior Planner, Maintenance Field Supervisor, Senior Maintenance and Utilities Worker, Maintenance and Utilities Worker II, Building Maintenance Specialist and Recreation Program Supervisor
- The reductions were offset by the addition of 1 Administrative Analyst in Human Resources for shared services with the Police and Fire Departments to focus on staff training and education. Also, the workload of 2 Senior Administrative Assistants in the Building Division was repurposed to provide shared services to other departments. One new position was added in the Recreation department – Family & Community Support Practitioner.
- The number of staff Citywide decreased from 153 full-time equivalents (FTEs) in FY 2019-2020 to 133 FTEs in 2020-2021
- City staff volunteered to reduce compensation, in a variety of ways, by approximately 10%

The magnitude of the staffing reduction is already having impacts on the scope and pace of work the City staff undertakes in FY 2020-21.

Subsequently, in the first quarter of the year the operating budget has been adjusted slightly with an appropriation of \$7,600 for an emergency backup generator and an additional \$135k capital appropriation was authorized for the City Hall Solar project.

RESERVES:

The aforementioned budget deficit required the appropriation of fund balance which resulted in sizeable use of the City's rainy day reserves. In addition, the City Council adopted a \$500k appropriation of fund balance for enhanced community/social service programs bringing the total budgeted reduction in fund balance to \$3.3M. That in itself should not be viewed negatively as this is the precise situation that calls for the use of emergency reserves. Rather, the sizeable use of emergency reserves may serve as an indication of how tenuous the City's financial position has become.

Reserve:	% of Expenditures per Policy	Policy Level	FY2019-20 Balances	FY 2020-21 Reserves Used	FY2020-21 Balances	Below Policy Level
Emergency	15%	\$ 5,074,718	\$ 6,240,000	\$ (1,653,414)	\$ 4,586,586	\$ (488,132)
Special	10%	3,383,146	4,100,000	(1,037,215)	3,062,785	(320,361)
* Capital	5%	<u>1,691,573</u>	<u>2,000,000</u>	<u>(603,608)</u>	<u>1,396,392</u>	<u>(295,180)</u>
		<u>\$ 10,149,437</u>	<u>\$ 12,340,000</u>	<u>\$ (3,294,236)</u>	<u>\$ 9,045,764</u>	<u>\$ (1,103,673)</u>

* Includes transfer of \$135k to the City Hall Solar Project

In the short term, Staff recommends caution and a conservative financial approach. Emergency reserves may well be needed in the years to come, if not sooner, depending on how the coronavirus pandemic and the resulting financial turmoil plays out.

The effects of the first quarter results on the projected general fund balance will be analyzed and presented in a subsequent section of this report.

Q1 GENERAL FUND REVENUES:

Total budgeted revenues for FY 2020-21 are \$30.7M. This compares to a FY 2019-20 budget of \$36.7M; a budgeted revenue reduction of nearly \$6M. When looking at first quarter revenue results, staff believes that a year over year analysis is more effective than an analysis against budget for several reasons:

- Revenues are not received in a uniform manner (often times two months in arrears)
- The City does not accrue revenues in the first quarter
- The bar set by the current year budget is rather low in light of the anticipated effect of the COVID-19 pandemic

General Fund Revenues:	Q1 FY20- 21	Q1 FY19-20	Year over Year Variance - \$	Year over Year Variance - %
Sales and Use Tax	\$ 1,677,622	\$ 1,764,062	\$ (86,439)	-5%
Other Agency Revenue	256,964	258,330	(1,366)	-1%
Transient Occupancy Tax	575,737	792,063	(216,326)	-27%
Property Tax	1,198,169	882,049	316,120	36%
Utility User Tax	264,617	380,905	(116,288)	-31%
Franchise Fees	-	-	-	n/a
Fees & Charges	44,413	191,555	(147,142)	-77%
Business License Tax	547,347	649,052	(101,705)	-16%
Licenses & Permits	103,672	117,114	(13,443)	-11%
Marijuana Receipts Tax	178,299	140,152	38,147	27%
Miscellaneous-Other Revenue	8,679	15,232	(6,553)	-43%
Grant Revenue	63,212	152,384	(89,172)	-59%
Income from Investments	3,500	(78,280)	81,780	104%
Fines & Forfeitures	33,357	40,679	(7,323)	-18%
Motor Vehicle In-Lieu	-	-	-	n/a
Transfer In	-	-	-	n/a
Revenues by Source	\$ 4,955,588	\$ 5,305,296	\$ (349,708)	-7%

As can be seen in the table, revenues in the first quarter totaled \$5M which is 7% or \$350k lower than the first quarter of the previous year. The \$5M equals 16% of total budgeted revenue. Similarly in the first quarter of the previous year the City had realized 14% of total budgeted revenue. This indicates that actual revenue collections are trending slightly better than budgeted revenue. This is certainly welcome news and may indicate that revenues were not hit nearly as hard as was projected at the time of budget preparation.

DISCUSSION OF SIGNIFICANT REVENUE VARIANCES:**➤ Sales and Use Tax**

In the first Quarter of the fiscal year \$1.7M of sales and use taxes were collected. This equates to an \$86k or 5% reduction over the same quarter in the previous year. Sales and Use Tax projections are provided to the City by HdI, which is a revenue enhancement consultant used widely by Cities throughout California.

The City's sales and use tax outperformed budget in the fourth quarter of FY 2019-20 particularly in the areas of auto sales, cannabis retail and online sales. This was particularly surprising as the City expected auto sales to see very

abrupt declines. On the other hand, fewer tourists and capacity limits did lead to steeper declines in casual dining. Additionally, lower prices at the pumps coupled with more people telecommuting led to steeper declines in service stations. Based on fourth quarter results and other factors, Hdl now projects that the City will realize \$14M in Sales and Use tax for the fiscal year as opposed to the \$12M budgeted. This represents a much better outlook from the original budgeted projection.

➤ **Transient Occupancy Tax (TOT)**

In the first Quarter of the fiscal year \$576k of TOTs were collected. This equates to a \$216k or 27% reduction over the same quarter in the previous year. Whether due to imposed capacity restrictions or due to a high level of caution (related to perceived level of trust) on the part of potential tourists is hard to say. It is clear however that hotel stays are down. In the very short term there is no expectation that this revenue source will increase, especially as we move into the winter months. The spring and summer months of 2021 could possibly continue to underperform due to high unemployment rates. Many potential tourists may simply not have funds available for travel due to unemployment. The development and approval of a vaccine in late 2020 (as hoped for by many) would certainly have the potential to bring some additional TOT revenue. It is, of course, unknown when or if a vaccine will be developed.

➤ **Fees and Charges**

In the first Quarter of the fiscal year \$44k of Fees and Charges were collected. This equates to a \$147k or 77% reduction over the same quarter in the previous year. Much of this revenue loss is due to restrictions on gatherings. Programs that usually generate revenue such as the community center, swim center and recreational day camps have generated almost no revenue. It is unlikely that this revenue source will recover until late spring or summer of 2021 at the earliest.

➤ **Property Tax**

The majority of the City's property tax receipts do not arrive until December and April of the following year. Therefore they are not generally accounted for in the first quarter. One category of property tax, Successor Agency pass through distributions, however is received in the first quarter. FY 2020-21 is showing an increase in this revenue source of \$316k or 36% over the previous fiscal year. As the recognized obligations of the previous Redevelopment Agency are paid down or settled, more property tax becomes available for pass through distribution.

➤ **Utility User Tax**

In the first quarter of the fiscal year \$265k of Utility User Taxes were collected. This represents a decrease of \$116k or 31%. The reduction is largely due to timing and processing of receipts rather than a contraction of the revenue source.

➤ **Marijuana Receipts Tax**

The Marijuana Receipts Tax was a new tax revenue for the City beginning in FY 2019-20. The first quarter of FY 2019-20 showed a relatively modest \$140k in receipts as operations got under way. The following three quarters ballooned significantly so that the fiscal year total is likely to be around \$1.2M (unaudited). First quarter receipts were \$178k. This represents a 27% increase over the previous fiscal year first quarter. This is somewhat misleading however since the first quarter of fiscal year 2019-20 should not be considered a full quarterly collection as operations were just getting under way. Still, this new revenue source for the City shows promise of outperforming budget again this year. The growth of this new revenue source could however be slowed in the years to come if other cities on the peninsula license cannabis retailers; therefore creating more competition.

➤ **Grant Revenue**

In the first quarter of the fiscal year \$63k of Grant Revenues were collected. This represents a decrease of \$89k or 59% over the same quarter in the previous year. Grant revenues are highly dependent on timing of billing and receipts. Staff turnover, staffing reductions and furloughs in the Community Development department are likely contributors to the

lower amount of collections. More recently however, the City's Community Development department has applied for and been approved for several new grants, so this revenue source is likely to perform better as the year progresses.

Q1 GENERAL FUND EXPENDITURES:

Total budgeted expenditures for FY 2020-21 are \$33.8M including a \$500k assignment of fund balance for enhanced community/social service programs. This compares to a FY 2019-20 budget of \$37.9M; a budgeted expenditure reduction of nearly \$4.5M. As mentioned previously personnel cost were reduced by approximately \$1.9M on a year over year basis. Additionally, non-personnel costs were reduced by \$2.6M. Offsetting cost reductions was a cost increase of \$500k for enhanced community/social service programs.

First quarter expenditures were 15% of the total fiscal year 2020-21 budget. For comparison, first quarter expenditures in the prior year were slightly higher at 17% of the fiscal year 2019-20 budget.

Unlike revenues, it can be useful even in the first quarter to compare expenditures to one quarter of the annual budget. This is because expenditures tend to occur more regularly than revenue receipts. Expenditures are presented below in two different formats; the first is expenditure by type and the second is expenditures by department:

EXPENDITURES BY TYPE:

General Fund Expenditures by Type:	FY2020 - 2021 Adjusted Budget -Q1	Q1 FY20 -21 Actual Results	Q1 FY19 -20 Actual Results	Year over Year Variance \$	Year over Year Variance %	Q1 vs. Budget Variance %
Personnel Services	\$ 6,145,040	\$ 4,010,715	\$ 4,752,009	\$ (741,294)	-16%	-35%
Services & Supplies	1,259,870	973,905	776,303	197,601	25%	-23%
Internal Service Charge	602,128	-	-	-	n/a	n/a
Transfer Out	598,989	-	-	-	n/a	n/a
Debt Service	60,784	12,232	49,233	(37,002)	-75%	-80%
Capital Outlay-Projects	99,336	26,152	996,970	(970,818)	-97%	-74%
Administrative Allocation	(308,284)	-	-	-	n/a	n/a
Expenditures by Type	\$ 8,457,864	\$ 5,023,004	\$ 6,574,516	\$ (1,551,512)	-24%	-41%

Several categories of expenditures are not accounted for in the first quarter and therefore show no activity; Internal Service Charges, Transfers and Administrative Allocations. Furthermore, Debt Service is dependent on payment schedules and Capital Outlay is dependent on project schedules.

DISCUSSION OF SIGNIFICANT EXPENDITURE VARIANCES BY TYPE:

➤ Personnel Services

As was expected, Personnel Services were down \$741k or 16% on a year over year basis. Personnel costs were even lower when compared to budget with a 34% variance. This was due to several unexpected departures; notably in the police department and the community & economic development department. As the year progresses and positions are filled this variance is likely to decrease as a percentage of total budget.

➤ Services & Supplies

Services and supplies were up 25% on a year over year basis yet under budget by 17%.

EXPENDITURES BY DEPARTMENT:

General Fund Expenditures by Department	FY2020 - 2021 Adopted Budget -Q1	Q1 FY20 -21 Actual Results	Q1 FY19 -20 Actual Results	Year over Year Variance \$	Year over Year Variance %	Q1 vs. Budget Variance %
Legislative Body	\$ 123,513	\$ 69,422	\$ 155,875	\$ (86,453)	-55%	-44%
Administration	99,594	83,748	75,039	8,709	12%	-16%
City Clerk	116,371	60,013	65,789	(5,776)	-9%	-48%
City Attorney	134,351	67,216	112,722	(45,506)	-40%	-50%
Human Resources	147,417	84,305	113,838	(29,533)	-26%	-43%
Finance Department	277,490	165,843	235,073	(69,230)	-29%	-40%
Police Department	3,214,630	1,946,804	2,051,555	(104,751)	-5%	-39%
Fire Department	1,851,895	1,195,518	2,173,137	(977,619)	-45%	-35%
Building and Code Enforcement	149,469	113,739	80,260	33,478	42%	-24%
Economic and Community Development:						
Planning	108,014	58,440	123,964	(65,524)	-53%	-46%
Economic Development	245,370	123,716	106,190	17,526	17%	-50%
Public Works & Engineering:						
Public Works/Engineering	951,638	450,103	666,281	(216,178)	-32%	-53%
Public Works/Engineering (Capital Projects)	-	-	-	-	n/a	n/a
Public Works/Engineering (Transfers)	498,251	311,248	-	311,248	n/a	-38%
Recreation	777,945	271,847	569,848	(298,001)	-52%	-65%
Administrative Allocation	(308,284)	-	-	-	n/a	n/a
Expenditures by Department	\$ 8,457,864	\$ 5,023,004	\$ 6,574,516	\$ (1,551,512)	-24%	-41%

As can be seen in the table above, all departments were under budget in the first quarter of the year. As the year progresses and vacant positions are filled this variance is likely to decrease as a percentage of total budget. Additionally, personnel services are likely to increase beginning as early as February of 2021 as concessions from the City's labor groups begin to expire. Internal services charges and administrative allocations also will have an effect on each departments variance versus budget once accounted for.

GENERAL FUND NET RESULTS & BUDGET DEFICIT OUTLOOK:

Overall, the first quarter showed expenditures of \$5M (15% of the annual budget) on par with revenues of \$5M so that fund balance remained essentially unchanged. As the year progresses, staff may gain a better understanding of the City's revenue outlook. Still, first quarter results can provide some insights:

- Sales and Use taxes **were not down** as dramatically as feared at the time of budget development
- TOTs **were down** significantly as was feared at the time of budget development
- Marijuana Receipts tax is likely to **outpace budget** forecasts
- Grant revenues are likely to **increase**
- Personnel costs **are down** even more in the first quarter than planned at the time of budget development

General Fund Changes in Fund Balance:	FY2019-20 Adopted Budget	Increases	Decreases	FY 2020-21 Adjusted Budget	FY 2020-21 Projected Budget
Revenues	\$ 36,646,330		\$ (5,974,110)	\$ 30,672,220	\$ 33,299,887
Expenditures					
Personnel Services	26,372,360		(1,927,939)	24,580,161	24,420,161
Non-personnel Services	11,472,904		(2,593,461)	8,751,295	9,165,295
Community/Social Services	-	500,000	-	500,000	500,000
Expenditures Subtotal	<u>37,845,264</u>	<u>500,000</u>	<u>(4,521,399)</u>	<u>33,831,456</u>	<u>34,085,456</u>
Surplus (Deficit)	<u>\$ (1,198,934)</u>	<u>\$ (500,000)</u>	<u>\$ (1,452,711)</u>	<u>\$ (3,159,236)</u>	<u>\$ (785,569)</u>

As can be seen, the results of the first quarter indicate that to date the economic impacts of the coronavirus pandemic have not been as bad as imagined in the spring. The City continues to face many very strong headwinds however that should not be considered lightly:

- The virus is still here, no vaccine has been developed and a winter spike may be emerging
- When and if a vaccine will be developed and distributed is still unknown
- The large stimulus, enacted in the spring at the Federal level, and which largely propped up the economy, has not been renewed and it is unknown (as of this writing) when and if it will be renewed
- The robust employment recovery seen in May through August has slowed and may reverse if further shelter in place orders are called in the fall and winter or if no further stimulus is forthcoming
- Continued weakness in certain sectors (TOT and travel and entertainment related sales tax)
- Agreements reached with the City's bargaining groups are set to start expiring in February
- PERS unfunded liabilities could climb even higher if Pension Fund investment returns are substantially lower than anticipated

With so many headwinds on the horizon, staff recommends a disciplined financial approach with a priority placed on preserving emergency reserves so that they are available when needed. Although new programs are useful and needed it is important not to lose sight of the current basic level of service that the City provides to our residents, citizens and visitors.

OTHER FUNDS

In addition to the General Fund, the budget includes funds from a range of restricted sources as well as business-type activities that are used to provide specific services, including:

WATER FUND:

The Water Enterprise Fund appears to be functioning as designed. Recent rate increases have greatly increased revenues putting the enterprise in a much better position to move forward with the many capital improvements and maintenance that have been deferred. As mentioned previously, the City has been awarded grant funding to assist residents locally with utility payments. Staff will move quickly to make this assistance available to our residents.

Water Enterprise Q1 Results:	FY2020-21 Adopted Budget	Q1 FY20- 21	Q1 FY19-20	Year over Year Variance %
Revenues	\$ 846,175	\$ 281,190	\$ 153,248	183%
Expenditures	(1,203,770)	(76,056)	(92,113)	83%
Net Revenues (Exp)	\$ (357,594)	\$ 205,135	\$ 61,134	336%

FORA FUND:

The Fort Ord Reuse Authority (FORA) dissolved on June 30, 2020. The City of Seaside took over as the Local Reuse Authority (LRA) and the Successor to the Environmental Services Cooperative Agreement (ESCA), contracted for the repairs to storm water infiltration on Eucalyptus Road, and received funds for both bonded blight removal and habitat management. Revenues to cover to costs of the FORA work were received in FY 2019-20. As may be seen in the table, FORA work conducted under the administrative control of the City of Seaside has just gotten under way. City staff will continue to provide budget updates to Council and the public as the work unfolds.

FORA Q1 Results:	FY2020-21 Amended Budget	Q1 FY20- 21
Revenues	\$ -	-
Expenditures	(8,897,026)	(69,058)
Net Revenues (Exp)	\$ (8,897,026)	\$ (69,058)

MEASURE X BOND FUND:

The City's Public Works department will provide a full FY2019-20 annual report to Council on November 19, 2020.

STORMWATER FUND:

The stormwater fund expenditures in the first quarter were \$79k consisting mostly of personnel costs. The total personnel cost budget for the year is \$479k indicating first quarter results are well within budget.

MERGED HOUSING:

The City of Seaside purchased 956 Hilby Ave in July 2019 because of its strategic location to the Oldemeyer Center. The immediate plans are to renovate the house focusing on required life safety improvements. The property will then be rented to a low income occupant until the City determines its ultimate plans for this location.

SANITATION DISTRICT (COMPONENT UNIT):

First quarter expenditures were \$567k in comparison to an annual budget of \$5.8M. Projects underway include sewer main upgrades, sewer line replacements and lift station upgrades.

Requests for additional financial information may be directed to:

City of Seaside, Finance Department, 440 Harcourt Avenue, Seaside CA, 93955

Attention: Victor Damiani, Finance Director | Email; vdamiani@ci.seaside.ca.us | Phone; (831) 899-6718



DRAFT MINUTES
CITY OF SEASIDE
CITY COUNCIL

REGULAR MEETING
VIRTUAL ONLY
Thursday, October 15, 2020
7:00 PM

1. CALL TO ORDER

Mayor Oglesby called the meeting to order at 7:00 p

2. ROLL CALL – ESTABLISHMENT OF QUORUM

PRESENT: Campbell, Kispersky, Oglesby, Pacheco, Wizard
ABSENT

3. INVOCATION AND PLEDGE OF ALLEGIANCE

Conducted.

4. REVIEW OF AGENDA

None

5. PUBLIC COMMENT

Public Comments: AnaLisa Mitchell, Eloise Shim, Ronald Britt, Harold Lusk, Marie Guth, Gayle Tier

6. PUBLIC AGENCY COMMUNICATIONS

Assistant City Manager Milton spoke to voting options, availability and the last day to register to vote being October 19, 2020. City Manager Malin reported on the next free food distribution on October 17th, 2020.

7. CONSENT AGENDA

On motion by Mayor Pro Tem Dave Pacheco and seconded by Council Member Jason Campbell and passed by the following vote the City Council approved the Consent Agenda as presented.

RESULT: *Approved*

AYES: *Ian Oglesby, Dave Pacheco, Jason Campbell, Jon Wizard, Alissa Kispersky*

NOES: *None*

A. APPROVE MINUTES FROM OCTOBER 1, 2020 REGULAR MEETING

Action: Approve

B. APPROVE AND FILE CITY CHECKS

Action: Accepted and Filed

**C. ENVIRONMENTAL SERVICES COOPERATIVE AGREEMENT (ESCA)
OCTOBER QUARTERLY REPORT**

Action: Accepted

**D. APPROVE A RESOLUTION EXECUTING A MAINTENANCE AND RIGHT OF
ENTRY AGREEMENT WITH THE MCDONALD'S IN SEASIDE**

Action: Adopted Resolution 20- 88

**E. ADOPT RESOLUTION ACCEPTING THE CERTIFICATE OF SIGNATURE
VERIFICATION FOR THE REFERENDUM AGAINST ORDINANCE No. 1095
AND DECLARING THE SUFFICIENCY OF THE PETITION**

Action: Approved Resolution 20- 89

**F. AUTHORIZE RESPONSE TO 2019-2020 MONTEREY COUNTY CIVIL
GRAND JURY FINAL REPORT - "SEXUAL HARASSMENT PREVENTION
#TRAININGCOMPLIANCE"**

Action: Authorized

**G. APPROVE RESOLUTION RATIFYING THE 8TH SUPPLEMENT TO THE
PROCLAMATION OF LOCAL EMERGENCY**

Action: Adopted Resolution 20 -90

**H. APPROVE RESOLUTION AUTHORIZING APPLICATION FOR AND
ENTERING INTO AGREEMENTS FOR THE REGIONAL EARLY ACTION
PLANNING (REAP) GRANT AND AUTHORIZE THE CITY FINANCE
DIRECTOR TO MAKE ASSOCIATED FINANCIAL TRANSACTIONS.**

Action: Approved & Adopted Resolution 20- 91

8. BUSINESS ITEMS

A. COMMUNITY SOCIAL SERVICES GRANT FUNDING AWARDS

Recreation Supervisor Ashley Collick provided the presentation and explained the RFP solicitation and scoring process and the final recommendations of the volunteer selection committee.

