

A G E N D A
CITY OF SEASIDE
CITY COUNCIL

REGULAR MEETING
VIRTUAL ONLY
Thursday, November 19, 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. LOCAL SKILLED LABOR APPRENTICESHIP PROGRAM

8. CONSENT AGENDA

A. APPROVE MINUTES FROM NOVEMBER 5, 2020

RECOMMENDATION: Approve as presented.

B. APPROVE AND FILE CITY CHECKS

RECOMMENDATION: Approve and file the accounts payable and wired payments made during the period of October 17, 2020 through November 6, 2020 including the payroll and benefits checks, direct deposits and wired payments related to the pay period ending October 22, 2020 & November 5, 2020. Total Accounts Payable and Payroll for the above referenced period is \$2,799,151.01.

C. ADOPT A RESOLUTION APPROVING THE ANNUAL PROGRAM COMPLIANCE REPORT IN SUPPORT OF PROJECTS FUNDED BY MEASURE X AND AUTHORIZING STAFF TO SUBMIT THE REPORT TO THE TRANSPORTATION AGENCY FOR MONTEREY COUNTY

RECOMMENDATION: Adopt the Resolution (Attachment 1) approving the annual compliance report in support of projects funded by Measure X and authorizing staff to submit the Report to the Transportation Agency for Monterey County (TAMC) in order for the City to continue receiving the revenue generated from Measure X funds.

D. ADOPT A RESOLUTION APPROVING A 5 YEAR MEMORANDUM OF UNDERSTANDING WITH THE COUNTY OF MONTEREY FOR A GENERAL ASSISTANCE WORK PROGRAM MANAGED BY THE CITY'S PUBLIC WORKS DEPARTMENT

RECOMMENDATION: Adopt a Resolution (Attachment 1) approving a Memorandum of Understanding (Attachment 2) with the County of Monterey for a General Assistance Work Program managed by the City's Public Works Department, and authorizing the City Manager to execute the MOU.

E. ACCEPT THE UNITED WAY EMERGENCY FOOD AND SHELTER PROGRAM GRANT FUNDS IN THE AMOUNT \$35,000 AND AUTHORIZE THE CITY FINANCE DIRECTOR TO MAKE THE NECESSARY FINANCIAL TRANSACTIONS.

RECOMMENDATION: To accept the United Way Emergency Food and Shelter Program grant funds in the amount of \$35,000 and authorize the City Finance Director to make the necessary financial transactions.

9. PUBLIC HEARING

A. SECOND READING AND ADOPTION OF AN AMENDED ORDINANCE ESTABLISHING REGULATIONS FOR PERMANENT SMALL CELL WIRELESS FACILITIES (SEASIDE MUNICIPAL CODE - CHAPTER 17.55), AND ADOPTION OF ASSOCIATED RESOLUTION UPDATING TO THE CITY'S PLANNING FEE SCHEDULE AND AUTHORIZING THE CITY FINANCE DIRECTOR TO MAKE THE NECESSARY FINANCIAL UPDATES.

RECOMMENDATION: Adoption of an Ordinance adopting Chapter 17.55 to establish reasonable, uniform and comprehensive standards and procedure for small cell wireless facilities within the City and address cost recovery associated with small cell wireless facility permit applications, including recouping fees for City-hired independent experts and outside consulting fees. Also included are updates to the Planning Fee Schedule, establishing fees for Small Cell Permits and associate independent experts and consultants.

B. INTRODUCTION OF AN ORDINANCE AMENDING SEASIDE MUNICIPAL CODE 13.24 ADJUSTING QUALIFICATIONS FOR WATER ALLOCATIONS FOR ACCESSORY DWELLING UNITS AND ADDING RETROFIT REQUIREMENTS; AND ADOPTION OF RESOLUTIONS SETTING A COST FOR WATER RELEASE PERMITS FOR ADUs, ALLOCATING 5 ACRE FEET FOR THE RESIDENTIAL ADU CATEGORY, APPROVING AN ADU WATER ALLOCATION POLICY, AND RESCINDING RESOLUTION 2020-61 AND REPRIORITIZING 34.693 ACRE-FEET OF AVAILABLE WATER ALLOCATION

RECOMMENDATION: Adopt the draft resolutions and introduce and pass to print the draft ordinance amending Seaside Municipal Code 13.24.