The Council asked questions of the committee members, discussed ranking priorities, the intent and distribution of the proposed funds and the process.

PUBLIC COMMENTS: Grace Cunha, Melissa Mejia, Nickolas Garcia, River Naavalli, Analisa Mitchell, Ronald Bitt, Olive Gibbons, Mel Mason, Miriam Smith, Rosalyn Green, Lisa Washington, Kiki Washington, Anton.

Mayor Oglesby and Council Member Wizard expressed discontent over the results, as they both believed the project intent was to expand or fund new opportunities. Council Members Campbell, Kispersky and Pacheco did not disagree, but trusted the process that was approved and facilitated.

On motion by Council Member Campbell and seconded by Council Member Kispersky and passed by the following vote the City Council accepted the recommendations of the committee as presented.

RESULT:	Approved
AYES:	Dave Pacheco, Jason Campbell, Alissa Kispersky
NOES:	Jon Wizard
ABSTAIN:	Ian Oglesby

B. CONSIDER DEVELOPER'S SEPTEMBER 30 PURCHASE AND SALE AND ESCROW INSTRUCTION AGREEMENT FOR THE MAIN GATE PARCEL, SEASIDE, CA 93955

City Manager Malin presented the elements of the item and the agreement revisions submitted on behalf of the developer. He reiterated the previous Council direction and discussion and detailed how it was inconsistent. City Attorney Damon spoke to a letter from the Developer's attorney that was sent after the start of the meeting that articulated an ask that the Council declare their intent for future negotiations. The Council asked clarifying questions.

PUBLIC COMMENTS: Ronald Britt, Alex Miller, Kenneth Murray, Anthony Dunham, Tinisia Dunn

On motion by Council Member Jason Campbell and seconded by Mayor Pro Tem Dave Pacheco and passed by the following vote the City Council approved the staff recommendation to reject the developer submitted purchase and sale agreement.

RESULT:	Rejected
AYES:	Ian Oglesby, Dave Pacheco, Jason Campbell, Jon Wizard, Alissa Kispersky
NOES:	None

9. COUNCIL MEMBER REQUESTS

Council Member Pacheco requested to bring forward at the next meeting a report of unused dollars from the swim center budget that could be used for new and innovative programs. Council Member Campbell also requested the same. Council Member Wizard requested to invite Dr. Ochoa or a representative from CSUMB for a state of the university status presentation and how we can be partners during this extraordinary time. Mayor Oglesby requested to put on the agenda an eviction moratorium conversation.

A. MAYOR OGLESBY'S REQUEST FOR RENTER ASSISTANCE PROGRAM

(NOVEMBER 5, 2020)

Continued to November 5, 2020.

**10. MAYOR, CITY COUNCIL, CITY MANAGER AND CITY ATTORNEY COMMENTS
AND REPORTS ON COMMITTEE ASSIGNMENTS**

11. ADJOURNMENT

On motion, the meeting was adjourned at 9:49 PM.

Respectfully submitted,

Lesley Milton, City Clerk

Ian N. Oglesby, Mayor



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 8.B.

TO: City Council

FROM: Craig Malin, City Manager

BY: Victor Damiani, Finance Director
Jessica Riley, Accounting Assistant

DATE: November 5, 2020

SUBJECT: APPROVE AND FILE CITY CHECKS

PURPOSE & RECOMMENDATION

Approve and file the accounts payable and wired payments made during the period of October 4, 2020 through October 16, 2020 including the payroll and benefits checks, direct deposits and wired payments related to the pay period ending October 8, 2020. Total Accounts Payable and Payroll for the above referenced period is \$1,297,454.70.

BACKGROUND

In accordance with Government Code Section 37208, at each City Council meeting the Council is provided a listing of the payroll and general checks issued since the last report so that it can inspect and confirm these checks. Each purchase has been reviewed and approved by the department making the purchase at the time of procurement. The invoice has been reviewed by the Finance Department prior to payment to ensure that it conforms to the approved budget.

Therefore, in accordance with Government Code Section 37208, the above referenced, and linked list of checks conforms to the approved budget and has been paid. These checks are submitted to the City Council for inspection and confirmation.

A description of the checks and wires exceeding \$10,000 are as follows:

- \$651,788.64 for Payroll and benefits

- \$34,183.02 to California-American Water for Water consumption for multiple City of Seaside service addresses. Billing period of 8/22/2020 - 9/24/2020. Service addresses include city buildings, parks, fire hydrants, irrigation stations, and city affordable housing.
- \$17,616.06 to Monterey County Convention & Visitor's Bureau for July - September 2020 jurisdiction improvement investment.
- \$30,154.88 to Wallace Group for SCSD - Del Monte sewer upgrade & Fremont sewer main upgrade services rendered through August 2020 (\$24,359.88); Laguna Grande Well Storage Tank Improvements during August 2020 (\$1,381.25); Construction services for Storm Drain Grate Project through August 2020 (\$195.00).
- \$50,044.88 to Harris & Associates for SCSD prof. svcs. Project management for the period 8/23/2020 - 9/26/2020.
- \$10,320.62 to City of Del Rey Oaks for Distribution of fiscal year 2019-2020 proportionate share of Sewer Impact Fees.
- \$124,450.95 to Santa Cruz Westside Electric for Drawdown on contract for City Hall Solar Project for work thru 9/30/2020
- \$26,314.00 to Googie Grill for Preparing and delivering meals, 3x/day, 4x/week for the Great Plates Initiative for the weeks of 9/28/2020 - 10/4/2020 & 9/21/2020 - 9/27/2020.

The remaining checks, totaling \$386,764.67 include payments to vendors for operating expenditures.

The Checks report is available on the City's website here:

<https://www.ci.seaside.ca.us/194/Check-Draft-Register>

FISCAL IMPACT

There are no additional fiscal impacts.

ATTACHMENTS

None



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 8.C.

TO: City Council

FROM: Craig Malin, City Manager

BY: Nisha Patel, Public Works Director/City Engineer
Scott Ottmar, Senior Engineer

DATE: November 5, 2020

SUBJECT: ADOPT A RESOLUTION AWARDING A PROFESSIONAL SERVICE AGREEMENT TO HARRIS & ASSOCIATES IN THE AMOUNT OF \$33,470 FOR BID SUPPORT AND DESIGN SERVICES DURING CONSTRUCTION FOR THE EUCALYPTUS ROAD INFILTRATION REPAIR PROJECT, PAID FOR BY FORA FUNDS, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT.

PURPOSE & RECOMMENDATION

Adopt a Resolution awarding a professional service agreement to Harris & Associates to provide bid support and engineering services during construction for the Eucalyptus Road Infiltration Repair project. Costs were pre-paid through a Memorandum of Understanding agreement with FORA prior to dissolution.

BACKGROUND

In September 2009, the Fort Ord Reuse Authority (FORA) filed a notice of completion for construction of Eucalyptus Road Phase 1. In August 2014, the City informed FORA that portions of the road drainage system had failed and the City would not accept responsibility for operation and maintenance of the road. In summer 2018, FORA retained Harris & Associates (Consultant) to design repairs to the failing drainage features, and in cooperation with City staff, design for repairs were substantially completed by November 2019. With the June 30, 2020 sunset of FORA imminent, it was determined there was not enough time to bid, award and construct the repairs

before the sunset deadline. A Memorandum of Agreement was executed between FORA and the City on June 19, 2020 which provided funds to the City in exchange for assuming responsibility to implement repairs.

On March 10, 2018, the City issued a formal Request for Proposal (RFP) to provide on-call engineering services. The proposals received were evaluated in accordance with Government Code Section 4525, et. seq., which states "selection by a ... local agency head for professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required." On May 17, 2018, the City adopted Resolution No. 18-39, which approved an on-call consultant list for engineering services, which included Harris & Associates.

Due to their initial work with FORA on the project, staff requested a proposal from the Consultant to provide support during the bid process and engineering services during construction. Staff expects to come back to the City Council in the future with recommendations to award an amendment to this contract for construction management services for the proposed construction of drainage improvement planned to be implemented in 2021.

The proposed contract value is within the budgeted limits anticipated for a project of this magnitude. Staff recommends the City Council adopt a Resolution authorizing the City Manager to execute a professional services agreement with Harris & Associates for an amount not to exceed \$33,470 for bid support and engineering services during construction for the Eucalyptus Road Infiltration Repair project.

ENVIRONMENTAL COMPLIANCE

Pursuant to preliminary review of the activities associated with this Council Action in accordance with Section 15061 of the California Environmental Quality Act (CEQA) Guidelines this project is Categorically Exempt (Class 1, Existing Facilities) per Article 19, Section 15301 (d). The project restores and rehabilitates the existing drainage system with negligible expansion of the former use.

FISCAL IMPACT

In June 2020, the City of Seaside and the Fort Ord Reuse Authority entered into a Agreement regarding funding for repair of storm water infiltration units along Eucalyptus Road. Per the terms of the Agreement, FORA provided \$1,120,000 to construct repairs which was included in the current fiscal year budget (Fund 336). The professional service agreement with Harris and Associates is for \$33,470. There is

\$150,000 budgeted in Account# 336-8110-1030 to cover the cost of the services.

ATTACHMENTS

1. Resolution
 2. Agreement
-

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager

RESOLUTION NO. 20-____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE

**ADOPT A RESOLUTION AWARDING A PROFESSIONAL SERVICE AGREEMENT
TO HARRIS & ASSOCIATES FOR BID & DESIGN SUPPORT DURING
CONSTRUCTION FOR THE EUCALYPTUS ROAD INFILTRATION REPAIR
PROJECT FOR AN AMOUNT NOT TO EXCEED \$33,470, AND AUTHORIZING
THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT**

WHEREAS, in September of 2009 the Fort Ord Reuse Authority (FORA) filed a notice of completion for construction of Eucalyptus Road in the City of Seaside; and

WHEREAS, in a letter dated August 15, 2014 the City of Seaside informed FORA that portions of the drainage system associated with the road had failed; and

WHEREAS, FORA retained Harris & Associates to design repairs to the failed drainage infrastructure associated with Eucalyptus Road; and

WHEREAS, Harris & Associates completed design of repairs to Eucalyptus Road drainage infrastructure; and

WHEREAS, construction of repairs could not be implemented prior to the sunset of FORA; and

WHEREAS, on June 19, 2020 the City of Seaside and FORA executed a Memorandum of Agreement (Agreement) establishing conditions for the repair of drainage infrastructure associated with Eucalyptus Road; and

WHEREAS, per the terms of the Agreement, FORA provided funding in the amount of \$1,120,000 and the City accepted responsibility to construct repairs; and

WHEREAS, Harris & Associates provided a proposal dated August 31, 2020 to provide bid support and design services during construction and staff reviewed the proposal and found Harris & Associates to be qualified to provide the professional services; and

WHEREAS, Resolution No. 18-39 adopted an On-Call Engineering Services list, which consisted of five qualified designers, including Harris & Associates, for projects on an as needed basis; and

WHEREAS, the current adopted budget includes \$150,000 (336-8110-1030) for consultant services to design repairs to Eucalyptus Road drainage; and

WHEREAS, in accordance with Title 14, California Code of Regulations, Section 15301(d), the proposed project is categorically exempt from the California Environmental Quality Act (CEQA) for the restoration of deteriorated or damaged existing structures.

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Seaside awards a Professional Services Agreement to Harris and Associates for bid support and design services during construction for an amount not to exceed \$33,470 to be funded from the FY 2020/2021 Eucalyptus Road Repairs Fund; and

BE IT RESOLVED, that the City Council of the City of Seaside authorizes the City Manager to execute the Professional Services Agreement with Harris & Associates.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Seaside duly held on the 5th day of November 2020 by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:

Ian Oglesby, Mayor
City of Seaside

ATTEST:

Lesley Milton, City Clerk

**CITY OF SEASIDE
PROFESSIONAL SERVICE AGREEMENT
BID SUPPORT AND ENGINEERING SERVICES DURING CONSTRUCTION FOR
THE EUCALYPTUS ROA INFILTRATION REPAIR PROJECT**

THIS AGREEMENT, is made and effective _____, 2020 between the City of Seaside, a municipal corporation ("Agency") and Harris & Associates, Inc., an S Corporation ("Consultant"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. TERM

This Agreement shall commence on the effective date stated above and shall remain and continue in effect until tasks described herein are completed, but in no event later than June 30, 2022, unless sooner terminated pursuant to the provisions of this Agreement.

2. SERVICES

Consultant shall perform the tasks described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full. Consultant shall complete the tasks according to the schedule of performance which is set forth in Exhibit A.

3. PERFORMANCE

Consultant shall at all times faithfully, competently and to the best of his/her ability, experience, and talent, perform all tasks described herein. Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Consultant hereunder in meeting its obligations under this Agreement.

4. AGENCY MANAGEMENT

Agency's City Engineer shall represent Agency in all matters pertaining to the administration of this Agreement, review and approval of all products submitted by Consultant, but not including the authority to enlarge the Tasks to Be Performed or change the compensation due to Consultant. Agency's City Manager shall be authorized to act on Agency's behalf and to execute all necessary documents which enlarge the Tasks to Be Performed or change Consultant's compensation, subject to Section 5 hereof.

5. PAYMENT

(a) The Agency agrees to pay Consultant monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit A,

attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. This amount shall not exceed thirty three thousand four hundred seventy dollars (\$33,470.00) for the total term of the Agreement unless additional payment is approved as provided in this Agreement.

(b) Consultant shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the Agency City Manager. Consultant shall be compensated for any additional services in the amounts and in the manner as agreed to by Agency City Manager and Consultant at the time Agency's written authorization is given to Consultant for the performance of said services. The Agency Manager may approve additional work an amount not to exceed a total sum of twenty four thousand nine hundred ninety nine (\$24,999.00). Any additional work in excess of this amount shall be approved by the Governing Board.

(c) Consultant will submit invoices monthly for actual services performed. Invoices shall be submitted on or about the first business day of each month, or as soon thereafter as practical, for services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the Agency disputes any of Consultant's fees it shall give written notice to Consultant within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice.

6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE

(a) The Agency may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the consultant at least ten (10) days prior written notice. Upon receipt of said notice, the Consultant shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the Agency suspends or terminates a portion of this Agreement such suspension or termination shall not make void or invalidate the remainder of this Agreement.

(b) In the event this Agreement is terminated pursuant to this Section, the Agency shall pay to Consultant the actual value of the work performed up to the time of termination, provided that the work performed is of value to the Agency. Upon termination of the Agreement pursuant to this Section, the Consultant will submit an invoice to the Agency pursuant to Section 3.

7. DEFAULT OF CONSULTANT

(a) The Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms of this Agreement, Agency shall have no obligation or duty to continue

compensating Consultant for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Consultant. If such failure by the Consultant to make progress in the performance of work hereunder arises out of causes beyond the Consultant's control, and without fault or negligence of the Consultant, it shall not be considered a default.

(b) If the Agency Manager or his/her delegate determines that the Consultant is in default in the performance of any of the terms or conditions of this Agreement, he/she shall cause to be served upon the Consultant a written notice of the default. The Consultant shall have ten (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the Consultant fails to cure its default within such period of time, the Agency shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

8. OWNERSHIP OF DOCUMENTS

(a) Consultant shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by Agency that relate to the performance of services under this Agreement. Consultant shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to the representatives of Agency or its designees at reasonable times to such books and records; shall give Agency the right to examine and audit said books and records; shall permit Agency to make transcripts therefrom as necessary; and shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

(b) Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the Agency and may be used, reused, or otherwise disposed of by the Agency without the permission of the Consultant. With respect to computer files, Consultant shall make available to the Agency, at the Consultant's office and upon reasonable written request by the Agency, the necessary computer software and hardware for purposes of accessing, compiling, transferring, and printing computer files.

9. INDEMNITY AND DEFENSE

(a) Indemnification and Defense for Professional Services

To the fullest extent permitted by law, Consultant shall indemnify, defend and hold harmless Agency and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all claims, losses, liabilities, damages, costs and expenses, including attorney's fees and costs, to the extent they arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant. Consultant's duty to defend shall consist of reimbursement of defense costs incurred by Agency in direct proportion to the Consultant's proportionate percentage of fault. Consultant's percentage of fault shall be determined, as applicable, by a court of law, jury or arbitrator. In the event any loss, liability or damage is incurred by way of settlement or resolution without a court, jury or arbitrator having made a determination of the Consultant's percentage of fault, the parties agree to mediation with a third party neutral to determine the Consultant's proportionate percentage of fault for purposes of determining the amount of indemnity and defense cost reimbursement owed to the Agency.

(b) For All Other Liabilities

Notwithstanding the foregoing and without diminishing any rights of Agency under Section 9.A, for any liability, claim, demand, allegation against Agency arising out of, related to, or pertaining to any act or omission of Consultant, but which is not a design professional service, Consultant shall defend, indemnify, and hold harmless Agency, its officials, employees, and agents ("Indemnified Parties") from and against any and all damages, costs, expenses (including reasonable attorney fees and expert witness fees), judgments, settlements, and/or arbitration awards, whether for personal or bodily injury, property damage, or economic injury, and arising out of, related to, any concurrent or contributory negligence on the part of the Agency, except for the sole or active negligence of, or willful misconduct of the Agency.

10. INSURANCE

Consultant shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in Exhibit B attached to and part of this Agreement.

11. INDEPENDENT CONSULTANT

(a) Consultant is and shall at all times remain as to the Agency a wholly independent Consultant. The personnel performing the services under this

Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither Agency nor any of its officers, employees, or agents shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents, except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of the Agency. Consultant shall not incur or have the power to incur any debt, obligation, or liability whatever against Agency, or bind Agency in any manner.

(b) No employee benefits shall be available to Consultant in connection with the performance of this Agreement. Except for the fees paid to Consultant as provided in the Agreement, Agency shall not pay salaries, wages, or other compensation to Consultant for performing services hereunder for Agency. Agency shall not be liable for compensation or indemnification to Consultant for injury or sickness arising out of performing services hereunder.

12. LEGAL RESPONSIBILITIES

The Consultant shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Consultant shall at all times observe and comply with all such laws and regulations. The Agency, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Consultant to comply with this Section.

13. UNDUE INFLUENCE

Consultant declares and warrants that no undue influence or pressure is used against or in concert with any officer or employee of the Agency in connection with the award, terms or implementation of this Agreement, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of the Agency will receive compensation, directly or indirectly, from Consultant, or from any officer, employee or agent of Consultant, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement. Violation of this Section shall be a material breach of this Agreement entitling the City to any and all remedies at law or in equity.

14. NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

No member, officer, or employee of Agency, or their designees or agents, and no public official who exercises authority over or responsibilities with respect to the Project during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any agreement or sub-agreement, or the proceeds thereof, for work to be performed in connection with the Project performed under this Agreement.

15. RELEASE OF INFORMATION/CONFLICTS OF INTEREST

(a) All information gained by Consultant in performance of this Agreement shall be considered confidential and shall not be released by Consultant without Agency's prior written authorization. Consultant, its officers, employees, agents, or subconsultants, shall not without written authorization from the Agency Manager or unless requested by the Agency Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories, or other information concerning the work performed under this Agreement or relating to any project or property located within the Agency. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives Agency notice of such court order or subpoena.

(b) Consultant shall promptly notify Agency should Consultant, its officers, employees, agents, or subconsultants be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions, or other discovery request, court order, or subpoena from any person or party regarding this Agreement and the work performed thereunder or with respect to any project or property located within the Agency. Agency retains the right, but has no obligation, to represent Consultant and/or be present at any deposition, hearing, or similar proceeding. Consultant agrees to cooperate fully with Agency and to provide the opportunity to review any response to discovery requests provided by Consultant. However, Agency's right to review any such response does not imply or mean the right by Agency to control, direct, or rewrite said response.

16. NOTICES

Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, which provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by notice:

To Agency:

City of Seaside

440 Harcourt Ave

Seaside, CA 93955

Attention: City Clerk

To Consultant:

Harris & Associates, Inc.

450 Lincoln Ave., Suit 103

Salinas, CA 93901

17. ASSIGNMENT

The Consultant shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the Agency. Because of the personal nature of the services to be rendered pursuant to this Agreement, Frank Lopez, PE shall be the Project Manager and Engineer of Record for the services described in this Agreement.

Frank Lopez may use assistants, under his supervision, to perform some of the services under this Agreement. Consultant shall provide Agency fourteen (14) days' notice prior to the departure of Frank Lopez from Consultant's employ. Should he/she leave Consultant's employ, the Agency shall have the option to immediately terminate this Agreement, within three (3) days of the close of said notice period. Upon termination of this Agreement, Consultant's sole compensation shall be payment for actual services performed up to, and including, the date of termination or as may be otherwise agreed to in writing between the Governing Board and the Consultant.

18. LICENSES

At all times during the term of this Agreement, Consultant shall have in full force and effect, all licenses required of it by law for the performance of the services described in this Agreement.

19. GOVERNING LAW

The Agency and Consultant understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court with jurisdiction over the Agency.

20. ENTIRE AGREEMENT

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

21. WORK SCHEDULED/TIME OF COMPLETION

Consultant shall complete the outlined scope of work in a timely manner within the time frame per "Section 1. Term" of this contract.

22. CONTENTS OF REQUEST FOR PROPOSAL AND PROPOSAL

Consultant is bound by the contents of Agency's Request for Proposal, Exhibit "C" hereto and incorporated herein by this reference, and the contents of the proposal submitted by the Consultant, Exhibit A hereto. In the event of conflict, the requirements of Agency's Request for Proposals and this Agreement shall take precedence over those contained in the Consultant's proposals.

23. AUTHORITY TO EXECUTE THIS AGREEMENT

The person or persons executing this Agreement on behalf of Consultant warrants and represents that he/she has the authority to execute this Agreement on behalf of the Consultant and has the authority to bind Consultant to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

CONSULTANT: Harris & Associates, Inc.

By: Frank S. Lopez Date: 10/15/2020
Frank Lopez, Director Engineering Services

City of Seaside
A Municipal Corporation

Craig Malin, City Manger Date: _____

Attachments: Exhibit A Proposal
 Exhibit B Insurance Requirements
 Exhibit C Request for Proposal

EXHIBIT A

PROPOSAL



August 31, 2020

Scott Ottmar
Senior Civil Engineer
City of Seaside
440 Harcourt Avenue
Seaside, CA 93955

Scope and Fee for Bid Support and Engineering Services During Construction for the Eucalyptus Road Infiltration Repair Project – Scope and Fee

Dear Mr. Ottmar,

Thank you for the opportunity to provide consulting services to the City of Seaside (City) regarding bid support and engineering services during construction (ESDC) for the Eucalyptus Road Infiltration Repair Project (Project). Harris & Associates (Harris) prepared the design plans on the Project for the Fort Ord Reuse Authority (FORA). The Project was then transferred at the final design level to the City to bid and construct the Project.

The following outlines our scope of work for the Project, as we understand it today. Please note that our effort will be billed on a Time and Materials basis not to exceed the budgeted amount without prior approval from the City.

TASK 1 – PROJECT MANAGEMENT

TASK 1.1 – PROJECT MANAGEMENT

Project Management responsibilities will involve preparation and maintenance of required schedules, invoices, and resource management. Our Project Manager will coordinate a kick-off meeting with City staff as well as coordinate a pre-bid meeting during the bid phase.

TASK 1.2 – PROJECT MEETINGS

This task includes preparation and participation by our Project Manager to project meetings with City staff. This task assumes one kick off meeting with City staff (conference call), one pre-bid meeting (in person), and one construction kickoff meeting (in person). It is assumed the pre-bid meeting will include a site walk with prospective bidders.

Assumptions

- One (1) project kick-off meeting (via conference call).
- One (1) pre-bid meeting including a site walk with bidders (in person).
- One (1) construction kick-off meeting (in person).

TASK 2 – FINAL DESIGN

TASK 2.1 – FINAL PS&E PACKAGE UPDATE

Harris will provide the final design package for City review. The design plans and specifications were initially prepared for FORA and require necessary adjustments to meet City Standards. Harris will incorporate City comments to the Plans, Specifications, & Estimate (PS&E) Package in preparation for bidding.

Deliverables

- *Electronic copy in pdf format of Final Plan and Profile Drawings (Signed & Stamped).*
- *Two (2) full size hard copies of Final Plan and Profile Drawings (Signed & Stamped).*
- *Electronic copy in pdf format of Final Contract Documents and Technical Specifications (Signed & Stamped).*
- *Two (2) hard copies of Final Contract Documents and Technical Specifications (Signed & Stamped)*
- *Electronic copy in pdf format of Final Opinion of Probable Construction Cost.*
- *Two (2) hard copy versions of the Final Opinion of Probable Construction Cost.*

Assumptions

- *City staff reviewed the initial design plans during the design for FORA. Therefore, it is assumed changes needed to PS&E Package only include minor changes such as revising title block, logo, and references to FORA. It is assumed major design changes and fundamental elements to the current design are not to be changed.*

TASK 3 – BID PERIOD SERVICES

TASK 3.1 – BID PERIOD SERVICES

Harris staff will assist City in answering bidder's questions during the bidding stage and preparation of addendum to the PS&E package.

Deliverables

- *Pre-bid meeting notes in electronic pdf format.*
- *One (1) addendum to the plans and specifications in electronic pdf format.*

Assumptions

- *One (1) addendum is assumed to be issued during bidding.*

TASK 4 – ENGINEERING SERVICES DURING CONSTRUCTION

TASK 4.1 – REVIEW SUBMITTALS, CHANGE ORDERS, & RFI'S

Harris will assist the City Project Engineer, City Inspector, and Contractor with interpretation of plans, analysis of changed conditions, development of corrective action, review of shop drawings and other submittals, and review change orders.

Deliverables

- *Submittal, Change Order, and RFI responses in electronic pdf format.*

Assumptions

- *ESDC work assumes up to fifteen (15) submittals, six (6) re-submittals, three (3) RFIs, and four (4) hours for change order assistance.*
- *Harris assumes that design staff will not require site visits during construction.*

TASK 4.2 – PREPARE RECORD DRAWINGS

Harris will review and prepare Record Drawings from “As-built” drawings provided by the Contractor.

Deliverables

- *Electronic copy in pdf format of Record Drawings.*

Assumptions

- *Contractor and City to provide field marked as-built drawings for record drawing creation.*

TASK 4.3 – CONSTRUCTION MEETINGS

This task includes preparation and participation by our team to attend as-needed construction meetings with City staff and Construction team. This task assumes four construction meetings with Construction team will be attended by Harris design staff (in person).

Assumptions

- *Meeting agenda/minutes are to be prepared by others.*
- *Four (4) construction meetings are anticipated (in person).*

COST ESTIMATE

The not to exceed time and materials cost estimate for performing the tasks described above is **\$33,470**. Detailed costs by task are provided in our fee spreadsheet in **Attachment 1**.

EXHIBIT A

The Harris team is ready to collaborate with you to construct this important project, can start immediately, and will keep this project a priority until the project is constructed. Please feel free to contact me directly should you have any questions regarding this scope of work and cost estimate.

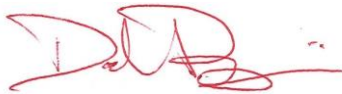
Sincerely,

Sincerely,

Harris & Associates, Inc.



Frank Lopez, PE, CFM, QSD
Senior Director, Engineering Services
(831) 233-9242 ■ Frank.Lopez@WeAreHarris.com



David Pezzini, PE
Senior Project Manager, Engineering Services
(831) 455-6844 ■ David.Pezzini@WeAreHarris.com

Attachment 1 – Cost Estimate



City of Seaside
Eucalyptus Road Infiltrator Repair Project

FEE ESTIMATE

Task/Subtask	Harris & Associates			Subtotals
	Sr. Director QA/QC	Sr. Project Manager	Design Engineer	
	\$250.00	\$195.00	\$150.00	
Sewer Rehabilitation Design				
Task 1 Project Management				
1.1 Project Management		24		\$4,680
1.2 Project Meetings (3)	2	10	2	\$2,750
Subtotal Hours =	2	34	2	38
Subtotal (\$) =	\$500	\$6,630	\$300	\$7,430
Task 2 Final Design				
2.1 Final PS&E Package Update	2	16	24	\$7,220
Subtotal Hours =	2	16	24	42
Task 2 Subtotal (\$) =	\$500	\$3,120	\$3,600	\$7,220
Task 3 Bid Period Services				
3.1 Bid Period Services		8	16	\$3,960
Subtotal Hours =	0	8	16	24
Task 5 Subtotal (\$) =	\$0	\$1,560	\$2,400	\$3,960
Task 4 Engineering Services During Construction				
4.1 Review Submittals, Change Orders, & RFIs	4	16	24	\$7,720
4.2 Prepare Record Drawings		4	24	\$4,380
4.3 Construction Meetings (4)		8	8	\$2,760
Subtotal Hours =	4	28	56	88
Task 4 Subtotal (\$) =	\$1,000	\$5,460	\$8,400	\$14,860
Total Hours by Classification =	8	86	98	192
Total (\$) by Classification =	\$2,000	\$16,770	\$14,700	\$33,470
Direct Expenses =		\$0		\$0
Total (\$) =		\$33,470		\$33,470
Total Harris				\$33,470
Total =				\$33,470

ASSUMPTIONS UPON WHICH COST PROPOSAL IS BASED:

- 1 It is assumed that construction staging/traffic control plans will be prepared by Contractor.
- 2 Hours and fee may be renegotiated if the project is delayed by factors beyond Harris' control.
- 3 City comments will be presented to Harris in one consolidated set of marked-up documents and/or letter form.
- 4 Detailed Environmental studies are not included.

EXHIBIT B

INSURANCE REQUIREMENTS

Without limiting Consultant's indemnification of Agency, and prior to commencement of Work, Consultant shall obtain, provide and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form satisfactory to Agency.

General liability insurance. Consultant shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than \$1,000,000 per occurrence, \$2,000,000 general aggregate, for bodily injury, personal injury, and property damage. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.

Automobile liability insurance. Consultant shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with Work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than \$1,000,000 combined single limit for each accident.

Professional liability (errors & omissions) insurance. Consultant shall maintain professional liability insurance that covers the Services to be performed in connection with this Agreement, in the minimum amount of \$1,000,000 per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this Agreement and Consultant agrees to maintain continuous coverage through a period no less than three (3) years after completion of the services required by this Agreement.

Workers' compensation insurance. Consultant shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least \$1,000,000).

Consultant shall submit to Agency, along with the certificate of insurance, a Waiver of Subrogation endorsement in favor of Agency, its officers, agents, employees and volunteers.

Umbrella or excess liability insurance. Consultant shall obtain and maintain an umbrella or excess liability insurance policy with limits that will provide bodily injury, personal injury and property damage liability coverage at least as broad as the primary coverages set forth above, including commercial general liability, automobile liability,

and employer's liability. Such policy or policies shall include the following terms and conditions:

- A drop down feature requiring the policy to respond if any primary insurance that would otherwise have applied proves to be uncollectible in whole or in part for any reason;
- Pay on behalf of wording as opposed to reimbursement;
- Concurrency of effective dates with primary policies;
- Policies shall "follow form" to the underlying primary policies; and
- Insureds under primary policies shall also be insureds under the umbrella or excess policies.

Other provisions or requirements

Proof of insurance. Consultant shall provide certificates of insurance to Agency as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. Insurance certificates and endorsements must be approved by Agency's Risk Manager prior to commencement of performance. Current certification of insurance shall be kept on file with Agency at all times during the term of this contract. Agency reserves the right to require complete, certified copies of all required insurance policies, at any time.

Duration of coverage. Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the Work hereunder by Consultant, his agents, representatives, employees or subconsultants.

Primary/noncontributing. Coverage provided by Consultant shall be primary and any insurance or self-insurance procured or maintained by Agency shall not be required to contribute with it. The limits of insurance required herein may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of Agency before the Agency's own insurance or self-insurance shall be called upon to protect it as a named insured.

Agency's rights of enforcement. In the event any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, Agency has the right but not the duty to obtain the insurance it deems necessary and any premium paid by Agency will be promptly reimbursed by Consultant or Agency will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, Agency may cancel this Agreement.

Acceptable insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance or is on the List of Approved Surplus Line Insurers in the State of California, with an

assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VI (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the Agency's Risk Manager.

Waiver of subrogation. All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against Agency, its elected or appointed officers, agents, officials, employees and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against Agency, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

Enforcement of contract provisions (non estoppel). Consultant acknowledges and agrees that any actual or alleged failure on the part of the Agency to inform Consultant of non-compliance with any requirement imposes no additional obligations on the Agency nor does it waive any rights hereunder.

Requirements not limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the Consultant maintains higher limits than the minimums shown above, the Agency requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Agency.

Notice of cancellation. Consultant agrees to oblige its insurance agent or broker and insurers to provide to Agency with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage.

Additional insured status. General liability policies shall provide or be endorsed to provide that Agency and its officers, officials, employees, and agents, and volunteers shall be additional insureds under such policies. This provision shall also apply to any excess/umbrella liability policies.

Prohibition of undisclosed coverage limitations. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to Agency and approved of in writing.

Separation of insureds. A severability of interests provision must apply for all additional insureds ensuring that Consultant's insurance shall apply separately to each

insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability. The policy(ies) shall not contain any cross-liability exclusions.

Pass through clause. Consultant agrees to ensure that its subconsultants, subcontractors, and any other party involved with the project who is brought onto or involved in the project by Consultant, provide the same minimum insurance coverage and endorsements required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with consultants, subcontractors, and others engaged in the project will be submitted to Agency for review.

Agency's right to revise specifications. The Agency reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Consultant, the Agency and Consultant may renegotiate Consultant's compensation.

Self-insured retentions. Any self-insured retentions must be declared to and approved by Agency. Agency reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by Agency.

Timely notice of claims. Consultant shall give Agency prompt and timely notice of claims made or suits instituted that arise out of or result from Consultant's performance under this AGREEMENT, and that involve or may involve coverage under any of the required liability policies.

Additional insurance. Consultant shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the work.

EXHIBIT C

REQUEST FOR STATEMENT OF QUALIFICATIONS CITY OF SEASIDE

ON-CALL CONSULTANTS - ENGINEERING SERVICES

PROPOSAL DUE APRIL 10, 2018

The City of Seaside (City) seeks Statement of Qualifications from qualified consulting firms, teams and individual consultants to provide engineering services on an on-call basis for miscellaneous undetermined projects. The selected engineering firms may be requested to help with the design of federal, state and locally funded capital improvement projects. The City intends to select multiple consultants for a three-year period, with the option of two (2) one-year extensions through mutual consent between the City and the chosen Consultant(s). Consultants do not need to be able to provide all services described in the "Preliminary Scope of Services," below. Selection will be based on demonstrated experience in providing cost effective professional services to public works departments.

I. BACKGROUND

The City of Seaside is located approximately 115 miles south of San Francisco and 73 miles south of San Jose. The City of Seaside encompasses a total area of approximately nine square miles and is the largest city on the Monterey Peninsula with just over 34,000 residents. The City has developed a Capital Improvement Program (CIP) annually that identifies capital improvements for government facilities, parks, storm water, transportation, water and special projects. Most project design budgets will be less than \$25,000.

II. PROPOSED SCOPE OF WORK

The City will provide a request for services for each project to the consultant which may include engineering design services outlined below. The consultant will, in turn, provide a fixed fee cost estimate and scope of work based upon the requested services. Projects may cover a broad of range professional engineering services in support of CIP implementation, and possible other park improvements, Americans with Disability Act (ADA) evaluation and modifications, drainage studies and improvements, street, bicycle and pedestrian projects, and various other municipal related projects. Below is a general overview of services that may be requested.

A. Engineering Services

Design, Survey and Geometrics
Pavement Evaluation and Design
Hydrology/Hydraulic Analyses
Structural Analysis and Design
Well Design and Rehabilitation
Water System Design & Rehabilitation
Value Engineering
Seismic Evaluations
Construction Phase Services

B. Professional Services

Disabled Accessibility Evaluations & Mitigation
Preliminary Engineering Studies
Technical Studies & Reports
Peer Reviews
Coordination w/Other Agencies & Utilities
Constructability/Bidability Reviews
On-Call Services

EXHIBIT C

REQUEST FOR STATEMENT OF QUALIFICATIONS CITY OF SEASIDE

The ideal candidate has a good working knowledge of the following documents:

- a. City of Seaside Capital Improvement Program (Attachment A), as may be amended.
- b. California Department of Transportation Standard Plans and Specifications, 2015 or most recent edition.
- c. California Manual of Uniform Traffic Control Devices (CAMUTCD), latest edition.
- d. Central Coast Regional Water Quality Control Board Resolution R3-2013-0032, Post Construction Requirements for Development Projects in the Central Coast Region

III. FORM AND CONTENT OF PROPOSAL

Proposals should clearly state respondent's qualifications. In reviewing the proposals, the City of Seaside considers the quality of the proposal to be reflective of the potential quality of the work the Consultant is able to perform. The ability of the Consultant to clearly and concisely convey information will be considered in the review process. Consultants are encouraged not to submit lengthy and overly wordy proposals.

The SOQ must be concise (maximum 10 written pages) and include, at a minimum, the following information:

- A) A brief description of the consultant's firm, including the year the firm was established, type of organization (partnership, corporation, etc.), and a statement of the firm's qualifications for performing the subject consulting services.
- B) A brief summary of the qualifications and experience of each member proposed to provide professional services.
- C) A project summary list with descriptions of the proposed team's experience. Projects showing experience on public works projects is a plus.
- D) A list of references of relevant clients, including a contact person with their current telephone number and email address. At least 3 references shall be on projects listed for item C above.
- E) Standard Rate Schedule

All proposing firms must be professionally engaged in the design of capital improvement projects with experience in the public sector for a minimum of five (5) years. At a minimum, Consultants must employ qualified individuals who are licensed and/or otherwise qualified in project management.

EXHIBIT C
REQUEST FOR STATEMENT OF QUALIFICATIONS
CITY OF SEASIDE

IV. QUESTIONS AND ADDENDA

Please direct any questions you may have regarding this RFQ, including any request for the City of Seaside to issue a formal written clarification or correction of a discrepancy or an omission in this RFQ, **via email** to:

Mr. Scott Ottmar, P.E.
sottmar@ci.seaside.ca.us

Any request for a formal written clarification or correction of a discrepancy or an omission in this RFQ must be received by the City of Seaside per the schedule below. Any City response to such a request will be made in the form of an addendum to this RFQ and will be posted on the City's website; www.seaside.ca.us per the schedule below. All addenda shall become part of this RFQ.

V. SUBMITTAL OF PROPOSALS

Please submit an electronic copy in Adobe ® PDF format of your Proposal, identified in the subject line as "**Proposal for Engineering Design Services**" no later than 4:00 p.m. Pacific Time on Wednesday, April 10, 2018.

Proposals received by the City after this deadline will not be accepted and will not be accepted if submitted by FAX. Emailed submissions cannot contain zipped files or files larger than 5 Mbytes.

All material submitted in accordance with this RFQ becomes property the City of Seaside and will not be returned.

VI. EVALUATION PROCESS

City staff will review each SOQ for completeness and content. Each SOQ will be evaluated based upon the relevant qualifications and experience of the consultant. Staff may conduct interviews if necessary. References will also be verified. The SOQ review will focus upon the following criteria:

1. *Organization:* Does the firm offer the breadth and quality of services required for the types of services listed in the Scope of Work?
2. *Staff:* Do the qualifications of key personnel to be assigned to the anticipated projects coincide with tasks listed in the Scope of Work? Do assigned personnel have requisite education, experience, and professional qualifications?
3. *Experience:* Has the firm demonstrated the ability to successfully provide services for projects of a similar complexity and nature as described herein?
4. *Professional Standing:* Are the firm's references from past clients and associates favorable? Are deliverables submitted on time and within budget?

EXHIBIT C
REQUEST FOR STATEMENT OF QUALIFICATIONS
CITY OF SEASIDE

5. *Proposal:* Organization, presentation, and content of proposal. Conformance to the specified proposal format.
6. *Responsiveness.* Ability to respond to request for service in a timely manner. Ability to attend meetings at the City of Seaside's City Hall and performs project site inspections in a timely manner and at a fair and reasonable cost.

Proposals will be ranked on the basis of qualifications. The City of Seaside may conduct interviews with some or all of the firms who submit proposals, or it may complete its evaluation based on the proposals alone. If interviews are conducted, firms selected for interview will be contacted at that time to arrange the date and time for their interview.

VII. SELECTION PROCESS

Based on staff recommendation, the City of Seaside will consider approval of consultant(s). The City of Seaside may select up to three firms or choose to determine that no SOQ proposal exhibits adequate qualifications.

Upon the selection by the City of Seaside, consultant(s) may or may not be called upon by the City of Seaside to provide services.

VIII. SCHEDULE

The anticipated schedule for award of this project is as follows:

Release of RFQ	March 20, 2018
Last Day To Submit RFI	March 30, 2018
Response to RFI posted	April 3, 2018
Receipt of Proposals	April 10, 2018 at 4 PM
Interview Consultant(s), if necessary	TBD (if needed)
Select Short List	May 3, 2018

IX. ACCEPTANCE OR REJECTION OF PROPOSAL

The City of Seaside reserves the right to accept or reject any and all proposals. The City of Seaside also reserves the right to waive any informality or irregularity in any Proposals. Additionally, the City of Seaside may, for any reason, decide not to award an agreement as a result of this RFQ or cancel the RFQ process. The City of Seaside shall not be obligated to respond to any proposal submitted, nor be legally bound in any manner by the submission of the proposal. The City of Seaside reserves the right to negotiate project deliverables and associated costs.

X. GENERAL DESCRIPTION OF PROPOSED AGREEMENT

Upon conclusion of the RFQ process, the City of Seaside will select a Consultant with which to enter into negotiations for the assignments described. The selected Consultant shall enter into contract negotiations with the City of Seaside in substantial conformity with the selected proposal and the form of the Consultant Agreement, which is contained in Attachment B.

EXHIBIT C
REQUEST FOR STATEMENT OF QUALIFICATIONS
CITY OF SEASIDE

XI. INSURANCE REQUIREMENTS

The selected Consultant, at Consultant's sole cost and expense and for the full term of the Agreement or any extension thereof, shall obtain and maintain all of the insurance requirements outlined in the Consultant Agreement (Attachment B).

All policies, endorsements, certificates, and/or binders shall be subject to approval by the City of Seaside as to form and content. The selected Consultant agrees to provide the City of Seaside with a copy of said policies, certificates and/or endorsements.

The selected Consultant shall satisfy these insurance requirements prior to approval of the Agreement. Please address any issues with respect to insurance requirements in your response to the corresponding question in the RFQ.