10. BUSINESS ITEMS

A. ADOPT A RESOLUTION AUTHORIZING STAFF TO MODIFY THE SCOPE OF WORK FOR THE PAVEMENT REHABILITATION PHASE 3 PROJECT TO INCLUDE A CHANGE IN THE FULL DEPTH RECLAMATION STREETS SELECTED FOR TREATMENT

RECOMMENDATION: Adopt a Resolution (Attachment 1) authorizing staff to modify the scope of work for the Pavement Rehabilitation Phase 3 Project.

B. DISCUSS EXTENSION OF CURRENT PERMITS AT COLONEL DURHAM RV PARKING SITE TO MAY 15, 2020

RECOMMENDATION: Extend current permits to February 1, 2021.

11. COUNCIL MEMBER REQUESTS

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:
December 3, 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.: 8.B.

TO: City Council

FROM: Craig Malin, City Manager

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

DATE: November 19, 2020

SUBJECT: APPROVE AND FILE CITY CHECKS

PURPOSE & RECOMMENDATION

Approve and file the accounts payable and wired payments made during the period of October 17, 2020 through November 6, 2020 including the payroll and benefits checks, direct deposits and wired payments related to the pay period ending October 22, 2020 & November 5, 2020. Total Accounts Payable and Payroll for the above referenced period is \$2,799,151.01.

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:

- \$181,804.16 for Payroll and benefits
- \$13,500.00 to Monterey County Convention & Visitor's Bureau for Jurisdiction improvement investment for July-September 2020. Invoice #15928.
- \$20,805.00 to Bear Electrical Solutions, Inc. for \$17,690.00 for repair work at the Fremont/Trinity pedestrian flashing beacon with new solar controller and hardware replacement; \$3,115.00 for traffic signal maintenance for September 2020 (Response & Routine).
- \$112,400.25 to U.S. Bank - St. Paul for Debt service payment for 2006 Lease Revenue Bond for the Bayonet & Blackhorse Project.
- \$30,208.27 to Monterey One Water for Lift Station Maintenance from January-June 2020.
- \$13,613.86 to Sage Renewables Energy Consulting for Construction support for the City Hall Solar Canopy Project during September 2020.
- \$38,468.00 to Googie Grill for Preparing and delivering meals, 3x/day, 4x/week for the Great Plates Initiative for the 3 weeks from 10/5/2020 - 10/25/2020.
- \$729,079.89 to A. Teichert & Son, Inc. for Construction services for the City Pavement Rehabilitation Project through 8/31/2020.

The remaining checks, totaling \$1,477,467.42 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
Misty Bradshaw, Associate Engineer

DATE: November 19, 2020

SUBJECT: ADOPT A RESOLUTION APPROVING THE ANNUAL PROGRAM COMPLIANCE REPORT IN SUPPORT OF PROJECTS FUNDED BY MEASURE X AND AUTHORIZING STAFF TO SUBMIT THE REPORT TO THE TRANSPORTATION AGENCY FOR MONTEREY COUNTY

PURPOSE & RECOMMENDATION

Adopt the Resolution (Attachment 1) approving the annual compliance report in support of projects funded by Measure X and authorizing staff to submit the Report to the Transportation Agency for Monterey County (TAMC) in order for the City to continue receiving the revenue generated from Measure X funds.

BACKGROUND

On November 8, 2016, the voters of Monterey County, approved Measure X on the Monterey County Ballot, thereby authorizing TAMC to impose and administer the proceeds from a three-eighths cent transaction and use tax (Measure X). Measure X is estimated to generate \$600 million over 30 years for transportation improvements in Monterey County. Of that amount, \$360 million (60%) will be distributed to the cities and the County for local projects, while the remaining \$240 million (40%) is programmed to regional safety and mobility projects.

The duration of the Measure X sales tax will be 30 years from the initial year of

collection, which began April 1, 2017, with said tax to terminate/expire on March 31, 2047. The tax proceeds will be used to pay for the programs and projects outlined in TAMC's Transportation Safety and Investment Plan (the "Measure X Investment Plan"), as it may be amended.