XII. EXAMINATION OF PROPOSED MATERIAL

The submission of a proposal shall be deemed a representation and certification by the Consultant that they have investigated all aspects of the RFQ, that they are aware of the applicable facts pertaining to the RFQ process, its procedures and requirements, and that they have read and understood the RFQ. No request for modification of the statement shall be considered after its submission on grounds that the Consultant was not fully informed as to any facts or condition.

XIII. PUBLIC NATURE OF PROPOSAL MATERIAL

Responses to this RFQ become the exclusive property of The City of Seaside. All proposals received in response to this RFQ become a matter of public record and shall be regarded as public records, with the exception of those elements in each proposal which are defined by the Consultant as business or trade secrets and plainly marked as "Confidential," "Trade Secret," or "Proprietary." The City of Seaside shall not in any way be liable or responsible for the disclosure of any such proposal or portions thereof, if they are not plainly marked as "Confidential," "Trade Secret," or "Proprietary" or if disclosure is required under the Public Records Act. Any proposal which contains language purporting to render all or significant portions of the proposal "Confidential," "Trade Secret," or "Proprietary" shall be regarded as non-responsive.

Although the California Public Records Act recognizes that certain confidential trade secret information may be protected from disclosure, the City of Seaside may not be in a position to establish that the information that a Consultant submits is a trade secret. If a request is made for information marked "Confidential," "Trade Secret," or "Proprietary," the City of Seaside will provide the Consultant who submitted the information with reasonable notice to allow the Consultant to seek protection from disclosure by a court of competent jurisdiction.

XIV. DISQUALIFICATION

Factors such as, but not limited to, any of the following may be considered just cause to disqualify a proposal without further consideration:

EXHIBIT C
REQUEST FOR STATEMENT OF QUALIFICATIONS
CITY OF SEASIDE

- A. Evidence of collusion, directly or indirectly, by Consultants in regard to the amount, terms, or conditions of this proposal;
- B. Any attempt to improperly influence any member of the selection staff;
- C. Existence of any lawsuit, unresolved contractual claim or dispute between Consultant and the City of Seaside;
- D. Evidence of incorrect information submitted as part of the proposal;
- E. Evidence of Consultant's inability to successfully complete the responsibilities and obligations of the proposal; and
- F. Consultant's default under any agreement, which results in termination of the Agreement.

XV. NON-CONFORMING PROPOSAL

A proposal shall be prepared and submitted in accordance with the provisions of these RFQ instructions and specifications. Any alteration, omission, addition, variance, or limitation of form or to a proposal may be sufficient grounds for non-acceptance of the proposal, at the sole discretion of the City of Seaside.

XVI. PROHIBITION OF GIFTS

The City of Seaside officials are subject to several legal and policy limitations regarding receipt of gifts from persons, firms, or corporations either engaged in business with the City of Seaside, or proposing to do business with the City of Seaside. The offering of any illegal gift shall be grounds to disqualify a Consultant. To avoid even the appearance of impropriety, Consultants should not offer any gifts or souvenirs, even of minimal value, to the City of Seaside officers or employees. The Consultant shall be subject to the City of Seaside's prohibition.

XVII. NON-DISCRIMINATION/NON-PREFERENTIAL TREATMENT

The successful Consultant shall not discriminate, in any way, against any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, or national origin, in connection with or related to the performance of the City of Seaside contracts.

XVIII. ADDITIONAL TERMS AND CONDITIONS

The following additional terms and conditions are applicable to this RFQ process:

- A. It is anticipated that the award of the Agreement resulting from the RFQ shall include terms and conditions similar to those referenced in the City of Seaside's Standard Consultant Agreement (Attachment B). Exceptions proposed by the Consultant, if any, to the terms and conditions included in the City of Seaside's Standard Consultant Agreement should be included in the proposal. The City of Seaside reserves the right to consider any proposal exceptions during its evaluation of the acceptability of a proposal.

EXHIBIT C
REQUEST FOR STATEMENT OF QUALIFICATIONS
CITY OF SEASIDE

- B. This RFQ does not commit the City of Seaside to pay any costs incurred in the submission of the proposal or in making any necessary studies or analysis in preparation of submission of the proposal.
- C. The City of Seaside reserves the right without limitation to:
 - 1. Enter into an agreement with another Consultant in the event that the originally selected Consultant defaults or fails to execute an agreement with the City of Seaside;
 - 2. Modify and re-issue the RFQ;
 - 3. Take action regarding the RFQ as may be deemed to be in the best interest of the City of Seaside.
- D. The City of Seaside reserves the right to verify any information provided during the RFQ process. The City of Seaside may contact references listed or any other person known to have contracted with Consultant.
- E. An agreement shall not be binding or valid with the City of Seaside unless and until it is executed by authorized representatives of the City of Seaside, and of the Consultant.
- F. While it is the intent of the City of Seaside is to proceed with this project, this solicitation does not obligate the City of Seaside to enter into an Agreement. The City of Seaside retains the right to cancel this RFQ at any time should the project be cancelled, the City of Seaside loses the required funding, or it is deemed in the best interest of the City of Seaside. No obligation either expressed or implied, exists on the part of the City of Seaside to make an award or to pay any cost incurred in the preparation or submission of an RFQ.
- G. Failure to execute the agreement within the time frame identified above shall be sufficient cause for voiding the award.
- H. Failure to comply with other requirements within the set time shall constitute failure to execute the Agreement. If the selected respondent refuses or fails to execute the Agreement, the City of Seaside may award the contract to the next qualified highest ranked Respondent.

XIX. ATTACHMENTS

- A – City of Seaside Six Year Capital Improvement Program
- B – Professional Services Agreement



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 8.D.

TO: City Council

FROM: Craig Malin, City Manager

BY: Nisha Patel, Public Works Director/City Engineer
Leslie Llantero, Assistant Engineer

DATE: November 5, 2020

**SUBJECT: APPROVE TRAFFIC ADVISORY COMMITTEE (TAC)
RECOMMENDATIONS TO INSTALL TWO HOUR LIMITED
PARKING ALONG FREMONT BOULEVARD**

PURPOSE & RECOMMENDATION

Approve the Traffic Advisory Committee (TAC) recommendations to install two hour limited parking along the east side of Fremont Boulevard between Trinity Avenue and Harcourt Avenue.

BACKGROUND

Ms. Alicia Pinedo requested the addition of 2 Hour parking signs along the east side of Fremont Boulevard between Harcourt Avenue and Trinity Avenue. Ms. Pinedo has observed cars parked in front of her business, Lily's Fashion Boutique, all day. She states this is causing her to lose customers. Ms. Pinedo has submitted an application (Attachment 1) for two additional 2 hour parking signs in front of her business.

STAFF ANALYSIS

There are a variety of businesses and mixed use buildings along Fremont Boulevard between Harcourt Avenue and Trinity Avenue. The businesses include a used car lot, cellular business, fashion boutique, jewelry store, beauty salons and nail salons, and 99 cent store. There is approximately 300 feet of parking along the east side of Fremont on this block, sufficient space to park approximately 14 vehicles. There is a driveway

approach between 1272 and 1276 Fremont that connects to Virginia Street to the east. There are existing "2 Hour Parking 7AM to 6PM" and "2 Hour Parking Anytime" signs posted at 1250 and 1272 Fremont Blvd., respectively. These existing 2-hour parking signs do not adequately indicate the limits of the existing 2-hour parking zone. There is approximately 15 feet of green curb (20 minutes) directly in front of 1250 Fremont Boulevard. An exhibit showing the existing conditions is provided in Attachment 2.

Fremont Boulevard is within the Central Traffic District. Per the City's Municipal Code Section 10.04.050 & 10.32.010, "when authorized signs are in place giving notice thereof, no person shall stop, stand, or park any vehicles between the hours of eight a.m. and six p.m. of any day except Sundays and holidays for a period longer than two hours". This allows the City to time restrict the parking in this area.

The Traffic Advisory Committee (TAC) recommends placing "2 Hr Parking 8AM to 6 PM except Sundays and Holidays" south of the driveway approach at 1286 Fremont (Otis' Auto Sales) and another adjacent to 1280 Fremont (Cellular Point). TAC also recommends replacing the two existing signs with the same language (as the additional signs) and directional arrows, at 1250 and 1272 Fremont Boulevard, as shown on the Attachment 3, to clarify the already existing 2-hour parking zone limits.

FISCAL IMPACT

The cost for the installation of the additional signs is \$854 and will be borne by the applicant. The cost of the replacement signs and installation is approximately \$200. The installation will be completed by Public Works Maintenance staff and will be funded from the Streets Account (Fund 210).

ATTACHMENTS

1. Application
 2. ExistingConditions
 3. Recommendation
-

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager



APPLICATION FEE PER THE CURRENT ADOPTED FEE SCHEDULE

Traffic Advisory Committee Request Application

The following information is required to process all Traffic Advisory Committee requests. This information will be used to contact the applicant should staff have questions or needs clarification on the request. This information will also appear in the staff report presented to the Traffic Advisory Committee and/or City Council.

The Traffic Advisory Committee meets the 3rd Tuesday of every month at 5:00 PM in the City of Seaside's City Hall Conference room. This meeting is open to the public and applicants are encouraged to attend.

Name: Alicia G. Pinedo Date: 8-03-20
 Address: 1276 Fremont blvd. Phone: (831) 324-0302
Seaside (831) 402-4501
 Type of Request (check all that apply):
☐ Parking Designations ☐ Crosswalk ☐ Curb Markings (White, Yellow, etc.)
☐ Warning Sign ☐ Traffic Signal/Stop Sign ☐ Signing/Striping
☒ Other maybe the "2 hr parking only" To give a chance to our customers to the parking.

FEES WILL APPLY FOR PARKING AND CURB MARKING REQUESTS

Request: Tenants from the apartment behind the
bussiness on Fremont blvd. park all day + Night
on Fremont blvd in front of our bussines and
we loss customers due to people that lives
behind the bussinesses parking there all the
time, if possible to have at least two more
signs toward the end of street between Hartcourt +
Trinity st. It's A Boutique "Lily's Fashion Boutique" +
"Cellular Point"
"Limited time Parking"
"Jacky"

Request Procedures are outlined on the back of this form. For any questions regarding the Traffic Advisory Committee (TAC) please contact 899-6825.

TAC REQUEST PROCEDURE

The Traffic Advisory Committee (TAC) acts as an advisory board to the City Council per Chapter 2.37 of the Municipal Code. Recommendations made by the TAC are to be ratified by the City Council prior to implementation. The TAC consists of five members: a Council Member; Director of Public Works; Chief of Police; Director of Community Development; and the Fire Chief. The TAC reviews all requests for traffic safety regulatory or control devices, signs and markings, and conducts studies as well as offers recommendations to the City Council, Planning Commission or appropriate City department.

Upon submittal of a request, staff will place the request on the next available TAC agenda for a future scheduled meeting. All TAC's action will be forwarded for City Council consideration at their next available scheduled meeting.

Fees

Fees will be collected prior to installation of any approved requests that directly benefits the applicant, such as limited timed parking, white zones, etc. Prior to any required maintenance of the improvement, the same fee will apply and be billed to the applicant. The following fees have been determined based upon the cost of staff time and material for installation:

Description	Fee*
Marking curb – per curb (20' maximum length)	Per current adopted fee schedule
Installation of one sign ✓	

* Fees subject to change per City Council approved fee schedule. Fee determined by date of application.

PLEASE COMPLETE FOR PARKING AND CURB MARKING REQUESTS

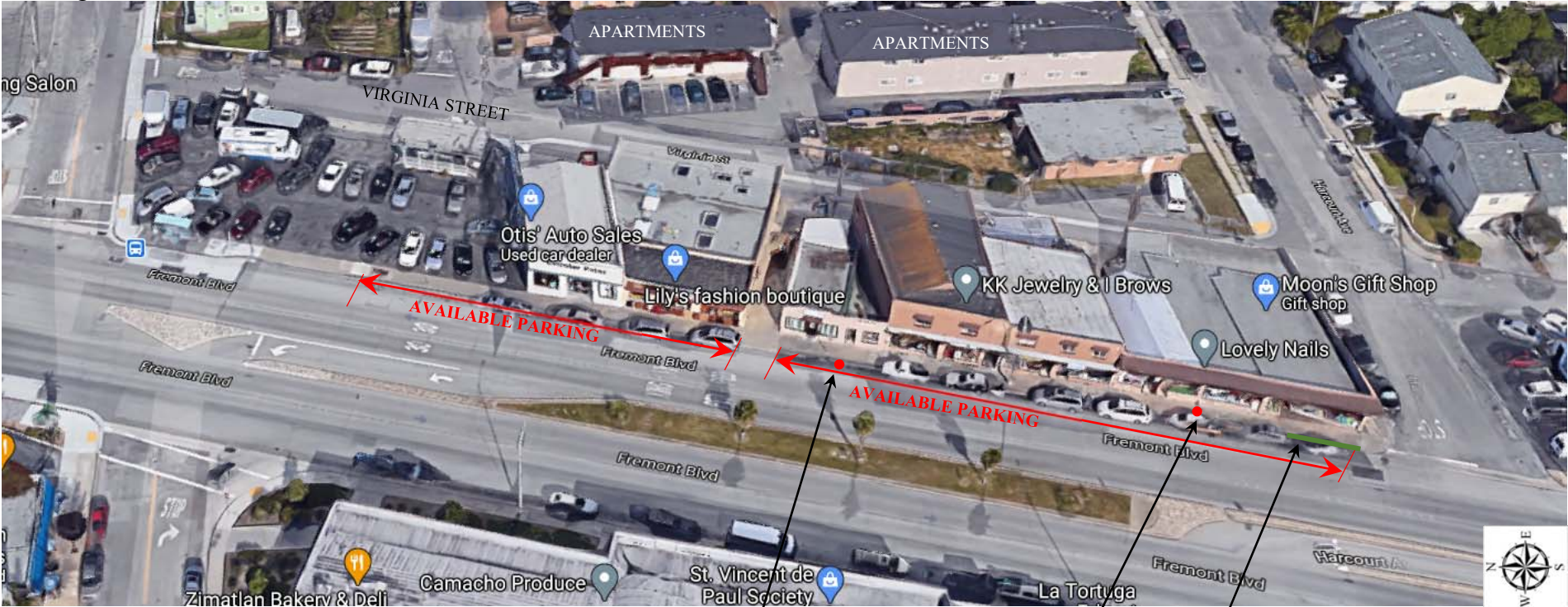
TAC REQUEST ACKNOWLEDGEMENT STATEMENT

I, Alicia G. Pindo ^{From} Lily's Fashion Boutique understand that should my request be approved by the Traffic Advisory Committee and City Council, I will be responsible for the fee prior to the installation of my request. I also understand that if approved by City Council the improvements will be reviewed annually or whenever deemed appropriate by the Public Works Department for any required maintenance and I will be charged the corresponding fee.

Alicia G. Pindo
Applicant Signature

08-4-20
Date

Existing



15 feet of green curb (20 minute)
in front of 1250 Fremont

Recommendation:

Installation of two “2 Hour Parking 8 AM to 6 PM” signs and replacing the existing signs with similar signs with directional arrows as shown below.





**CITY OF SEASIDE
STAFF REPORT**

Item No.: 9.A.

TO: City Council

BY: Dana Morrison
Gloria Stearns, Community Development Manager

DATE: November 5, 2020

SUBJECT: SEASIDE MUNICIPAL CODE AMENDMENT SMA-20-06: WAIVER OF FIRST READING AND INTRODUCTION OF A PERMANENT SMALL CELL WIRELESS FACILITIES ORDINANCE (SEASIDE MUNICIPAL CODE CHAPTER 17.55) AND ASSOCIATED UPDATES TO THE CITY'S FEE SCHEDULE

PURPOSE & RECOMMENDATION

Introduction and Waiver of First Reading of an amended Ordinance adopting amended Chapter 17.55 to establish reasonable, uniform and comprehensive standards and procedure for small cell wireless facilities within the City. Also included are updates to the Planning Fee Schedule, establishing fees for Small Cell Permits and associate independent experts and consultants.

BACKGROUND

The City's Urgency Small Cell Ordinance is due to expire at the end of November 2020. Minor amendments have been made to Chapter 17.55 which is meant to serve as the permanent Small Cell Wireless ordinance. While minor in nature, the City's counsel recommended returning the amended Small Cell Chapter 17.55 for full analysis and public review.

Prior Review:

Planning Commission (1st Round)

On August 26, 2020, the Planning Commission held a duly noticed public hearing. At said hearing the Planning Commission reviewed and adopted a Resolution

recommending approval of Small Cell Wireless Ordinance (Chapter 17.55), and associated fee schedule updates, to the City Council.

City Council (1st Round)

On September 17, 2020, the City Council reviewed and introduced the Small Cell Wireless Ordinance (Chapter 17.55), waiving its first reading at the duly noticed public meeting. The Council also reviewed the associated Resolution pertaining to Planning Department Fee Schedule updates, related to Small Cell Permits.

On October 1, 2020, the item was scheduled for Second Reading and Adoption, however, the City received comments from a wireless service provider regarding the Small Cell Ordinance a few hours before the Council meeting. To allow staff to properly review and address the comments, the item was pulled from the October 1, 2020 agenda.

Planning Commission (2nd Round)

On October 28, 2020, the Planning Commission held a duly noticed Special Meeting. The Commission raised concerns regarding the definition of a pedestrian based on the language that was added to Page 26 – 17.55.100(b)(6); noted that Seaside has very narrow sidewalks in certain areas. A definition of pedestrian from the California Department of Motor Vehicles has since been added to the Small Cell Chapter. No comments were received prior to or during the public hearing. At said hearing the Planning Commission reviewed and adopted the Resolution recommending approval of the amended Small Cell Wireless Ordinance (Chapter 17.55), as well as the associated fee schedule updates, to the City Council.

Tonight – Waiver of First Reading and Introduction

City staff has worked with outside legal counsel (a telecommunication law firm) to create a more comprehensive Small Cell Chapter which addresses some of the concerns raised by public comment; the resulting Ordinance preserves as much of the City's authority as possible while still achieving compliance. The amended version of the Ordinance is returning tonight for Waiver of First Reading and Introduction.

AMENDED SMALL CELL WIRELESS ORDINANCE (CHAPTER 17.55)

The Small Cell Wireless Ordinance Chapter is intended to promote the community interest of protecting the City's visual character from potential adverse impacts from

facilities while providing access to high quality advanced wireless technology for the City's residents, businesses, and visitors.

The amended Small Cell Wireless Ordinance is substantially similar to the document reviewed by the Planning Commission and City Council in August and September of 2020. Changes which have been are detailed below:

Page 3 – 17.55.020(b):

- Added a definition for the term 'pedestrian'.

Page 4 – 17.55.030(b):

- Retained deposit fees for outside consultants and legal counsel.
- Removed reference to fee assessed as minor use permit, replaced with 'see Planning Fee Schedule'. Fee will now be assessed as 'Small Cell Permit' à \$500.

Page 5 – 17.55.040(b):

- Added language requiring any trust/deposit reimbursement agreement to include an obligation by the City to return any unused funds to the applicant.

Page 6 – 17.55.050(a)(2):

- Changed length of required reimbursement period from 10 days to 30 days.

Page 7 – 17.55.050(a)(3)(ii):

- Changed the radius in which applicant needs to identify all structures from 500 feet to 750 feet, to be consistent with Section 17.55.090(a) of Chapter 17.55.

Page 10 – 17.55.060(b):

- Added language whereby the Community Development Director may grant an extension for applications deemed withdrawn.

Page 10 – 17.55.060(c):

- Deleted #4 under batched applications. No longer negates ALL small cells in batched application, only those deemed to be inconsistent with the Chapter 17.55.

Page 12 – 17.55.070(c):

- Added language regarding subjective factors to evaluate aesthetic issues. Findings are taking from SMC17.62.070, findings for a Use Permit.

Page 17 – 17.55.080(a)(15):

- Added language regarding required maintenance of landscaping.
- Added language to permit payment of an in-lieu fee.

Page 19 – 17.55.080(b)(3):

- Changed length of required reimbursement period from 10 days to 30 days.

Page 21 – 17.55.090(f):

- Removed City owned traffic signals from prohibited support structure list.

Page 22 – 17.55.100(a)(3):

- Added language regarding required maintenance of landscaping.
- Added language to permit payment of an in-lieu fee.

Page 22 – 17.55.100(b)(1):

- Added language that small cell wireless facilities should be proposed at the lowest technically feasible height.
- Increased the allowed height above a support structure from 4 feet to 6 feet.

Page 23 – 17.55.100(b)(2):

- Added language to allow alternate concealment plans, as approved by the Community Development Director.
- Must present convincing evidence in the record as to why the preferred concealment requirements detailed in the section are infeasible.

Page 23 – 17.55.100(b)(3):

- Added language to allow ground mounting, as approved by the Community Development Director.
- Must present convincing evidence in the record as to why the preferred methods are infeasible.

Page 24 – 17.55.100(b)(3)(v):

- Added language to allow ground mounting, as approved by the Community Development Director.
- Must present convincing evidence in the record as to why the preferred methods are infeasible.

Page 25 – 17.55.100(b)(3)(vi):

- Changed permitted size for a small cell to from 9 cubic feet to 21 cubic feet in residential.
- Changed permitted size for a small cell to from 17 cubic feet to 28 cubic feet in non-residential.

- Per FCC order any wireless facility over 28 cubic feet is not considered a small cell, but does not mean that the City has to approve Small Cells up to 28 cubic feet.

Page 25 – 17.55.100(b)(4):

- Added language to allow alternate concealment plans, as approved by the Community Development Director.

- Must present convincing evidence in the record as to why the preferred concealment requirements detailed in the section are infeasible.

Page 26 – 17.55.100(b)(6):

- Increased permitted pole size diameter from 12 inches to 18 inches.

- Increased permitted base enclosure size diameter from 16 inches to 26 inches.

- Added language that size of pole must not impede pedestrian access as required by law.

- Added language to allow alternate concealment plans, as approved by the Community Development Director.

- Must present convincing evidence in the record as to why the preferred concealment requirements detailed in the section are infeasible.

Page 27/28 – 17.55.100(b)(13):

- Added language to allow ground mounting of electric meters, as approved by the Community Development Director.

- Must present convincing evidence in the record as to why the preferred methods are infeasible.

Page 28 – 17.55.100(b)(14):

- Added language regarding required maintenance of landscaping.

- Added language to permit payment of an in-lieu fee.

Page 29 – 17.55.100(3):

- Added language that in the event of an emergency proclamation, the City shall maintain the right to use an emergency supplement to reduce generator restrictions.

Page 29 – 17.55.100(c)(5):

- Added language to allow alternate concealment plans, as approved by the Community Development Director.

- Must present convincing evidence in the record as to why the preferred concealment requirements detailed in the section are infeasible.
- Removed repeated language regarding pole size.

ENVIRONMENTAL ASSESSMENT

The proposed code amendment is exempt from further environmental review in accordance with CEQA Guidelines section 15061(b)(3) because the it involves the adoption of regulations for small cell wireless facilities and does not directly or indirectly authorize or approve any actual physical changes in the environment.

SUMMARY/CONCLUSION

The City is seeking to complete full public review and analysis associated with the amended permanent Small Cell Wireless Ordinance in order to comply with the FCC regulations. City Staff has worked with outside counsel to develop a flexible approach that preserves as much of the City's authority, as possible, while still achieving compliance. Staff recommends that the City Council Waive the First Reading and Introduce the Small Cell Wireless Ordinance.

This item will return, along with the associated Resolution amending the Planning Department Fee Schedule, for 2nd reading and Adoption, on the regularly scheduled November 19, 2020, City Council Meeting.

ATTACHMENTS

1. Draft Council Small Cell Ordinance
 2. (Exhibit A)_Amended Small Cell Ord (Chapter 17.55)
 3. Draft Council Resolution - Fee Schedule
 4. (Exhibit B)_Changes to Planning Fee Schedule_Small Cell
 5. PC Resolution_Small Cell
-

ORDINANCE NO. XXXX

AN ORDINANCE OF THE CITY COUNCIL OF THE OF SEASIDE

**ADDING CHAPTER 17.55 OF THE SEASIDE MUNICIPAL CODE
ESTABLISHING REGULATIONS FOR SMALL WIRELESS FACILITIES
PURSUANT TO APPLICABLE FEDERAL LAWS AND ASSOCIATED UPDATES
TO THE CITY'S FEE SCHEDULE**

**THE CITY COUNCIL OF THE CITY OF SEASIDE HEREBY ORDAINS
AS FOLLOWS:**

SECTION 1. Findings. On November 5, 2020, the City Council introduced an ordinance and waived its first reading of this Ordinance at a duly noticed public meeting. On November 19, 2020 the City Council returned for a second reading and considered the adoption of this Ordinance at a duly noticed public meeting and on the basis of the record thereof finds the following facts to be true.

- a. Pursuant to Article XI, section 7 of the California Constitution and sections 36931 and following of the California Government Code, the City Council may make and enforce within its limits all local, police, sanitary and other ordinances and regulations not in conflict with general laws; and
- b. Significant changes in federal and State law that affect local authority over wireless communications facilities ("WCFs") have occurred, including but not limited to the following:
 1. On August 2, 2018, the Federal Communications Commission ("FCC") adopted a declaratory ruling that prohibits state and local governments from adopting temporary moratoria on telecommunications infrastructure deployment; and
 2. On September 26, 2018, the FCC adopted new rules that limit local authority to regulate "small wireless facilities" as that term is defined in 47 Code of Federal Regulations § 1.6002(l); and
 3. The FCC rules included a declaratory ruling and report and order, that, among other things, creates a new regulatory classification for small wireless facilities, requires State and local governments to process applications for small wireless facilities within 60 days or 90 days, establishes a national standard for an effective prohibition and provides that a failure to act within the applicable timeframe presumptively constitutes an effective prohibition; and
 4. The FCC rules became partially effective on January 14, 2019, and

fully effective on April 15, 2019, would require the City of Seaside ("City") to review small cell applications consistent with the FCC's national standard for permissible local regulations; and

5. On August 12, 2020, the United States Court of Appeals for the Ninth Circuit partially invalidated the FCC's rules, restoring local aesthetic discretion but upholding limitations on government fees and timelines for permit application review; and

6. On September 28, 2020, municipalities from across the United States filed a petition for the Ninth Circuit to reconsider its decision to uphold the FCC's restrictions on government fees, but the Ninth Circuit has yet to accept or reject the petition.

- c. Given the rapid, significant and continuing changes in federal and State law, the actual and effective prohibition on moratoria to amend local policies in response to such changes and the significant adverse consequences for noncompliance with federal and state law, the City Council desires to add Seaside Municipal Code section 17.55, to allow greater flexibility and responsiveness to new federal and state laws in order to preserve the City's traditional authority to the maximum extent practicable (collectively, the "Amendments"); and
- d. The City is adopting a permanent Ordinance to establish reasonable, uniform and comprehensive standards and procedures for small cell wireless facilities deployment, construction, installation, collocation, modification, operation, relocation and removal within the City's jurisdictional boundaries consistent with and to the extent permitted under federal and California State law.
- e. The City of Seaside intends to establish reasonable, uniform and comprehensive standards and procedures for small cell wireless facilities deployment, construction, installation, collocation, modification, operation, relocation and removal within the City's jurisdictional boundaries, consistent with and to the extent permitted under federal and California state law. Such standards and procedures are intended to, and should be applied to, protect and promote public health, safety and welfare, and balance the benefits that flow from robust, advanced wireless services with the City's local values, which include without limitation the aesthetic character of the City, its neighborhoods and community. It is also intended to reflect and promote the community interest by (1) ensuring that the balance between public and private interests is maintained; (2) protecting the City's visual character from potential adverse impacts and/or visual blight created or exacerbated by small wireless facilities and related communications infrastructure; (3) protecting and preserving the City's environmental resources; (4) protecting and preserving the City's public rights-of-way and municipal infrastructure located within the City's public rights-of-way; and (5) promoting access to high-quality, advanced wireless services for the County's residents, businesses and visitors.

- f. The Policies are not intended to, nor shall it be interpreted or applied to: (1) prohibit or effectively prohibit any personal wireless service provider's ability to provide personal wireless services; (2) prohibit or effectively prohibit any entity's ability to provide any telecommunications service, subject to any competitively neutral and nondiscriminatory rules, regulations or other legal requirements for rights-of-way management; (3) unreasonably discriminate among providers of functionally equivalent personal wireless services; (4) deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such wireless facilities comply with the FCC's regulations concerning such emissions; (5) prohibit any collocation or modification that the City may not deny under federal or California state law; (6) impose any unreasonable, discriminatory or anticompetitive fees that exceed the reasonable cost to provide the services for which the fee is charged; or (7) otherwise authorize the County to preempt any applicable federal or California law.

SECTION 2. Adding Seaside Municipal Code Chapter 17.55 and Associated Fee Schedule Changes. A new section Chapter 17.55 is added to the Seaside Municipal Code as shown in Exhibit A. Small Cell Permit Fees are added to the Planning Department section of the Seaside 2020-21 Fee Schedule as shown in Exhibit B.

SECTION 3. Term. This Ordinance will become effective thirty (30) days after its final passage in accordance with California Government Code section 36937. This Ordinance will remain effective until any repealing or superseding ordinance becomes effective.

SECTION 4. CEQA Finding. The City Council finds there is no possibility the adoption of this Ordinance will have a significant effect on the environment. This Ordinance merely amends the Seaside Municipal Code to authorize the adoption of regulations related to WCFs. This Ordinance does not directly or indirectly authorize or approve any actual changes in the physical environment. Applications for any new WCF or change to an existing WCF would be subject to additional environmental review on a case-by-case basis. Accordingly, the City Council finds that this Ordinance would be exempt from CEQA Guidelines at Title 14, Section 15061(b)(3) of the California Code of Regulations.

SECTION 5. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections,

subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid or unenforceable.

SECTION 6. Conflicts with Prior Ordinances. If the provisions in this Ordinance conflict in whole or in part with any other City regulation or ordinance adopted prior to the effective date of this section, the provisions in this Ordinance will control.

SECTION 7. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same or a summary thereof to be published and posted in the manner required by law.

INTRODUCED, t a regular City Council meeting duly held on the 5th day of November, 2020; and

PASSED AND ADOPTED at a regular City Council meeting duly held on the 19th day of November, 2020 by the following vote:

AYES:	COUNCIL MEMBERS
NOES:	COUNCIL MEMBERS
ABSENT:	COUNCIL MEMBERS
ABSTAIN:	COUNCIL MEMBERS

APPROVED:

Ian N. Oglesby, Mayor

ATTEST:

Lesley Milton, City Clerk

CHAPTER 17.55 SMALL CELL WIRELESS FACILITIES

SECTIONS:

17.55.010	PURPOSE AND INTENT
17.55.020	DEFINITIONS
17.55.030	APPLICABILITY; REQUIRED PERMITS AND APPROVALS
17.55.040	COSTS AND FEES
17.55.050	APPLICATION REQUIREMENTS
17.55.060	APPLICATION SUBMITTAL AND COMPLETENESS REVIEW
17.55.070	APPROVAL AND DENIALS; NOTICES
17.55.080	STANDARD CONDITIONS OF APPROVAL
17.55.090	LOCATION REQUIREMENTS
17.55.100	DESIGN STANDARDS

17.55.010. PURPOSE AND INTENT

- a) The City of Seaside intends this Chapter to establish reasonable, uniform and comprehensive standards and procedures for small cell wireless facilities deployment, construction, installation, collocation, modification, operation, relocation and removal within the City's jurisdictional and territorial boundaries, consistent with and to the extent permitted under federal and California state law. The standards and procedures contained in this Chapter are intended to and should be applied to, protect and promote public health, safety and welfare, and balance the benefits that flow from robust, advanced wireless services with the City's local values, which include without limitation the aesthetic character of the City, its neighborhoods and community. This Chapter is also intended to reflect and promote the community interest by the following:
- 1) ensuring that the balance between public and private interests is maintained;
 - 2) protecting the City's visual character from potential adverse impacts and/or visual blight created or exacerbated by small cell wireless facilities and related communications infrastructure;
 - 3) protecting and preserving the City's environmental resources;
 - 4) protecting and preserving the City's public rights-of-way and municipal infrastructure located within the City's public rights-of-way; and
 - 5) promoting access to high-quality, advanced wireless services for the City's Residents and businesses and visitors.
- b) This Chapter is not intended to, nor shall it be interpreted or applied to:
- 1) prohibit or effectively prohibit any personal wireless service provider's ability to provide personal wireless services;
 - 2) prohibit or effectively prohibit any entity's ability to provide any telecommunications service, subject to any competitively neutral and nondiscriminatory rules, regulations or other legal requirements for rights-of-way management;

- 3) unreasonably discriminate among providers of functionally equivalent personal wireless services;
- 4) deny any request for authorization to place, construct or modify personal wireless service facilities on the basis of environmental effects of radio frequency emissions to the extent that such wireless facilities comply with the FCC's regulations concerning such emissions;
- 5) prohibit any collocation or modification that the City may not deny under federal or California state law;
- 6) impose any unreasonable discriminatory or anticompetitive fees that exceed the reasonable cost to provide the services for which the fee is charged; or
- 7) otherwise authorize the City to preempt any applicable federal or California law.

17.55.020. GENERAL DEFINITIONS

a) **Undefined Terms.** Undefined phrases, terms or words in this section will have the meanings assigned to them in 1 U.S.C. § 1, as may be amended or superseded, and, if not defined therein, will have their ordinary meanings. If any definition assigned to any phrase, term or word in this section conflicts with any federal or state-mandated definition, the federal or state-mandated definition will control.

b) **Defined Terms.**

1. "antenna" means the same as defined by the FCC in 47 C.F.R. § 1.6002(b), as may be amended or superseded.
2. "arterial street" means a street designed to feed through-traffic to freeways, provide access to adjacent land uses - mostly at intersections - and feature traffic control measures. The term "arterial street" as used in this Chapter is defined in the City of Seaside General Plan, Circulation Element.
3. "collector street" means a street designed to provide access to adjacent land uses and feed local traffic to arterials. The term "collector street" as used in this Chapter includes collectors and residential collectors as defined in the City of Seaside General Plan, Circulation Element.
4. "collocation" means the same as defined by the FCC in 47 C.F.R. § 1.6002(g), as may be amended or superseded.
5. "Community Development Director" means the Community Development Director or his/her designee and shall be the City official responsible for reviewing applications for small cell permits and after Zoning Administrator permit approval, vested with the authority to make modifications to permit conditions as provided in this Chapter.
6. "concealed" or "concealment" means concealing techniques that integrate the transmission equipment into the surrounding natural and/or built environment

such that the average, untrained observer cannot directly view the equipment but would likely recognize the existence of the wireless facility or concealment technique. Camouflaging concealment techniques include but are not limited to:

- i. antennas mounted within a radome above a streetlight;
 - ii. equipment cabinets in the public rights-of-way painted or wrapped to match the background; and
 - iii. cables and wiring concealed within a shroud and/or routed internally through the support structure.
7. "decorative pole" means any pole that includes decorative or ornamental features, design elements and/or materials intended to enhance the appearance of the pole or the public rights-of-way in which the pole is located.
8. "FCC" means the Federal Communications Commission or its duly appointed successor agency.
9. "FCC Shot Clock" means the presumptively reasonable time frame within which the City generally must act on a given wireless application, as defined by the FCC and as may be amended and superseded.
10. "ministerial permit" means any City-issued non-discretionary permit required to commence or complete any construction or other activity subject to the City's jurisdiction. Ministerial permits may include, without limitation, any building permit, construction permit, electrical permit, encroachment permit, excavation permit, traffic control permit and/or any similar over-the-counter approval issued by the City's departments.
11. 'pedestrian' means a person on foot or who uses a conveyance such as roller skates, skateboard, etc., other than a bicycle. A pedestrian can also be a person with a disability using a tricycle, quadricycle, or wheelchair for transportation.
12. "personal wireless services" means the same as defined in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended or superseded.
13. "personal wireless services facilities" means the same as defined in 47 U.S.C. § 332(c)(7)(C)(i), as may be amended or superseded.
14. "RF" means radio frequency or electromagnetic waves
15. "Section 6409" means Section 6409(a) of the Middle Class Tax Relief and Job Creation Act 012012, Pub.- L No. 112-96, 126 Stat 156, codified as 47 U.S.C. '§ 1.455(a), as may be amended or superseded.
16. "small cell wireless facility" or "small cell wireless facilities" means the same as

defined by the FCC in 47 C.F.R. § 1.6002 as may be amended or superseded.

17. "tower" means the same as defined by the FCC in 47 C.F.R. § 1.6100(b)(9), as may be amended or superseded.
18. "Zoning Administrator" means the Community Development Director or his/her designee and shall be the City official responsible for conducting the public hearing and other duties as provided in this Chapter

17.55.030. APPLICABILITY; REQUIRED PERMITS AND APPROVALS

- a) **Applicable Facilities.** Except as expressly provided otherwise in this Chapter, the provisions in this Chapter shall be applicable to all existing small cell wireless facilities and all applications and requests for authorization to construct, install, attach, operate, collocate, modify, reconstruct, relocate, remove or otherwise deploy small cell wireless facilities within the public rights-of-way or on private property within the City's jurisdictional and territorial boundaries.
- b) **Small Cell Permit.** A "small cell permit," (*see Planning Department Fee Schedule*) subject to the Community Development Director's prior review and approval, is required for any small cell wireless facility proposed on an existing, new or replacement structure.
- c) **Request for Approval Pursuant to Section 6409.** Notwithstanding anything in the Chapter to the contrary, requests for approval to collocate, replace or remove transmission equipment at an existing wireless tower or base station submitted pursuant to Section 6409 will be subject to the current FCC rules and regulations "eligible facilities requests" as defined by FCC and as may be amended or superseded.
- d) **Other Permits and Approvals.** In addition to a small cell permit, the applicant must obtain all other permits and regulatory approvals as may be required by any other federal, state or local government agencies, which includes without limitation any ministerial permits and/or other approvals issued by other City departments or divisions. All applications for ministerial permits submitted in connection with a proposed small wireless facility must contain a valid small cell permit issued by the City for the proposed facility. Any application for any ministerial permit(s) submitted without such small cell permit may be denied without prejudice. Furthermore, any small cell permit granted under this Chapter shall remain subject to all lawful conditions and/or legal requirements associated with such other permits or approvals.

17.55.040. FEES AND COSTS

- a) **Fees and Deposits Submitted with Application(s).** For all Small Cell Wireless Facility applications, application fee(s) shall be required to be submitted with any application, as established by City Council resolution and in accordance with California Government Code Section 50030 and all other applicable laws and regulations. Notwithstanding the

foregoing, no application fee shall be refundable, in whole or in part, to an applicant for a Small Cell Wireless Facility unless paid as a refundable deposit.

- b) **Costs.** Objectively reasonable costs of city staff, consultant and attorney time (including that of the city attorney) pertaining to the review, processing, noticing and hearing procedures directly attributable to a Small Cell Wireless Facility shall be reimbursable to the City. To this end, the Community Development Director, as applicable, may require applicants to enter a trust/deposit reimbursement agreement, in a form approved by the city attorney, or other established trust/deposit accounting mechanism for purposes of obtaining an applicant deposit from which the direct costs of City processing of an application may be drawn-down; provided, however, that any such agreement shall include an obligation by the City to return any unused funds to the applicant upon the final decision by the City or withdrawal of the application by the applicant.
- c) **Independent Expert.** The City Council authorizes the Community Development Director to, in the Director's discretion, select and retain an independent consultant with specialized training, experience and/or expertise in telecommunications issues satisfactory to the Community Development Director in connection with any permit application. The Community Development Director may request an independent consultant review on any issue that involves specialized or expert knowledge in connection with wireless facilities deployment or permit application for wireless facilities which include without limitation:
- permit application completeness and/or accuracy , including performing a drive test or other form of reception testing to determine whether the proposed facility is necessary to achieve the applicant's objectives as may be required in order to determine the necessity of an exception;
 - pre-construction planned compliance with applicable regulation human exposure to RF emissions;
 - post-construction actual compliance with applicable regulations for human exposure to RF emissions;
 - whether and to what extent a proposed project will comply with applicable laws;
 - the applicability, reliability, and/or sufficiency of any information, analyses or methodologies used by the applicant to reach any conclusion about any issue with the City's discretion to review; and
 - any other issue identified by the Directory that requires expert or specialized knowledge, including without limitation any issues related to an exception requested by the applicant

Until such a time as the City hires staff possessing specialized expertise described in this paragraph, the City generally may be required to hire an independent consultant in connection with any application. The Community Development Director may request that the independent consultant prepare written report, testify at public meetings, hearings and/or appeals and attend meetings with City staff and/or the applicant.

Subject to applicable law, in the event that the Community Development Director elects to retain an independent consultant in connection with any permit application, the

applicant shall be responsible for the reasonable costs in connection with the services provided, which may include without limitation any costs incurred by the independent consultant to attend and participate in any meetings or hearings. Before the independent consultant may provide any services, the applicant shall tender to the City a deposit in an amount equal to the estimated cost for the services to be provided.

The Community Development Director may request additional deposits as reasonably necessary to ensure sufficient funds are available to cover the reasonable costs in connection with the independent consultant's services. In the event that the deposit exceeds the total costs for consultant's services the Community Development Director shall promptly return any unused funds to the applicant after the wireless facility has been installed and passes a final inspection by the Community Development Director or his/her designee. If the reasonable costs for the independent consultant's services exceed the deposit, the Community Development Director shall invoice the applicant for the balance. The City shall not issue any construction or encroachment permit to any applicant with any unpaid deposit requests or invoices.