As required in the Master Program Funding Agreement between TAMC and the City, the City must submit to TAMC an Annual Program Compliance Report by December 31st for each Fiscal Year the Measure X funds are in effect. Attachments required for the Annual Program Compliance Report are the Independent Audit of Financial Statements, Five-Year Capital Improvement Program (CIP), and the Pavement Management Program Report, and they are described below.

- Independent Audit of Financial Statements – Staff is currently working on the Independent Audit of Financial Statements for Measure X Funds. This will be completed and included in the Annual Report to TAMC.
- Measure X CIP - List of eligible transportation projects that are anticipated to be funded with the jurisdiction's share of Measure X funds. The City Council held meetings on April 19, 2018, June 7, 2018, and July 10, 2018 at which programming of these funds for the proposed pavement upgrades was determined. The selected roadway segments have been combined into a single multi-phased project title the Arterial & Collector Roadway Rehabilitation Project. Since the City elected to partially fund these projects with a bond, the projects cannot be modified. In the future, additional road segments may be added with City Council approval if additional Measure X revenue becomes available.
- Pavement Management Program (PMP) Report - A letter confirming that the City's PMP conforms to the criteria established by TAMC.

Staff recommends the City Council adopt a resolution authorizing staff to submit the Annual Program Compliance Report to the Transportation Agency of Monterey County.

ENVIRONMENTAL COMPLIANCE

This action is not defined as a project under the California Environmental Quality Act (CEQA) in accordance with Title 14 of the California Code of Regulations, Chapter 3, Article 20, Section 15378 (b.4).

Evidence:

The proposed action is a government funding mechanism, not a project, and fiscal activities do not involve commitment to one specific project.

FISCAL IMPACT

Revenues generated from Measure X over the next 30 years is estimated to be \$22 million for the City of Seaside for transportation improvements. Annual revenue to the City from Measure X is expected to be about \$1,000,000. The proposed annual expenditures are less than the expected Measure X revenues. Therefore, there will be no fiscal impact to the City.

ATTACHMENTS

1. Resolution
 2. Annual Program Compliance Report
-

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

**APPROVING THE ANNUAL PROGRAM COMPLIANCE REPORT IN SUPPORT OF
PROJECTS FUNDED BY MEASURE X AND AUTHORIZING STAFF TO SUBMIT
REPORT TO THE TRANSPORTATION AGENCY FOR MONTEREY COUNTY.**

WHEREAS, the Master Funding Agreement (Agreement) between the Transportation Authority for Monterey County (TAMC) and the City was approved by City Council on June 15, 2017 (Res 17-40); and

WHEREAS, the Annual Program Compliance Report, per the Agreement, is a document produced by the City which describes the efforts taken by the jurisdiction to comply with Measure X funding agreement; and

WHEREAS, the Independent Audit of Financial Statements, Attachment 1 of the Annual Program Compliance Report, is in progress and will be included in the Annual Report submitted to TAMC; and

WHEREAS, the Five-Year Capital Improvement Program and the Pavement Management Program Report are included as Attachments 2 and 3 to the Annual Program Compliance Report; and

WHEREAS, the Agreement requires the submittal of an Annual Program Compliance Report by December 31st each year the Measure X funds are in effect; and

WHEREAS, under the California Environmental Quality Act (CEQA) in accordance with Title 14 of the California Code of Regulations, Chapter 3, Article 20, Section 15378 (b.4), this action is not defined as a project and is not subject to CEQA, as it is defined as a government funding mechanism.

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Seaside hereby authorizes staff to submit the Annual Program Compliance Report in support of the Measure X Program, attached hereto, to the Transportation Agency for Monterey County.

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:

Ian N. Oglesby, Mayor

ATTEST:

Lesley Milton, City Clerk

THE CITY OF SEASIDE
MEASURE X ANNUAL PROGRAM COMPLIANCE REPORT
FISCAL YEAR 2019/2020

The City of Seaside Annual Program Compliance Report presents the City's efforts and actions taken during the fiscal year (FY) 2019/2020 on the programming and use of Measure X to fund local roadway rehabilitation, bicycle and pedestrian safety improvement projects within the City of Seaside.