17.55.050. APPLICATION REQUIREMENTS

- a) **Small Cell Permit Application Contents.** All applications for a small cell permit must include all the information and materials required in this Section 17.55.050(a).
 - 1) **Application Form.** The applicant shall submit a complete, duly executed small cell permit application on the then-current form prepared by the Community Development Director.
 - 2) **Application Fee.** The applicant shall submit the applicable small cell permit application fee established in Section 17.55.040(a). Batched applications must include the applicable small cell permit application fee for each small cell wireless facility in the batch. If no small cell permit application fee has been established, then the applicant must submit a signed written statement that acknowledges that the applicant will be required to reimburse the City for its reasonable costs incurred in connection with the application within 30 days after the City issues a written demand for reimbursement.
 - 3) **Construction Drawings.** The applicant shall submit true and correct construction drawings, prepared, signed and stamped by a California licensed or registered engineer, that depict all the existing and proposed improvements, equipment and conditions related to the proposed project, which includes without limitation any and all poles, posts, pedestals, traffic signals, towers, streets, sidewalks, pedestrian ramps, driveways, curbs, gutters, drains, handholds, manholes, fire hydrants, equipment cabinets, antennas, cables, trees and other landscape features. The construction drawings must:
 - i. contain cut sheets that contain the technical specifications for all existing and proposed antennas and accessory equipment, which includes without limitation the manufacturer, model number and physical

- dimensions;
 - ii. identify all structures within 750 feet from the proposed project site and call out such structures' overall height above ground level;
 - iii. the weight of all structures, antennae and other equipment placed upon the poles;
 - iv. depict the applicant's plan for electric and data backhaul utilities, which shall include the locations for all conduits, cables, wires, hand-holes, junctions, transformers, meters, disconnect switches, and points of connection; and
 - v. demonstrate that proposed project will be in full compliance with all applicable health and safety laws, regulations or other rules, which includes without limitation all building codes, electric codes, local street standards and specifications, and public utility regulations and orders.
- 4) **Site Survey.** For any small cell wireless facility; the applicant shall submit a survey prepared, signed and stamped by a California licensed or registered engineer. The survey must identify and depict all existing boundaries, encroachments and other structures within 50.0 feet from the proposed project site, which includes without limitation all:
- i. traffic lanes;
 - ii. all private properties and property lines;
 - iii. above and below-grade utilities and related structures and encroachments;
 - iv. fire hydrants, roadside call boxes and other public safety infrastructure;
 - v. streetlights, decorative poles, traffic signals and permanent signage;
 - vi. sidewalks, driveways, parkways, curbs, gutters and storm drains;
 - vii. benches, trash cans, mailboxes, kiosks and other street furniture; and
 - viii. existing trees, planters and other landscaping features.
- 5) **Photo Simulations.** The applicant shall submit site photographs and photo simulations that show the existing location and proposed small cell wireless facility in context from at least three vantage points within the public streets or other publicly accessible spaces, together with a vicinity map that shows the proposed site location and the photo location for each vantage point. At least one simulation must depict the small cell wireless facility from a vantage point approximately 50 feet from the proposed support structure or location.
- 6) **Project Narrative and Justification.** The applicant shall submit a written statement that explains in plain factual detail whether and why the proposed wireless facility qualifies as a "small cell wireless facility" as defined by the FCC in 47 C.F.R. § 1.6002(I). A complete written narrative analysis will state the applicable standard and all the facts that allow the City to conclude the standard has been met-bare conclusions not factually supported do not constitute complete written analysis. As part of the written statement the applicant must also include (i) whether and why the proposed support is a "structure" as defined

by the FCC in 47 C.F.R. § 1.6002(m); and (ii) whether and why the proposed wireless facility meets each required finding for a small cell permit as provided in Section 17.55.070(c).

- 7) **RF Compliance Report.** The applicant shall submit an RF exposure compliance report that certifies that the proposed small cell wireless facility, as well as any collocated wireless facilities, will comply with applicable federal RF exposure standards and exposure limits. The RF report must be prepared and certified by an RF engineer acceptable to the City. The RF report must include the actual frequency and power levels (in watts effective radiated power) for all existing and proposed antennas at the site and exhibits that show the location and orientation of all transmitting antennas and the boundaries of areas with RF exposures in excess of the uncontrolled/general population limit (as that term is defined by the FCC) and also the boundaries of areas with RF exposures in excess of the controlled/occupational limit (as that term is defined by the FCC). Each such boundary shall be clearly marked and identified for every transmitting antenna at the project site.
- 8) **Public Notices.** The applicant shall reimburse the City for the cost of preparing and mailing and posting public notices.
- 9) **Regulatory Authorization.** The applicant shall submit evidence of the applicant's regulatory status under federal and California law to provide the services and construct the small cell wireless facility proposed in the application.
- 10) **Pole License Agreement.** For any small cell wireless facility proposed to be installed on any structure owned or controlled by the City and located within the public rights-of-way, the applicant shall submit an executed Pole License Agreement on a form prepared by the City that states the terms and conditions for such non-exclusive use by the applicant. At a minimum, the Pole License Agreement shall address equipment loading maximums and other public and emergency safety requirements. No changes shall be permitted to the City's Pole License Agreement except as may be indicated on the form itself. Any unpermitted changes to the City's Agreement shall be deemed a basis to deem the application incomplete. Refusal to accept the terms and conditions in the City's Agreement shall be an independently sufficient basis to deny the application.
- 11) **Title Report and Property Owner's Authorization.** For any small cell wireless facility proposed to be installed on any private property not owned or controlled by the City, the applicant must submit:
 - i. a title report issued within 30 days from the date the applicant filed the application; and
 - ii. if the applicant is not the property owner, a written authorization signed by the property owner identified in the title report that authorizes the applicant to submit and accept a small cell permit in connection with the

subject property. For any small cell wireless facility proposed to be installed on a support structure in the public right-of-way, the applicant must submit a written authorization from the support structure owner(s).

- 12) **Acoustic Analysis.** The applicant shall submit an acoustic analysis prepared and certified by an engineer licensed by the State of California for the proposed small cell wireless facility and all associated equipment including all environmental control units, sump pumps, temporary backup power generators and permanent backup power generators demonstrating compliance with the City's noise regulations. The acoustic analysis must also include an analysis of the manufacturers' specifications for all noise-emitting equipment and a depiction of the proposed equipment relative to all adjacent property lines. In lieu of an acoustic analysis, the applicant may submit evidence from the equipment manufacturer(s) that the ambient noise emitted from all the proposed equipment will not, both individually and cumulatively, exceed the applicable noise limits.

- b) **Additional Requirements.** The City Council authorizes the Community Development Director to develop, publish and from time to time update or amend permit application requirements, forms, checklists, guidelines, informational handouts and other related materials that the Community Development Director finds necessary, appropriate or useful for processing any application governed under this Chapter. All such requirements and materials must be in written form and publicly available to all interested parties.

17.55.060. APPLICATION SUBMITTAL AND COMPLETENESS REVIEW

- a) **Requirements for a Duly Filed Application.** Any application for a small cell permit will not be considered duly filed unless submitted in accordance with the requirements in Section 17.55.060(a).
 - 1) **Submittal Appointment.** All applications must be submitted to the City at a pre-scheduled appointment with the Community Development Director. Potential applicants may generally submit one application per appointment, or up to five individual applications per appointment for batched applications as provided in Section 17.55.060(d). Potential applicants may schedule successive appointments for multiple applications whenever feasible and not prejudicial to other applicants for any other development project. The Community Development Director shall use reasonable efforts to offer an appointment within five working days after the Community Development Director receives a written request from a potential applicant. Any purported application received without an appointment, whether delivered in-person, by mail or through any other means, will not be considered duly filed, whether the City retains, returns or destroys the materials received.
 - 2) **Pre-Submittal Conferences.** The City strongly encourages, but does not require, potential applicants to schedule and attend a pre-submittal conference with the Community Development Director for all proposed projects that involve small cell wireless facilities. A voluntary pre-submittal conference is intended

to streamline the review process through informal discussion between the potential applicant and staff that includes, without limitation, the appropriate project classification and review process; any latent issues in connection with the proposed project, including compliance with generally applicable rules for public health and safety; potential concealment issues or concerns (if applicable); coordination with other City departments responsible for application review; and application completeness issues. To mitigate unnecessary delays due to application incompleteness, potential applicants are encouraged (but not required) to bring any draft applications or other materials so that City staff may provide informal feedback and guidance about whether such draft applications or other materials may be incomplete or unacceptable. The Community Development Director shall use reasonable efforts to provide the potential applicant with an appointment within five working days after receiving a written request and any applicable fee or deposit to reimburse the City for its reasonable costs to provide the services rendered in the pre-submittal conference.

- b) **Applications Deemed Withdrawn.** To promote efficient review and timely decisions, and to mitigate unreasonable delays or barriers to entry caused by chronically incomplete applications, any application governed under this Chapter will be automatically deemed withdrawn by the applicant when the applicant fails to tender a substantive response to the Community Development Director within 60 calendar days after the Community Development Director deems the application incomplete in a written notice to the applicant. As used in this Section 17.55.060(c) a "substantive response" must include the materials identified as incomplete in the Community Development Director's notice. Notwithstanding anything in this Section to the contrary, upon a written request received prior to the 60th day, the Community Development Director may grant an extension to a date certain for good cause shown by the applicant, which includes without limitation delays caused by third parties or events outside the applicant's control.
- c) **Batched Applications.** Applicants may submit up to five individual applications for a small cell permit in a "batch" to be reviewed together at the same time; provided, however, that:
 - 1) all small cell wireless facilities in a batch must be proposed with substantially the same equipment in the same configuration on the same support structure type;
 - 2) each application in a batch must meet all the requirements for a complete application, which includes without limitation the application fee for each application in the batch;
 - 3) if any individual application within a batch is deemed incomplete, the remaining applications in a batch shall still proceed in accordance with the applicable shot clock.
- d) **Additional Procedures.** The City Council authorizes the Community Development Director to establish other reasonable rules and regulations for duly filed applications, which

may include without limitation regular hours for appointments with applicants, as the Community Development Director deems necessary or appropriate to organize, document and manage the application intake process. All such rules and regulations must be in written form and publicly stated to provide all interested parties with prior notice.

17.55.070. APPROVALS AND DENIALS; NOTICES

- a) **Public Notice.** Within approximately 10 days after an application is received and prior to any approval, conditional approval or denial, the City shall mail public notice to all properties and record owners of properties within 300 feet from the project site. The notice shall also be posted in a publicly accessible area in or within close proximity to the proposed physical location of any facility. The notice must contain:
- 1) a general project description;
 - 2) the applicant's identification and contact information as provided on the application submitted to the City;
 - 3) contact information for the Community Development Director for interested parties to submit comments;
 - 4) a statement that the Zoning Administrator will act on the application at a public hearing but that any interested person or entity may appeal the Zoning Administrator's decision directly to the City Council; and
 - 5) a general statement that the FCC requires the City to take final action on small cell applications within 60 days or 90 days, depending on the nature of the proposed facility.
- b) **Administrative Review.** Not less than 10 calendar days after the public notice required in Section 17.55.070(a) sent, and not more than 29 calendar days after the application has been deemed complete, the Zoning Administrator shall approve, conditionally approve or deny a complete and duly filed small cell permit application at a public hearing.
- c) **Required Findings.** The Zoning Administrator may approve or conditionally approve a complete and duly filed application for a small cell permit when the Zoning Administrator finds:
- 1) the proposed project meets the definition for a "small cell wireless facility" as defined by the FCC;
 - 2) the proposed project would be in the most preferred location within 750 feet from the proposed site in any direction or the applicant has demonstrated with clear and convincing evidence in the written record that any more-preferred location(s) within 750 feet would be technically infeasible;
 - 3) the proposed project would not be located on a prohibited support structure identified in this Chapter;
 - 4) the proposed project would be on the most preferred support structure within 750 feet from the proposed site in any direction or the applicant has demonstrated with clear and convincing evidence in the written record that any more-preferred support structure(s) within 750 feet would be technically

infeasible;

- 5) the proposed project complies with all applicable design standards in this Chapter;
- 6) the proposed use is consistent with the General Plan and any applicable specific plan;
- 7) the design, location, size, and operating characteristics of the proposed activity are compatible with the existing and planned future land uses in the vicinity;
- 8) granting the permit would not be detrimental to the public interest, health, safety, convenience, or welfare, or materially injurious to persons, property, or improvements in the vicinity and zone district in which the property is located;
- 9) the applicant has demonstrated that the proposed project will be in planned compliance with all applicable FCC regulations and guidelines for human exposure to RF emissions; and
- 10) all public notices required for the application have been given.

- d) **Conditional Approvals; Denials without Prejudice.** Subject to any applicable federal or California laws, nothing in this Chapter is intended to limit the Zoning Administrator's ability to conditionally approve or deny without prejudice any small cell permit application as may be necessary or appropriate to ensure compliance with this Chapter.
- e) **Decision Notices.** Within five calendar days after the Zoning Administrator acts on a small cell permit application, the Zoning Administrator shall notify the applicant and all parties entitled to receive notice of the application by written notice. If the Zoning Administrator denies the application (with or without prejudice), the written notice must contain the reasons for the decision.
- f) **Appeals.** Any interested person or entity may appeal the decision by the Zoning Administrator to the City Council. Appeals must be filed within seven days after the date of the Zoning Administrator's decision; provided, however, that appeals from an approval shall not be permitted when based solely on the environmental effects from radio frequency emissions that are compliant with applicable FCC regulations and guidelines. The notice of appeal must contain a short and plain statement of the basis for the appeal, which may be supplemented after the notice period has expired but before the hearing. The City Council shall hear appeals de novo and issue the applicant a written decision within five (5) calendar days after the date of the public hearing.

17.55.080. STANDARD CONDITIONS OF APPROVAL

- a) **General Conditions.** In addition to all other conditions adopted by the Zoning Administrator for a small cell permit, all small cell permits issued under this Chapter shall be automatically subject to the conditions in this Section 17.55.080(a).
 - 1) **Permit Term.** This permit will automatically expire 10 years and one day from its issuance unless California Government Code § 65964(b) authorizes the City to establish a shorter term for public safety reasons. Any other permits or approvals issued in connection with any collocation, modification or other

change to this wireless facility, which includes without limitation any permits or other approvals deemed-granted or deemed-approved under federal or state law, will not extend this term limit unless expressly provided otherwise in such permit or approval or required under federal or state law.

- 2) **Permit Renewal.** Within one (1) year before the expiration date of this permit, the permittee may submit an application for permit renewal. To be eligible for administrative review and renewal, the permittee must demonstrate that (a) the subject wireless facility is in compliance; with all the conditions of approval associated with this permit and all applicable provisions in the Seaside Municipal Code and this Chapter that exist at the time the decision to renew the permit would be rendered. The Community Development Director shall have discretion to modify or amend the conditions of approval for permit renewal on a case-by-case basis as may be necessary or appropriate to protect and promote the public health, safety and welfare, allow for the proper operation of the approved wireless facility, maintain compliance with applicable laws and/or to advance the goals or policies in the General Plan and any specific plan, the Seaside Municipal Code and/or this Chapter. Upon renewal, this permit will automatically expire 10 years and one day from its issuance, except when California Government Code §65964 and (b), as may be amended or superseded in the future, authorizes the City to establish shorter term for public safety reasons.
- 3) **Post Installation Certification.** Within 60 calendar days after the permittee commences full, unattended operations of a small cell wireless facility approved or deemed-approved, the permittee shall provide the Community Development Director with documentation reasonably acceptable to the Community Development Director that the small cell wireless facility has been installed and/or constructed in strict compliance with the approved construction drawings and Photo simulations. Such documentation shall include without limitation as-built drawings, GIS data and site photographs.
- 4) **Build-Out Period.** This small cell permit will automatically expire six (6) months from the approval date (the "build-out period") unless the permittee obtains all other permits and approvals required to install, construct and/or operate the approved small cell wireless facility, which includes without limitation any permits or approvals required by the any federal, state or local public agencies with jurisdiction over the subject property, the small cell wireless facility or its use. If this build-out period expires, the City will not extend the build-out period but the permittee may resubmit a complete application, including all application fees, for the same or substantially similar project.
- 5) **Site Maintenance.** The permittee shall keep the site, which includes without limitation any and all improvements, equipment, structures, access routes, fences and landscape features, in a neat, clean and safe condition in accordance with the approved construction drawings and all conditions

in this small cell permit. The permittee shall keep the site area free from all litter and debris at all times. The permittee, at no cost to the City, shall remove and remediate any graffiti or other vandalism at the site within 48 hours after the permittee receives notice or otherwise becomes aware that such graffiti or other vandalism occurred.

- 6) **Compliance with Laws.** The permittee shall maintain compliance at all times with all federal, state and local statutes, regulations, orders or other rules that carry the force of law ("laws") applicable to the permittee, the subject property, the small cell wireless facility or any use or activities in connection with the use authorized in this small cell permit, which includes without limitation any laws applicable to human exposure to RF emissions. The permittee expressly acknowledges and agrees that this obligation is intended to be broadly construed and that no other specific requirements in these conditions are intended to reduce, relieve or otherwise lessen the permittee's obligations to maintain compliance with all laws. No failure or omission by the City to timely notice, prompt or enforce compliance with any applicable provision in the Seaside Municipal Code, this Chapter any permit, any permit condition or any applicable law or regulation, shall be deemed to relieve, waive or lessen the permittee's obligation to comply in all aspects with all applicable provisions in the Seaside Municipal Code, this Chapter, any permit, any permit condition or any applicable law or regulation.

- 7) **Adverse Impacts on Other Properties.** The permittee shall use all reasonable efforts to avoid any and all unreasonable, undue or unnecessary adverse impacts on nearby properties that may arise from the permittee's or its authorized personnel's construction, installation, operation, modification, maintenance, repair, removal and/or other activities on or about the site. The permittee shall not, perform or cause others to perform any construction, installation, operation, modification, maintenance, repair, removal or other work that involves heavy equipment or machines except during normal construction work hours authorized by the Seaside Municipal Code. The restricted work hours in this condition will not prohibit any work required to prevent an actual, immediate harm to property or persons, or any work during an emergency declared by the City or other state or federal government agency or official with authority to declare a state of emergency within the City. The Community Development Director and/or the Public Works Director may issue a stop work order for any activities that violates this condition in whole or in part.

- 8) **Inspections; Emergencies.** The permittee expressly acknowledges and agrees that the City's officers, officials, staff, agents, contractors or other designees may enter onto the site and inspect the improvements and equipment upon reasonable prior notice to the permittee. Notwithstanding the prior sentence, the City's officers, officials, staff, agents, contractors or other designees may, but will not be obligated to, enter onto the site area without prior notice to support, repair, disable or remove any improvements or

equipment in emergencies or when such improvements or equipment threatens actual, imminent harm to property or persons. The permittee, if present, may observe the City's officers, officials, staff or other designees while any such inspection or emergency access occurs.

- 9) **Permittee's Contact Information.** Within 10 days from the final approval, the permittee shall furnish the City with accurate and up-to-date contact information for a person responsible for the small cell wireless facility, which includes without limitation such person's full name, title, direct telephone number, mailing address and email address. The permittee shall keep such contact information up-to-date at all times and promptly provide the City with updated contact information if either the responsible person or such person's contact information changes.
- 10) **Indemnification.** The permittee and, if applicable, the property owner upon which the small cell wireless facility is installed shall defend, indemnify and hold harmless the City, City Council and the City's boards, commissions, agents, officers, officials, employees and volunteers (collectively, the "indemnitees") from any and all
 - i. damages, liabilities, injuries, losses, costs and expenses and from any and all claims, demands, law suits, writs and other actions or proceedings ("claims") brought against the indemnitees to challenge, attack, seek to modify, set aside, void or annul the City's approval of this small cell permit, and
 - ii. other claims of any kind or form, whether for personal injury, death or property damage, that arise from or in connection with the permittee's or its agents', directors', officers', employees', contractors', subcontractors', licensees' or customers' acts or omissions in connection with this small cell permit or the small cell wireless facility.

In the event the City becomes aware of any claims, the City will use best efforts to promptly notify the permittee and the private property owner (if applicable) and shall reasonably cooperate in the defense. The permittee expressly acknowledges and agrees that the permittee's indemnification obligations under this condition are a material consideration that motivates the City to approve this small cell permit, and that such indemnification obligations will survive the expiration, revocation or other termination of this small cell permit.

- 11) **Performance Bond.** Before the Building Division issues any permits required to commence construction in connection with this permit, the permittee shall post a performance bond from a surety and in a form acceptable to the Community Development Director in an amount reasonably necessary to cover the cost to remove the improvements and restore all affected areas based on a written estimate from a qualified contract or with experience in wireless facilities removal. The written estimate must include the cost to remove all equipment and other improvements, which includes without limitation all antennas, radios, batteries, generators, utilities, cabinets, mounts, brackets, hardware, cables, wires, conduits, structures,

shelters, towers, poles, footings and foundations, whether above ground or below ground, constructed or installed in connection with the wireless facility, plus the cost to completely restore any areas affected by the removal work to a standard compliant with applicable laws. In establishing or adjusting the bond amount required under this condition, and in accordance with California government Code §65964(a), the Community Development Director shall take into consideration any information provided by the permittee regarding the cost to remove the wireless facility to a standard compliant with applicable laws. The performance bond shall expressly survive the duration of the permit term to the extent required to effectuate a complete removal of the subject wireless facility in accordance with this condition.

- 12) **Permit Revocation.** Any permit granted under this Chapter may be revoked in accordance with the provisions and procedures in this condition. The Community Development Director may initiate revocation proceedings when the Community

Development Director has information that the facility may not be in compliance with all applicable laws, which includes without limitation, any permit in connection with the facility and any associated conditions with such permit(s). Before the Zoning Administrator may conduct a public hearing to revoke any permit granted under this Chapter, the Community Development Director must issue a written notice to the permittee that specifies the following:

- i. the facility;
- ii. the violation(s) to be corrected;
- iii. the timeframe in which the permittee must correct such violation(s); and
- iv. that, in addition to all other rights and remedies the City may pursue, the City may initiate revocation proceedings for failure to correct such violation(s).

The Zoning Administrator's decision may be appealed to the City Council after a duly noticed public hearing. The City Council may revoke a permit when it finds substantial evidence in the written record to show that the facility is not in compliance with any applicable laws, which includes without limitation, any permit in connection with the facility and any associated conditions with such permit(s). Any decision by the City Council to revoke or not revoke a permit shall be final and not subject to any further appeals. Within five business days after the City Council adopts a resolution to revoke a permit, the Community Development Director shall provide the permittee with a written notice that specifies the revocation and the reasons for such revocation.

- 13) **Record Retention.** Throughout the permit term, the permittee must maintain a complete and accurate copy of the written administrative record, which includes without limitation the small cell permit application, small cell permit, the approved plans and photo simulations incorporated into this approval, all conditions associated with this approval, any ministerial permits or approvals issued in connection with this approval and any records, memoranda, documents, papers and other correspondence entered into the public record in connection with the

small cell permit (collectively, "records"). If the permittee does not maintain such records as required in this condition, any ambiguities or uncertainties that would be resolved by inspecting the missing records will be construed against the permittee. The permittee shall protect all records from damage from fires, floods and other hazards that may cause deterioration. The permittee may keep records in an electronic format; provided, however, that hard copies or electronic records kept in the City's regular files will control over any conflicts between such City-controlled copies or records and the permittee's electronic copies, and complete originals will control over all other copies in any form. The requirements in this condition shall not be construed to create any obligation to create or prepare any records not otherwise required to be created or prepared by other applicable laws. Compliance with the requirements in this condition shall not excuse the permittee from any other similar record- retention obligations under applicable law.

- 14) **Abandoned Wireless Facilities.** The small cell wireless facility authorized under this small cell permit shall be deemed abandoned if not operated for any continuous six-month period. Within 90 days after a small cell wireless facility is abandoned or deemed abandoned, the permittee and/or property owner shall completely remove the small cell wireless facility and all related improvements and shall restore all affected areas to a condition compliant with all applicable laws, which includes without limitation the Seaside Municipal Code. In the event that neither the permittee nor the property owner complies with the removal and restoration obligation under this condition within said 90-day period, the City shall have the right (but not the obligation) to perform such removal and restoration with, or without notice, and the permittee and property owner (where private property) shall be jointly and severally liable for all costs and expenses incurred by the City in connection with such removal and/or restoration activities.

- 15) **Landscaping.** At the discretion of the Community Development Director, the permittee shall replace any landscape features damaged or displaced by the construction, installation, operation, maintenance or other work performed by the permittee or at the permittee's direction on or about the site, or pay a fee to the City's Urban Forestry Fund if replacement landscaping is not feasible or desired at the location. If any trees are damaged or displaced, the permittee shall replace landscaping as determined by the City. Only International Society of Arboriculture certified workers under the supervision of a licensed arborist shall be used to install the replacement tree(s). Any replacement tree must be substantially the same size as the damaged tree unless approved by the City. The permittee shall be responsible to maintain any replacement landscape features for (a) the permit term for landscape features on private property and (b) a period of three (3) years from the date of planting for landscape features in the public rights-of-way. The Community Development Director may accept an in-lieu fee for the City's cost to maintain a replacement tree or other landscaping in the public rights-of-way for the required three (3) year period.

- 16) **Cost Reimbursement.** The permittee acknowledges and agrees that:

- i. the permittee's request for authorization to construct, install and/or operate the wireless facility will cause the City to incur costs and expenses;
- ii. the permittee shall be responsible to reimburse the City for all costs incurred in connection with the permit, which includes without limitation costs related to application review, permit issuance, site inspection and any other costs reasonably related to or caused by the request for authorization to construct, install and/or operate the wireless facility;
- iii. any application fees are intended to be a reasonable approximation of such costs but may not cover all such reimbursable costs and that the permittee shall have the obligation to reimburse City for all such costs 10 days after a written demand for reimbursement and reasonable documentation to support such costs; and
- iv. the City shall have the right to withhold any permits or other approvals in connection with the wireless facility until and unless any outstanding costs have been reimbursed to the City by the permittee.

b) **Conditions for Small Cell Wireless Facilities in the Public Rights-of-Way.** In addition to all conditions in subsection (a), all small cell permits for small cell wireless facilities in the public rights-of-way issued under this Chapter shall be automatically subject to the conditions in this Section 17.55.080(b).

- 1) **Future Undergrounding Programs.** Notwithstanding any term remaining on any small cell permit, if other utilities or communications providers in the public rights-of-way underground their facilities in the segment of the public rights-of-way where the permittee's small cell wireless facility is located, the permittee must also underground its equipment, to the extent feasible, except the antennas and any approved electric meter, at approximately the same time. Accessory equipment such as radios and computers that require an environmentally controlled underground vault to function shall not be exempt from this condition. Small cell wireless facilities installed on utility poles that will be removed pursuant to the undergrounding program may be reinstalled on other existing vertical infrastructure that complies with the then-current municipal code and the City's standards and specifications. Such undergrounding shall occur at the permittee's sole cost and expense except as may be reimbursed through tariffs approved by the state public utilities commission for undergrounding costs.
- 2) **Electric Meter Upgrades.** If the commercial electric utility provider adopts or changes its rules obviating the need for a separate or ground-mounted electric meter and enclosure, the permittee on its own initiative and at its sole cost and expense shall remove the separate or ground-mounted electric meter and enclosure. Prior to removing the electric meter, the permittee shall apply for any encroachment and/or other ministerial permit(s) required to perform the removal. Upon removal, the permittee shall restore the affected area to its original condition that existed prior to installation of the equipment.

3) **Rearrangement and Relocation.** The permittee acknowledges that the City, in its sole discretion and at any time, may:

- i. change any street grade, width or location;
- ii. add, remove or otherwise change any improvements in, on, under or along any street owned by the City or any other public agency, which includes without limitation any sewers, storm drains, conduits, pipes, vaults, boxes, cabinets, poles and utility systems for gas, water, electric or telecommunications; and/or
- iii. perform any other work deemed necessary, useful or desirable by the City (collectively, "City work").

The City reserves the rights to do any and all City work without any admission on its part that the City would not have such rights without the express reservation in this small cell permit. If the Public Works Director determines that any City work will require the permittee's small cell wireless facility located in the public rights-of-way to be rearranged and/or relocated, the permittee shall, at its sole cost and expense, do or cause to be done all things necessary to accomplish such rearrangement and/or relocation. If the permittee fails or refuses to either permanently or temporarily rearrange and/or relocate the permittee's small cell wireless facility within a reasonable time after the Public Works Director's notice, the City may (but will not be obligated to) cause the rearrangement or relocation to be performed at the permittee's sole cost and expense. The City may exercise its rights to rearrange or relocate the permittee's small cell wireless facility without prior notice to permittee when the Public Works Director determines that the City work is immediately necessary to protect public health or safety. The permittee shall reimburse the City for all costs and expenses in connection with such work within 30 days after a written demand for reimbursement and reasonable documentation to support such costs.

17.55.90. LOCATION REQUIREMENTS

- a) **Preface to Location Requirements.** This subsection (a) provides guidance as to how to interpret and apply the location requirements in this Section 17.55.090. To better assist applicants and decision makers understand and respond to the community's aesthetic preferences and values, subsections (b) (c), (d) and (e) set out listed preferences for locations and support structures to be used in connection with small cell wireless facilities in ordered hierarchies. Applications that involve lesser- preferred locations or structures may be approved so long as the applicant demonstrates that either (1) no more preferred locations or structures exist within 750 feet from the proposed site; or (2) any more preferred locations or structures within 750 feet from the proposed site would be technically infeasible as supported by clear and convincing evidence in the written record. Subsection (f) identifies "prohibited" support structures on which the City shall not approve any small cell permit application for any competitor or potential competitor.

b) **Locations in the Public Rights-of-Way.** The City prefers small cell wireless facilities in the public rights-of-way to be installed in locations, ordered from most preferred to least preferred, as follows:

- 1) locations within areas designated as any of the land use categories listed in the General Plan under the "Commercial," "Mixed Use," categories, on or along arterial streets as defined and mapped in the General Plan;
- 2) locations within areas designated as any of the land use categories listed in the General Plan under the "Commercial," "Mixed Use," or "Open Space Recreation" categories (except where in or adjacent to public parks and Open Space Recreation areas), on or along collector streets as defined and mapped in the General Plan; locations within areas designated as any of the land use categories listed in the General Plan under the "Commercial," "Mixed Use," or "Open Space Recreation" categories (except where in or adjacent to public parks and Open Space Recreation areas), on or along local streets as defined and mapped in the General Plan;
- 3) locations within or adjacent to public parks and Open Space Recreation areas, or areas designated "Institutional" in the General Plan, on or along arterial, collector or local streets as defined and mapped in the General Plan;
- 4) locations within the West Broadway Urban Village Specific Plan Area;
- 5) any location within any non-residential or mixed-use Specific Plan land use designation
- 6) locations within areas the General Plan Under the "Residential" category, on or along arterial streets as defined and mapped in the General Plan;
- 7) location within areas designated as any of the land use categories listed in the General Plan under the "Residential" category, on or along collector streets defined and mapped in the General Plan; and
- 8) locations within areas designated as any of the land use categories listed in the General Plan under the "Residential" category, on or along local streets as defined and mapped in the General Plan.

c) **Locations Outside the Public Rights-of-Way.** The City prefers small cell wireless facilities outside the public rights-of-way to be installed in locations, ordered from most preferred to least preferred, as follows:

- 1) locations within areas designated as any of the land use categories listed in the General Plan under the "Commercial," "Mixed Use," or "Open Space Recreation" categories (except within any public park or Open Space Recreation areas);
- 2) locations within areas designated "Institutional" in the General Plan; within the West Broadway Urban Village Specific Plan Area, any location within any non-residential or mixed-use Specific Plan land use designation;
- 3) locations within areas designated as any of the land use categories listed in the General Plan under the "Residential" category;

- 4) locations within any public park or Open Space Recreation area;
 - 5) locations within the West Broadway Urban Village Specific Plan Area; and
 - 6) locations within residential Specific Plan land use designations.
- d) **Support Structures in the Public Rights-of-Way.** The City prefers small cell wireless facilities to be installed on support structures in the public rights-of-way, ordered from most preferred to least preferred, as follows:
- 1) existing or replacement metal or composite streetlight or utility poles;
 - 2) new, non-replacement metal or composite streetlight poles;
 - 3) new, non-replacement poles for small cell wireless facilities;
 - 4) existing or replacement wood utility or streetlight poles.
- e) **Support Structures Outside the Public Rights-of-Way.** The City prefers small cell wireless facilities to be installed on support structures outside of the public rights-of-way, ordered from most preferred to least preferred as follows:
- 1) existing, non-historic buildings, or other non-tower structures previously approved for use as a support structure for personal wireless service facilities;
 - 2) other existing, non-historic buildings, or other non-tower structures;
 - 3) existing or replacement utility poles or towers;
 - 4) new, non-replacement towers for small cell wireless facilities; and
 - 5) existing historic buildings.
- f) **Prohibited Support Structures.** The City prohibits small cell wireless facilities to be installed on the following support structures, whether located in the public rights-of-way or not: decorative poles and decorative streetlights; non-city owned traffic signals, signs, poles, cabinets and related devices; new, non-replacement wood poles.

17.55.100.**DESIGN STANDARDS****a) General Standards**

- 1) **Noise.** Small cell wireless facilities and all accessory equipment and transmission equipment must comply with all applicable noise control standards and regulations in Seaside Municipal Code Chapter 17.30.060, as either may be amended or superseded, and shall not exceed, either on an individual or cumulative basis.
- 2) **Lights.** Small cell wireless facilities shall not include any lights that would be visible from publicly accessible areas, except as may be required under Federal Aviation Administration, FCC, other applicable regulations for health and safety. All equipment with lights (such as indicator or status lights) must be installed in locations and within enclosures that mitigate illumination impacts visible from publicly accessible areas. The provisions in this subsection shall not be interpreted or applied to prohibit installations on streetlights or luminaires installed on new or replacement poles as may be required under this Chapter.

- 3) **Landscape Features.** At the discretion of the Community Development Director, the permittee shall replace any landscape features damaged or displaced by the construction, installation, operation, maintenance or other work performed by the permittee or at the permittee's direction on or about the site, or pay a fee to the City's Urban Forestry Fund if replacement landscaping is not feasible or desired at the location. If any trees are damaged or displaced, the permittee shall replace landscaping as determined by the City. Only International Society of Arboriculture certified workers under the supervision of a licensed arborist shall be used to install the replacement tree(s). Any replacement tree must be substantially the same size as the damaged tree unless approved by the City. The permittee shall be responsible to maintain any replacement landscape features for a period of three (3) years after the date of planting. The Community Development Director may accept an in-lieu fee for the City's cost to maintain the landscaping for the required three (3) year period.
- 4) **Site Security Measures.** Small cell wireless facilities may incorporate reasonable and appropriate site security measures, such as locks and anti-climbing devices, to prevent unauthorized access, theft or vandalism. The Community Development Director shall not approve any barbed wire, razor ribbon, electrified fences or any similarly dangerous security measures. All exterior surfaces on small cell wireless facilities shall be constructed from or coated with graffiti-resistant materials.
- 5) **Signage Advertisements.** All small cell wireless facilities must include signage that accurately identifies the site owner/operator, the owner/operator's site name or identification number and a toll free number to the owner/operator's network operations center. Small cell wireless facilities may not bear any other signage or advertisements unless expressly approved by the City, required by law or recommended under FCC, Occupational Safety and Health Administration or other United States governmental agencies for compliance with RF emissions regulations.
- 6) **Compliance with Health and Safety Regulations.** All small cell wireless facilities shall be designed, constructed, operated and maintained with all generally applicable health and safety regulations which includes without limitation all applicable regulations for human exposure to RF emissions and compliance with the federal Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12101 *et seq.*).

b) Small Cell Wireless Facilities in the Public Right-of-Way.

- 1) **Overall Height.** Small cell wireless facilities should be proposed at the lowest technically feasible overall height. Small cell wireless facilities may not exceed either (A) the minimum separation from electrical lines required by applicable safety regulations, plus four feet or (B) six feet above the existing

support structure.

2) **Antennas.**

- i. **Concealment.** To the extent feasible, antennas and associated mounting equipment, hardware, cables or other connectors must be completely concealed within an opaque antenna shroud or radome. To the extent feasible, the antenna shroud or radome must be painted a flat, non-reflective color to match the underlying support structure. *If the applicant demonstrates by clear and convincing evidence in the record that strict compliance with the requirements in this Section would be technically infeasible, the Community Development Director may approve an alternative concealment plan that is consistent with the intent of this Section and this Chapter.*
- ii. **Antenna Volume.** Each individual antenna may not exceed three cubic feet in volume.

3) **Accessory Equipment.**

- i. **Installation Preferences.** All non-antenna accessory equipment shall be installed in accordance with the following preferences, ordered from most preferred to least preferred:
 1. underground in any area in which the existing utilities are primarily located underground;
 2. on the pole or support structure; or
 3. integrated into the base of the pole or support structure.
 4. *ground-mounted, provided that the applicant demonstrates that the use of installations location preferences 1, 2, and 3 (listed above) would be technically infeasible as supported by clear and convincing evidence in the written record and the ground-mounted accessory equipment is placed in the least intrusive location as determined by the Community Development Director.*

Applications that involve lesser-preferred installation locations may be approved so long as the applicant demonstrates that no more preferred installation location would be technically feasible as supported by clear and convincing evidence in the written record.

- ii. **Undergrounded Accessory Equipment.** All undergrounded accessory equipment must be installed in an environmentally controlled vault that is load-rated to meet the City's standards and specifications. Underground vaults located beneath a sidewalk must be constructed with a slip-resistant cover. Vents for airflow shall be flush-to-grade when placed within the sidewalk and may not exceed

two feet above grade when placed off the sidewalk. Applicants shall not be permitted to install an underground vault in a location that would cause any existing tree to be materially damaged or displaced, unless approved by the Community Development Director.

- iii. **Pole-Mounted Accessory Equipment.** All pole-mounted accessory equipment must be installed in a single equipment shroud unless the applicant demonstrates that a single shroud would be technically infeasible as supported by clear and convincing evidence in the written record. All pole-mounted accessory equipment must be installed flush to the pole to minimize the overall visual profile. If any applicable health and safety regulations prohibit flush-mounted equipment, the maximum separation permitted between the accessory equipment and the pole shall be the minimum separation required by such regulations. All pole-mounted equipment and required or permitted signage must be placed and oriented away from public view. Pole-mounted equipment may be installed behind street, traffic or other signs to the extent that the installation complies with applicable public health and safety regulations. All cables, wires and other connectors must be routed through conduits within the pole, and all conduit attachments, cables, wires and other connectors must be concealed from public view. To the extent that cables, wires and other connectors cannot be routed through the pole, applicants shall route them through a single external conduit or shroud that has been finished to match the underlying support structure.
- iv. **Base-Mounted Accessory Equipment.** All base-mounted accessory equipment must be installed within a shroud, enclosure or pedestal integrated into the base of the support structure. All cables, wires and other connectors routed between the antenna and base-mounted equipment must be concealed from public view.
- v. **Ground-Mounted Accessory Equipment.** The Community Development Director shall not approve any ground-mounted accessory equipment including, but not limited to, any utility or transmission equipment, pedestals, cabinets, panels or electric meters, *unless the applicant clearly demonstrates that location design preferences listed in Section 17.55.100.b.3.i are technically infeasible as supported by clear and convincing evidence in the written record and the ground-mounted accessory equipment is placed in the least intrusive location as determined by the Community Development Director. In circumstances where ground-mounted accessory equipment may be permitted, the Community Development Director may impose additional conditions as may be necessary or appropriate to mitigate potential hazards in the public rights-of-way and/or aesthetic blight created by the placement of such accessory equipment.*

- vi. **Accessory Equipment Volume.** All accessory equipment associated with a small cell wireless facility installed above ground level shall not cumulatively exceed:

1. Twenty-one (21) cubic feet in volume if installed in a residential district; or
2. Twenty-eight (28) cubic feet in volume if installed in a non-residential district.

The volume calculation shall include any shroud, cabinet or other concealment device used in connection with the non-antenna accessory equipment. The volume calculation shall not include any equipment or other improvements placed underground.

- 4) **Streetlights.** Applicants that propose to install small cell wireless facilities on an existing streetlight must remove and replace the existing streetlight with one substantially similar to and which meets the City's standards and specifications but designed to accommodate wireless antennas and accessory equipment. To mitigate any material changes in the streetlighting patterns, the replacement pole must:

- i. be located as close to the removed pole's possible;
- ii. be aligned with the other existing streetlights and include a luminaire at substantially the same height and distance from the pole as the luminaire on the removed pole. All antennas must be installed above the pole within a single, canister style shroud or radome that tapers for the pole. *If the applicant demonstrates by clear and convincing evidence in the record that placing the antennas above the pole in a single, canister style shroud or radome would be technically infeasible, the Community Development Director may approve an alternative concealment plan that is consistent with the intent of this Section and this Chapter.*

- 5) **Wood Utility Poles.** Applicants that propose to install small cell wireless facilities on an existing wood utility pole must install all antennas above the pole unless the applicant demonstrates that mounting the antennas above the pole would be technically infeasible as supported by clear and convincing evidence in the written record. Side-mounted antennas on a stand-off bracket or extension arm must be concealed within a shroud. All cables, wires and other connectors must be concealed within the side-arm mount or extension arm. The maximum horizontal separation between the antenna and the pole

shall be the minimum separation required by applicable health and safety regulations. Applicants that propose to install small cell wireless facilities on a replacement wood utility pole must remove and replace the existing wood utility pole with one that is substantially similar in height and diameter unless the applicant demonstrates that a substantially familiar replacement pole would be technically infeasible as supported by clear and convincing evidence in the written record.

- 6) **New, Non-Replacement Poles.** Applicants that propose to install small cell wireless facilities on a new, non-replacement pole must install a new streetlight in accordance with the City's standards, specifications and spacing requirements but designed to accommodate wireless antennas and accessory equipment located immediately adjacent to the proposed location. If there are no existing streetlights in the immediate vicinity, the applicant may install a metal or composite pole capable of concealing all the accessory equipment either within the pole or within an integrated enclosure located at the base of the pole. The pole diameter shall not exceed eighteen (18) inches. Any base enclosure diameter shall not exceed twenty-six (26) inches or the maximum size that will allow for **pedestrian** access to the sidewalk as may be required by law (whichever is smaller). All antennas, whether on a new streetlight or other new pole, must be installed above the pole within a single, canister style shroud or radome. If the applicant demonstrates by clear and convincing evidence in the record that placing the antennas above the pole in a single, canister style shroud or radome would be technically infeasible, the Community Development Director may approve an alternative concealment plan that is consistent with the intent of this Section and this Chapter.
- 7) **Strand-Mounted Wireless Facilities.** No more than one strand-mounted wireless facility may be installed on any single span between two poles. The Community Development Director shall not approve any ground-mounted equipment in connection with any strand-mounted wireless facility. All equipment and other improvements associated with a strand-mounted wireless facility must comply with all applicable health and safety regulations. Strand-mounted wireless facilities shall not exceed three (3) cubic foot in total volume. All strand-mounted equipment shall be finished in a non-reflective grey color. Any accessory equipment mounted on the pole shall be painted and textured to match the underlying pole. "Snow shoes" and other spooled fiber or cables are prohibited.
- 8) **Encroachments over Private Property.** Small cell wireless facilities may not encroach onto or over any private or other property outside the public rights-of-way without the property owner's express written consent.
- 9) **Backup Power Sources.** Fossil-fuel based backup power sources shall

not be permitted within the public rights-of-way; provided, however, that connectors or receptacles may be installed for temporary backup power generators used in an emergency declared by federal, state or local officials.