The City of Seaside received a Bond of approximately \$10,000,000 for improvements to various roadways as part of the Pavement Rehabilitation Project for both the design and construction elements. The Bond financing payments use Measure X Revenues, which are included in the Measure X Revenues in the table below. The expenditures that utilize the Bond supported funds are also included in the table below, however they are expended in a different fund and are not included in the Fund Balance Totals.

The revenue earned in FY19/20 that was not expended by the end of the Fiscal Year will be carried over and applied to the projects programmed for FY20/21. The April – June revenue payment in the amount of \$255,159.31 was not released by the County of Monterey until mid-October. The amount is not included in the report below and will be included in the total FY 21/22 revenue.

CITY OF SEASIDE - FISCAL YEAR UNAUDITED 2019/2020 BALANCE SHEET

REVENUES	
Carryover from Previous Year	\$ 1,929,458.48
Measure X Revenues	\$ 768,070.91
Earning on Interest	\$ 31,875.59
TOTAL REVENUES:	\$ 2,729,404.98
EXPENDITURES – MEASURE X	
Bike Safe Grates	\$ 291,324.32
A&C Rehab Design Phase 2 & 3	\$ 20,707.16
Pavement Maintenance In House Activities	\$ 1,470.92
Debt Service – Measure X Bond	\$ 629,610.51
Audit Fee	\$ 5,000.00
TOTAL EXPENDITURES:	\$ 948,112.91
EXPENDITURES – BOND SUPPORTED	
A&C Rehab Construction Phase 2	\$ 613,568.61
A&C Rehab Design Phase 2 & 3	\$ 534,956.04
TOTAL BOND EXPENDITURES:	\$ 1,148,524.65
TOTAL EXPENDITURES (MSR X AND BOND):	\$ 2,096,637.56
FUND BALANCE, END OF PERIOD:	\$ 1,781,292.07

Project Details

Title: Bike Safe Grates

Description: Replace storm drain grates City wide with bicycle safe grates. Measure X funds were used to fund the procurement and fabrication of the grates, and install/construction of the project.

Benefits: Once complete, the newly installed grates will assist with providing a safe route of travel for bicyclists along shoulders of the road.

Phase: Construction

Title: Arterial and Collector Rehabilitation Project Phase 2 and 3

Description:

The actions performed by City staff in fiscal year (FY) 19/20 included design of Phase 2 and portions of Phase 3 of the Arterial and Collector Roadway Rehabilitation (A&C Rehab) Project. The A&C Roadway Rehabilitation Project is spanning multiple years and had phased Construction Bid Packages. The scope of the project was selected utilizing the Pavement Management Program (PMP), which was updated by StreetSaver. A list of roadways recommended for treatment was generated utilizing the updated Decision Tree Matrix and Budgetary scenarios outlined within the program. Following the preliminary roadway selection, the City assessed the roadways selected and revised the list as necessary to meet the needs of the community. City Council held study sessions on the PMP, and the roadways preliminarily selected for treatment, on April 9, 2018, June 7, 2018, July 10, 2018, and March 7, 2019. Based on Council direction to focus on upgrading major arterial and collector streets, staff developed preferred treatment scenarios identifying the City's ability to improve the condition of the citywide roadway network with the use of Measure X funds.

On November 1, 2018 the City awarded a contract with Harris and Associates for the preparation of design and construction bid documents, construction inspection and testing, and overall construction management services for Phase 2 and 3 A&C Rehab Project. The design and construction of this project is funded through a combination of Measure X Funds, SB1 funds, and Measure X supported Bond revenue.

The construction of Phase 2 was awarded to Granite Construction on August 1, 2019 and was completed by November 2019. The scope of the work included base repairs, surface seal, and striping of various arterial and collector roadways within the City. The project was funded through Measure X Bond supported revenue and SB1 funds.

The construction of Phase 3 was awarded to Teichert Construction in May, with work starting in July 2020. Phase 3 construction is anticipated to be complete in May 2021, which will utilize a combination of Measure X Funds, SB1 funds, and Measure X supported Bond revenue.

Benefits: At the completion of the project, it is anticipated that the overall PCI of the major arterial and collector network within the City will be improved. These roadways interconnect all the neighborhoods within the City and provide routes for access to businesses, schools, and highways. In addition, many pedestrian ramps will be improved near schools and high pedestrian locations allowing for alternative means of travel for all ages and abilities. Improving these roadways and pedestrian facilities by the completion of this project, will positively impact the majority of the community members' commute, providing an overall safer route for the residents and patrons of the City of Seaside.

Phase: Design of Phase 2 and 3, Construction of Phase 2.

Title: Pavement Digout Maintenance In House Activities

Description:

City Staff continually performs digouts with the City owned patching truck, which was acquired a little over two years ago. In house crews will perform surface and base AC repairs based on work order reports as needed. This method has replaced the previous efforts of more temporary cold patch methods until the roadway can be rehabilitated as part of a larger project.

Benefits: The new patch truck has allowed City staff to do more than just temporarily patch pot-holes with cold mix asphalt. They can now remove the damaged asphalt and replace with hot mix asphalt, providing a more permanent repair or AC digout. This has also proved to be a benefit as the City is less reliant of obtaining a contractor to perform the repairs, improving the repair response time at a lower cost.

Phase: Construction

List of Attachments

The following Attachments are included in the Annual Program Compliance Report:

ATTACHMENT 1: Annual Independent Audit

ATTACHMENT 2: Five-Year Capital Improvement Program

ATTACHMENT 3: Pavement Management Program Report

CITY of SEASIDE
MEASURE X FIVE-YEAR CAPITAL IMPROVEMENT PROGRAM
FOR FISCAL YEARS 2020/21 – 2024/25

Attachment 2

YEAR 1 (FY20/21)

Project	Description & Phase	Total Cost	Measure X (BOND)	PCI
Bike Safe Grates	Construction and Installation of Bike Safe Grates	\$544,000	\$461,000	n/a
Arterial and Collector Resurfacing Project	Phase 3 – Construction: Overlay, Reconstruction, ADA Improvements, and Surface Seal of Various Arterials and Collectors within the City	\$10,909,000	\$1,339,000 (\$7,600,000)	<65
Totals:		\$10,621,000	\$1,800,000 (\$7,600,000)	

YEAR 2 (FY21/22)

Project	Description & Phase	Total Cost	Measure X (BOND)	PCI
Arterial and Collector Resurfacing Project	Phase 4 – Construction. Surface Seal portions of Fremont Blvd., Video Detection installation, Full Depth HMA on Kimball Ave. and Wheeler Street	\$700,000	\$300,000 (\$200,000)	
Residential Streets	Phase 1 – Remove & Replace Failed Road Sections on Residential Streets	\$300,000	\$300,000	<60
Totals:		\$1,000,000	\$800,000	

YEAR 3 (FY22/23)

Project	Description & Phase	Total Cost	Measure X (BOND)	PCI
Residential Streets	Phase 2 – Remove & Replace Failed Road Sections on Residential Streets	\$300,000	\$300,000	<60
Totals:		\$300,000	\$300,000	

CITY of SEASIDE
MEASURE X FIVE-YEAR CAPITAL IMPROVEMENT PROGRAM
FOR YEARS 2020/21 – 2024/25

YEAR 4 (FY23/24)

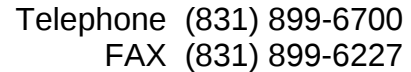
Project	Description & Phase	Total Cost	Measure X (BOND)	PCI
Residential Streets	Phase 3 – Remove & Replace Failed Road Sections on Residential Streets	\$300,000	\$300,000	<60
Totals:		\$300,000	\$300,000	

YEAR 5 (FY24/25)

Project	Description & Phase	Total Cost	Measure X (BOND)	PCI
Residential Streets	Phase 4 – Remove & Replace Failed Road Sections on Residential Streets	\$300,000	\$300,000	<60
Totals:		\$300,000	\$300,000	

DEFINITIONS OF REQUESTED INFORMATION:

1. Project: The title of the project to receive Measure X funding.
2. Description & Phase: A general description of the project and the phase (e.g. Environmental; Design; Right-of-Way; or Construction) that will be funded in the given year.
3. Total Cost: The total cost of the project.
4. Measure X: The amount of Measure X funding that will be expended on the project.
5. PCI: The Pavement Condition Index for the roadway, from the local jurisdiction's Pavement Management Program.



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**CITY OF SEASIDE
STAFF REPORT**

Item No.: 8.D.

TO: City Council

BY: Nisha Patel, Public Works Director/City Engineer
Dave Fortune, Maintenance and Utilities Superintendent

DATE: November 19, 2020

**SUBJECT: ADOPT A RESOLUTION APPROVING A 5 YEAR MEMORANDUM
OF UNDERSTANDING WITH THE COUNTY OF MONTEREY FOR A
GENERAL ASSISTANCE WORK PROGRAM MANAGED BY THE
CITY'S PUBLIC WORKS DEPARTMENT**

PURPOSE & RECOMMENDATION

Adopt a Resolution (Attachment 1) approving a Memorandum of Understanding (Attachment 2) with the County of Monterey for a General Assistance Work Program managed by the City's Public Works Department, and authorizing the City Manager to execute the MOU.

BACKGROUND

Over the past 20 plus years, the County of Monterey and the City of Seaside have had a Memorandum of Understanding (MOU) for a work program which allows County approved workers to provide general assistance to the Public Works Department. Workers are assigned to assist city staff on various maintenance projects city wide.

The basis of the program is for non-disabled residents receiving County benefits a pathway to work for those benefits in the form of labor to the City. The City tracks their hours and reports it back to the County. This is a mutually beneficial program in which the City receives free labor and the resident receives benefits.

The existing 5-year MOU expired in June of 2020. Due to COVID-19 the renewal of the MOU has been delayed. This program has not been in effect since the Shelter-in-Place was issued by the State of California back in March 2020. However, the County has decided to move forward with the approval of another 5-year MOU in anticipation of future guidelines allowing workers to be in the same work truck as city employees. At that time and at no moment earlier will this program resume. Safety of our City staff is of upmost importance.

Staff is recommending the City Council approve of Memorandum of Understanding (Attachment 1) with the County of Monterey for a General Assistance Work Program managed by the City's Public Works Department, and authorize the City Manager to execute the MOU.

FISCAL IMPACT

There is no fiscal impact associated with item.

ATTACHMENTS

1. Resolution
 2. Memorandum of Understanding
-

RESOLUTION NO. 20-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE

ADOPTING A RESOLUTION APPROVING A 5-YEAR MEMORANDUM OF UNDERSTANDING WITH THE COUNTY OF MONTEREY FOR A GENERAL ASSISTANCE WORK PROGRAM MANAGED BY THE CITY'S PUBLIC WORKS DEPARTMENT

WHEREAS, the County of Monterey and the City of Seaside have partnered for more than 20 years to provide a work program option to residents called the general assistance work program; and

WHEREAS, eligible residents are assigned to work alongside the Public Works Department employees on various maintenance projects citywide; and

WHEREAS, the COVID-19 virus has delayed the renewal of the 5-year Memorandum of Understanding as this program has not been implemented since the COVID-19 Shelter-in-Place of March 2020; and

WHEREAS, in anticipation of guidelines changing in the future, the County has requested that the City move forward with approving a new Memorandum of Understanding; and

WHEREAS, this is a mutually beneficial program to both the City and the County of Monterey residents.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Seaside does hereby adopts a Resolution approving a 5-year Memorandum of Understanding with the County of Monterey for a general assistance work program managed by the City's Public Works Department;

BE IT FURTHER RESOLVED, that the Council of the City of Seaside authorize the City Manager to sign the Memorandum of Understanding with the County of Monterey.

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

Ian N. Oglesby, Mayor

ATTEST:

Lesley Milton, City Clerk

General Assistance Work Experience Program

Memorandum of Understanding

Monterey County Department of Social Services and City of Seaside

THIS MEMORANDUM OF UNDERSTANDING is entered into between Monterey County Department of Social Services, hereinafter MCDSS/COUNTY, and CITY OF SEASIDE to establish a General Assistance Work Experience, hereinafter GA-WEP project, pursuant to Section 17200 of the Welfare and Institutions Code.

I. PURPOSE OF MEMORANDUM

The purpose of this memorandum is to effectuate the provisions of the California DSS Division 21 Regulations as follows: Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended; Title II of the Americans with Disabilities Act of 1990; the Age Discrimination Act of 1975, as amended; the Food Stamp Act of 1977, as amended, and California Civil Code, Section 51 et seq., as amended; California Government Code, Section 11135 et seq., as amended, and California Government Code, Sect 4450; and other applicable federal and state laws and their implementing regulations to ensure that the administration of public assistance and social services programs are nondiscriminatory, and that no person shall, because of race, color, national origin, political affiliation, religion, marital status, sex, age, or disability be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal or state financial assistance.

II. TERM

This Memorandum commences effective **July 1, 2020**, and continues until **June 30, 2025**, or until terminated by either party upon thirty (30) days' written notice to the other party, or until the termination of GA-WEP.

III. MCDSS/COUNTY RESPONSIBILITIES

1. MCDSS/COUNTY shall designate and refer GA-WEP participants to CITY OF SEASIDE.
2. MCDSS/COUNTY shall retain the right to withdraw participants from the project.
3. MCDSS/COUNTY has the right to observe and monitor all project activities.

IV. CITY OF SEASIDE RESPONSIBILITIES

1. CITY OF SEASIDE shall provide temporary work experience activities which:
 - a. Serve a useful public purpose.
 - b. Comply with applicable federal, state, and local health and safety standards.
 - c. Utilize, to the extent possible, participants previous training, experience and skills.
 - d. Are not covered by a collective bargaining agreement (CBA).
 - e. Do not result in displacement of persons currently employed or in the filling of established unfilled positions.
 - f. Do not require participants, without their consent, to travel an unreasonable distance or remain away from home overnight.
 - g. Do not require participants to work in excess of any of the following:
 - i. Eight hours daily.
 - ii. A period of time which, if divided into the amount a participants General Assistance grant, would result in a wage rate of less than either State or Federal minimum wage, whichever is higher.
 - h. Do not fill positions that are vacant due directly to a strike, lockout, or other labor dispute.
 - i. Do not require the participant, as a condition of accepting or continuing in the GA-WEP project, to join a company union or to refrain from joining any bona fide labor organization.
2. CITY OF SEASIDE shall provide supervision, materials, space, equipment, and all necessary safety instructions and equipment to participants.
3. CITY OF SEASIDE shall record participant attendance on forms provided by MCDSS and periodically transmit such records to MCDSS/COUNTY via the GA-WEP participant.

V. INDEMNIFICATION

CITY OF SEASIDE shall indemnify, defend, and hold harmless, the MCDSS/COUNTY, Its officers, board members, agents, employees, volunteers and authorized representatives from and against any and all claims, liabilities, and losses whatsoever (Including, but not limited to, claims, liens, causes of action, judgments, expenses, damages to property and injuries to or death of persons, court costs, and attorney's fees) occurring or resulting to any and all persons, firms, or corporations furnishing or supplying work, services, materials, or supplies in connection with the performance of this agreement, and from any and all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, injury, or death arising out of or connected with CITY OF SEASIDE's performance of this agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of the MCDSS/COUNTY. The CITY OF SEASIDE's performance includes the CITY OF SEASIDE's action or inaction, and the action or inaction of the CITY OF SEASIDE's officers, employees, agents, and subcontractors.

MCDSS/COUNTY shall indemnify, defend, and hold harmless CITY OF SEASIDE, its officers, board members, agents, employees, volunteers and authorized representatives from and against any and all claims, liabilities, and losses whatsoever, including, but not limited to, all claims, liabilities, and losses occurring or resulting to any person, firm, or corporation for damage, Injury, or death arising out of or connected with MCDSS/COUNTY's performance of this Agreement, unless such claims, liabilities, or losses arise out of the sole negligence or willful misconduct of the CITY OF SEASIDE. MCDSS/COUNTY's performance includes MCDSS/ COUNTY's action or inaction, and the action or inaction of MCDSS/COUNTY's officers, employees, agents, and subcontractors.

VI. INSURANCE

Without limiting CITY OF SEASIDE's duty to indemnify, the CITY OF SEASIDE shall maintain in effect throughout the term of this Agreement a policy of insurance