- 10) **Obstructions; Public Safety.** Small cell wireless facilities and any associated equipment or improvements shall not physically interfere with or impede:
 - i. worker access to any above ground or underground infrastructure for traffic control, streetlight or public transportation, including without limitation any curb control sign, parking meter, vehicular traffic sign or signal, pedestrian traffic sign or signal, or barricade reflectors;
 - ii. access to any public transportation vehicles, shelters, street furniture or other improvements at any public transportation stop;
 - iii. worker access to above-ground or underground infrastructure owned or operated by any public or private utility agency;
 - iv. access to any fire hydrant or water valve;
 - v. access to any doors, gates, sidewalk doors, passage doors, stoops or other ingress and egress points to any building appurtenant to the rights-of-way; or
 - vi. access to any fire escape.
- 11) **Utility Connections.** All cables and connectors for telephone, data backhaul, primary electric and other similar utilities must be routed underground in conduits large enough to accommodate future collocated wireless facilities. Undergrounded cables and wires must transition directly into the pole base without any external doghouse. All cables, wires and connectors between the underground conduits and the antennas and other accessory equipment shall be routed through and concealed from view within:
 - i. internal risers or conduits if on a concrete, composite or similar pole; or
 - ii. a cable shroud or conduit mounted as flush to the pole as possible if on a wood pole or other pole without internal cable space. The Community Development Director shall not approve new overhead utility lines or service drops merely because compliance with the undergrounding requirements would increase the project cost.
- 12) **Spools and Coils.** To reduce clutter and deter vandalism, excess fiber optic or coaxial cables shall not be spooled, coiled or otherwise stored on the pole outside equipment cabinets or shrouds.
- 13) **Electric Meters.** Small cell wireless facilities shall: set flat-rate electric service or other method that obviates the need for a separate above-grade electric meter. If flat-rate service is not available, applicants may install a shrouded smart meter. The Community Development Director shall not

approve a separate ground-mounted electric meter pedestal *unless the applicant clearly demonstrates that more-preferred metering listed above would be technically infeasible as supported by clear and convincing evidence in the written record and the ground-mounted meter pedestal is placed in the least intrusive location as determined by the Community Development Director.*

- 14) **Street Trees.** To preserve existing landscaping in the public rights-of-way, all work performed in connection with small cell wireless facilities shall not cause any street trees to be trimmed, damaged or displaced. If any street trees are damaged or displaced, the applicant shall be responsible, at its sole cost and expense, to plant and maintain replacement trees at the site *for a period of three (3) years from the date of planting. The Community Development Director may accept an in-lieu fee for the City's cost to maintain the tree for the required three (3) year period.*

c) **Small Cell Wireless Outside of the Public Right-of-Way**

- 1) **Overall Height.** Small cell wireless facilities on private property may not exceed the applicable height limit for primary structures in the applicable zoning district or overlay zone, except as follows:
 - i. Residential or Open Space Recreation land use districts as designated in the General Plan: 30 feet
 - ii. Non-Residential. General Plan land use designations (including designations listed under Commercial; Open Space Recreation; Mixed-Use and Institutional categories: 40 feet
 - iii. Where the facility would be mounted on an existing building or structure, the height of the wireless facility shall not exceed the maximum height of the building or structure, including any existing parapet or roof-mounted screen, by more than five feet.
 - iv. Exceptions to height limits that are otherwise allowed by SMC Section 17.54.060 (B) for antennas, transmission towers and similar appurtenances shall not apply to small cell wireless facilities in any zoning district or PUD.
- 2) **Setbacks.** Small cell wireless facilities on private property may not encroach into any applicable setback for Class I or Class II accessory structures in the subject zoning district.
- 3) **Backup Power Sources.**
 - i. The Community Development Director shall not approve any fossil fuel generators or other similarly noisy or fume-emitting generators in or within 250 feet from any residence; provided, however, the Community Development Director may approve sockets or other connections used for

temporary backup generators used in an emergency declared by federal, state or local officials.

1. In the event of an emergency proclamation, the City shall maintain the right to use an emergency supplement to reduce generator restrictions

- ii. As required by California Public Utilities Commission (CPUC) Order (D.20-07-011), the applicant shall be responsible to implement a plan to provide 72 hours of backup power supply at any new or existing wireless facilities located in Tier 2 and Tier 3 High Fire Threat Districts within the City's jurisdiction. Consistent with D.20-07-011, the City strongly prefers clean, emissions-free backup power sources, such as batteries over fossil fuel generators.

4) **Parking; Access.** Any equipment or improvements constructed or installed in connection with any small cell wireless facilities must not reduce any parking spaces below the minimum requirement for the subject property. Whenever feasible, small cell wireless facilities must use existing parking and access rather than construct new parking or access improvements. Any new parking or access improvements must meet City standards.

5) **Towers, Poles and Other Freestanding Small Cell Wireless Facilities.** All new towers, poles or other freestanding structures that support small cell wireless facilities must be made from a metal, or composite material capable of concealing all the accessory equipment, including cables, mounting brackets, radios, and utilities, either within the support structure or within an integrated enclosure located at the base of the support structure. All antennas must be installed above the pole in a single, canister-style shroud or radome. *If the applicant demonstrates by clear and convincing evidence in the record that placing the antennas in a single, canister style shroud or radome would be technically infeasible, the Community Development Director may approve an alternative concealment plan that is consistent with the intent of this Section and this Chapter.* The support structure and all transmission equipment must be painted with flat/neutral colors that match the support structure.

6) **Building-Mounted Small Cell Wireless Facilities**

- i. **Preferred Concealment Techniques.** All applicants must propose new non-tower small cell wireless facilities that are completely concealed and architecturally integrated into the existing facade or rooftop features with no visible impacts from any publicly accessible areas at ground level (examples include, but are not limited to, antennas behind existing parapet walls or facades replaced with RF-transparent material and finished to mimic the replaced materials). Alternatively, if the applicant demonstrates with clear and convincing evidence that integration with existing features

is technically infeasible, the applicant may propose completely concealed new structures or appurtenances designed to mimic the support structure's original architecture and proportions (examples include, but are not limited to, steeples and chimneys).

- ii. **Facade-Mounted Equipment.** When small cell wireless facilities cannot be placed behind existing parapet walls or other existing screening elements, the Community Development Director may approve facade-mounted antenna equipment in accordance with this Section 17.55.100(c)(6)(ii). All facade mounted equipment must be concealed behind screen walls and mounted flush to the facade. The Community Development Director may not approve "pop-out" screen boxes. The Community Development Director may not approve any exposed facade-mounted antennas, including but not limited to exposed antennas painted to match the façade.

RESOLUTION NO. 20-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE

ADOPT A RESULTION UPDATING THE 2020-2021 PLANNING DEPARTMENT FEE SCHEDULE TO INCLUDE SMALL CELL PERMIT AND ASSOCIATED FEES.

WHEREAS, the Fiscal year 2020-2021 budget for the City of Seaside was adopted on June 18, 2020 and the annual fee schedule was adopted on July 2, 2020; and

WHEREAS, new fees are required to be added to the Planning Department fee schedule to address Small Cell Permits and associated consultant/independent expert review (see Exhibit B); and

WHEREAS, on October 28, 2020, the Planning Commission held a public hearing to review this Resolution and the associated permanent Small Cell Wireless Ordinance (Chapter 17.55) as well as the associated fee schedule amendments, at which the Commission received, reviewed, and considered the staff report, written and oral testimony from the public, and whereby the Commission recommended approval to the City Council; and

WHEREAS, on November 5, 2020, the City Council held a public hearing which Introduced and Waived the First Reading of the associated Ordinance: Small Cell (SMC Chapter 17.55).

WHEREAS, on November 19, 2020, the City Council held a public hearing which conducted the Second Reading and Adopted the associated Ordinance: Small Cell (SMC Chapter 17.55).

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Seaside hereby approves the modification to the Planning Department Fee Schedule to include associate Small Cell Permit fees.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Seaside duly held on the 19th day of November 2020, by the following vote:

AYES:	COUNCIL MEMBERS:
NOES:	COUNCIL MEMBERS:
ABSENT:	COUNCIL MEMBERS:
ABSTAIN:	COUNCIL MEMBERS:

ATTEST:

Ian N. Oglesby, Mayor

Lesley Milton, City Clerk

Proposed Changes to Seaside Planning Department Fee Schedule

**CITY OF SEASIDE
MASTER FEE SCHEDULE
SCHEDULE OF PLANNING DEPARTMENT FEES**

		19/20 Adopted (3.7%)	20/21 Proposed (2.3%)
PLANNING DEPARTMENT FEES			
SMALL CELL PERMIT			
Small Cell Permit (for up to 5 small cell sites)		\$ —	\$ 500
City Attorney's Review of Projects and Permits (if necessary, an additional deposit amount will be required for City Attorney review of Projects)		\$ —	\$ Deposit - estimated # of attorney hours
Consultant Fee: Including, but not limited to, Radio Frequency Expert, Engineering, Arborist Services		\$ —	\$ Consultant Fee
OTHER FEES			
Affordable Housing Agreement		\$ 1,730	\$ 1,770
Mobilhome Park Conversions, Closures, and Cessation of Use Fee		\$ 1,730	\$ 1,770
Deferred Completion Agreement		\$ 865	\$ 885
Floodplain Development Permit		\$ 865	\$ 885
Tentative Parcel Map Waiver		\$ 1,730	\$ 1,770
99		\$ 1,730	\$ 1,770
Real Property Disclosure Report		\$ 150	\$ 153
LAND USE APPEALS			
Non-Applicant		\$ 3,243	\$ 3,318
Applicant		\$ 3,458	\$ 3,538
Administrative Review for Radio, Satellite and Dish Antennas		\$ 865	\$ 885
Grand Opening and Promotional Banner / Temporary Sign		\$ 108	\$ 110
Sign Permit (Over-the-counter)		\$ 217	\$ 222
ZONING COMPLIANCE PLAN CHECK:			
Over the Counter (Replacement In Kind)		\$ 108	\$ 110
Over the Counter (Minor)		\$ 108	\$ 110
Zoning Confirmation Letter		\$ 865	\$ 885
Advanced Planning Surcharge:			
(Charged on all new construction for building plans (e.g. additions, new buildings), pw/eng, fire permits, and development applications)		0.3% of building valuation	0.3% of building valuation
HOURLY RATES			
Planning Services		\$ 217	\$ 222
For services requested of City staff which have no fee listed in this fee schedule, the City Manager of the City Manager's designee shall determine the appropriate fee based on the established hourly rates for this department/division. Additionally, the City will pass-through to the applicant any discrete costs incurred from the use of external service providers (e.g. Consultants) if required to process the specific application.			

**PLANNING COMMISSION
RESOLUTION NO. 20-XX**

**RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SEASIDE,
CALIFORNIA RECOMMENDING ADOPTION OF A PERMANENT SMALL CELL
WIRELESS ORDINANCE (CHAPTER 17.55) REGULATING SMALL CELL
WIRELESS FACILITIES AND OTHER INFRASTRUCTURE DEPLOYMENTS IN
THE PUBLIC RIGHT-OF-WAY AND ADOPTING AN AMENDMENT TO THE 2020-
2021 FEE SCHEDULE TO ADDRESS COST RECOVERY ASSOCIATED WITH
SMALL CELL WIRELESS FACILITY PERMIT APPLICATIONS**

WHEREAS, on December 5, 2019, the City Council adopted a Small Cell Policy, which established reasonable, uniform and comprehensive standards and procedures for small cell wireless facilities and other infrastructure deployment on the public right-of-way, for the construction, installation, collocation, modification, operation, relocation and removal of such facilities within the City of Seaside's jurisdictional boundaries, consistent with and to the extent permitted under federal and California state law;

WHEREAS, in response to staff's evaluation and consideration of the proposed provision, the City Council desires to adopt a permanent Small Cell Wireless Facility Ordinance (Chapter 17.55) described in Attachment 3/Exhibit A with amended text italicized and underlined; and

WHEREAS, on October 28, 2020, the Planning Commission held a public hearing to review this Resolution and the associated permanent Small Cell Wireless Ordinance (Chapter 17.55) as well as the associated fee schedule amendments, at which the Commission received, reviewed, and considered the staff report, written and oral testimony from the public, and whereby the Commission recommended approval to the City Council;

NOW, THEREFORE, BE IT RESOLVED, THE CITY OF SEASIDE PLANNING COMMISSION HEREBY FINDS, DETERMINES, AND RESOLVES AS FOLLOWS:

1. **Findings.** The Planning Commission finds that: a) the facts set forth in the recitals in this Resolution are true and correct and incorporated by reference; b) the recitals constitute findings in this matter and, together with the staff report, other written reports, public testimony and other information contained in the record, are an adequate and appropriate evidentiary basis for the action taken in this Resolution; c) the provisions in this Resolution and the proposed permanent Ordinance (Chapter 17.55) are consistent with the General Plan, Seaside Municipal Code and applicable federal and state law; and d) neither this Resolution nor the Ordinance and associated fee schedule amendments will be detrimental to the public interest, health, safety, convenience or welfare.

2. **Environmental Review.** The Planning Commission finds that, pursuant to CEQA Guidelines Section 15061(b)(3), there is no possibility that this project will have a significant impact on the physical environment. This Resolution recommend approval of a permanent Small Cell Wireless Facility Ordinance (Chapter 17.55) which regulates small cell wireless facilities and other infrastructure deployments. This Resolution does not directly or indirectly authorize any actual changes in the physical environment. If adopted by the City Council the Ordinance requires that applications for any new small wireless facility or other infrastructure deployment be subject to additional environmental review on a case-by-case basis. Accordingly, the Planning Commission finds that this Resolution is not subject to CEQA or, in the alternative, is exempt from CEQA under the general rule.

PASSED, APPROVED, AND ADOPTED on the 28th day of October, 2020, by the Planning Commission of the City of Seaside, State of California.

AYES:
NOES:
ABSENT:
ABSTAIN:

John Owens, Chairperson

ATTEST:

Lesley Milton, Assistant City Manager/City Clerk



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 10.A.

TO: City Council

FROM: Craig Malin, City Manager

BY: Lesley Milton, Assistant City Manager

DATE: November 5, 2020

**SUBJECT: DISCUSS AND PROVIDE DIRECTION FOR NEXT STEPS ON
REFERENDUM AGAINST ORDNANCE No. 1095 PROHIBITING
ALL FIREWORKS**

PURPOSE & RECOMMENDATION

Discuss options and provide direction to staff to either rescind the ordinance in it's entirety, or to direct the ordinance to be placed as a ballot measure on a future election.

BACKGROUND

The City Council adopted Ordinance 1095 on August 20th, 2020 titled "Amending Seaside Municipal Code Chapter 8.32 Fireworks". On September 15th, 2020 the City received a referendum petition with 2,446 signatures in an attempt to prevent adopted Ordinance 1095 from taking effect. According to EC § (B)(vi), proponents have 30 days to circulate a petition from the date the summary was approved to stop the ordinance from taking effect.

On October 5th, the City received notification from Monterey County Elections that the petition had the necessary amount of valid signatures. At the October 15, 2020 meeting the City Council adopted a "Certificate of Sufficiency" (EC § 9237; EC § 9240; EC § 9114) and with that action, the ordinance was officially suspended.

As the certification of the referendum by the City Council has occurred, the legislative body is now required to "reconsider" the Ordinance (EC § 9237). Reconsideration

means that the City Council must either repeal the Ordinance or submit it to the registered voters of the City of Seaside for their consideration. Unlike an initiative, the Elections Code does not specify a timeframe in which the City Council must act to reconsider the Ordinance, however the Ordinance remains suspended until final action is taken either by the City Council or by the voters. Failure to take any action (or reach consensus of action), the measure will automatically appear on the ballot at the next regular municipal election. The next General Municipal Election will be March 2, 2021. (EC § 1000). The City Council "reconsideration" does not require a public hearing or any other specific format.

There are two options for the City Council to consider:

1. The Council could repeal the ordinance in its entirety, or
2. The Council could immediately order an election (special or regular municipal) by choosing one of the three following election date options; March 2, 2021, November 2, 2021 or a date of the Council's choosing, no less than 88 days from the call of the election. (Elections Code § 9241; EC § 1410)

Should the Council place the Ordinance on the March 2, 2021 election ballot, the City Council would need to call for an election no later than December 4, 2020 (EC § 12109 between E-120-90).

FISCAL IMPACT

The cost will depend on the Council's decision to rescind or to call for an election, and when.

Costs projected for the November 2020 election are estimated between \$82,050 - \$109,400; or \$6-\$8 per registered voter, based on current registered voter population of \$14,124. Costs would be likely higher for 2021/2022 General Municipal election. Costs for consolidated elections are typically lower as expenses are distributed over all participating jurisdictions.

Stand alone election to cost are estimated between \$180,000 and \$230,000; approximately \$12-\$18 per registered voter and additional COVID-19 requirements. This would be the expected cost if the Council chose either a Special Election or the March 2, 2021 Regular Municipal election.

STAFF RECCOMENDATION

The issue of fireworks has been agendized for discussion by the City Council 40 times over the last 5 years.

A strategy to maximize participation in the ultimate decision while minimizing costs would be to add this item to the November 2022 ballot. Voter turn-out is significantly higher during a General Municipal Election where there are congressional, state and local appointments to be made.

ATTACHMENTS

None

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager



CITY OF SEASIDE STAFF REPORT

Item No.: 10.B.

TO: City Council

BY: Craig Malin, City Manager

DATE: November 5, 2020

SUBJECT: RENTAL ASSISTANCE & EVICTION MORATORIUM UPDATE

PURPOSE & RECOMMENDATION

Authorize implementation of a rental assistance program, limited to the \$35,000 of funding available through the United Way's Emergency Food & Shelter Program.

BACKGROUND

The COVID-19 pandemic has worsened the housing crisis in the community. To provide assistance to residents experiencing economic and housing insecurity, the City adopted its first Urgency Ordinances prohibiting evictions on March 19, 2020 and ultimately extended eviction moratoriums through September 30, 2020. On August 31, 2020 Governor Newsome signed AB3088, co-authored by Assembly members, David Chiu (D-San Francisco) Monique Limon (D-Santa Barbara) and Senators Anna Caballero (D-Salinas) and Steven Bradford (D-Gardena). Under the legislation, no tenant can be evicted before February 1, 2021, as a result of rent owed due to a COVID-19 related hardship accrued between March 4—August 31, 2020 if the tenant provided a declaration of hardship according to the legislation's timelines. For a COVID-19 related hardship that accrues between September 1, 2020 and January 31, 2021, tenants must also pay at least 25 percent of the rent due to avoid eviction. Tenants remain responsible for paying unpaid amounts to landlords but these unpaid amounts cannot be the basis for an eviction.

The Act provides additional legal and financial provisions for tenants include:

1. Extending the notice period for nonpayment of rent from 3 to 15 days to provide tenant additional time to respond to landlord's notice to pay rent or quit.
2. Requiring landlords to provide hardship declaration forms in a different language if rental agreement was negotiated in a different language;
3. Providing tenants a backstop if they have a good reason for failing to return the

- hardship declaration within 15 days;
- 4. Requiring landlords to provide tenants a notice detailing their rights under the Act;
- 5. Limiting public disclosure of eviction cases involving nonpayment of rent between March 4, 2020 and January 31, 2021;
- 6. Protecting tenants against being evicted for “just cause” if the landlord is shown to be really evicting the tenant for COVID-19 related nonpayment of rent.

The act prohibits the ability of a local jurisdiction to adopt an ordinance that affects rental payments before January 31, 2021.

With regard to rental assistance, the City has no substantive or sustainable financial capacity to provide rental payments for any sizeable number of Seaside citizens. With nearly 7,000 rental units within the city, the community’s total monthly rental bill would zero out the City’s fund balance in less than two months. As the City is already operating with a deficit budget in the current fiscal year, the only substantive or sustainable approach to providing rental assistance to a small number of residents is to leverage targeted external funding sources. The City of Monterey is doing so by directing their CDBG-CV (COVID-19) funds to a rental assistance program, consistent with the substantial federal limitations of CDBG funds. In part owing to the substantial number of non-resident rental landlords which the money would flow to if provided to Seaside residents in rental assistance payments, the City Council has instead previously determined to use the City’s CDBG-CV funds for food assistance. In doing so, the City provides direct food assistance to hundreds of Seaside families every month. A continuation or redirection of a second round of CDBG-CV funds will come before the Council on the November 19 agenda.

The City has secured \$35,000 in funds from the United Way, through its Emergency Food & Shelter Program that may be used for rental assistance. Staff proposes to implement a program that would allow Seaside residents to apply for one month of rental and/or utility payments from the EFSP funds. To qualify, residents would need a household income less than 80% of the median area income, and would be required to document that they are already behind in their rent or utility bills as of the date of application. The City would create an automated application, in English and Spanish, available from the City’s website, and would advertise a one-week application period. Expecting that applications would exceed the available funds, a lottery would be conducted to select households for funding, until the EFSP funds are exhausted.

FISCAL IMPACT

Budget neutral, so long as additional City funds are not utilized.

ATTACHMENTS

None

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 11.A.

TO: City Council

FROM: Craig Malin, City Manager

BY: Victor Damiani, Finance Director

DATE: November 5, 2020

**SUBJECT: REPORT ON OPERATIONAL REVENUES AND EXPENSES AT THE
SWIM CENTER**

PURPOSE & RECOMMENDATION

To bring the item back for Council discussion.

BACKGROUND

At the October 15, 2020 City Council meeting Mayor pro tem Pacheco and Councilmember Campbell requested to agendize a discussion of the swim center financial status as a possible source for further funding of enhanced community/social services programs.

FISCAL IMPACT

The chart below shows the swim center Q1 results and projection for the remainder of the fiscal year.

Swim Center	FY2019-20			FY 2020-21
	Adopted Budget	Q1 Results	Q3-4 Projections	Total - Projected
Revenues				
Program Revenue	16,875	2,293	-	2,293
Tax Subsidy	<u>423,203</u>	<u>6,708</u>	<u>201,234</u>	<u>207,942</u>
Revenues Subtotal	440,078	9,000	201,234	210,234
Expenditures				
Personnel Services	297,102	9,570	19,140	28,710
Non-personnel Services	<u>219,227</u>	<u>-</u>	<u>206,000</u>	<u>206,000</u>
Expenditures Subtotal	<u>516,329</u>	<u>9,570</u>	<u>225,140</u>	<u>234,710</u>
Surplus (Deficit)	<u>\$ (93,126)</u>	<u>\$ (2,862)</u>	<u>\$ (23,906)</u>	<u>\$ (26,768)</u>

As can be seen, the swim center is expected to have very little personnel costs for FY 2020-21. Conversely, in most years the swim center generates \$40k - \$60k in program revenues. For FY 2020-21 staff expects nearly no program revenues leaving the center to be supported almost entirely by tax revenues. The projected deficit for the swim center as shown represents the swim center's proportionate share of the overall General Fund deficit. As long as the General Fund remains in a deficit position, each general fund department will bear a proportionate share of the total.

ATTACHMENTS

None

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager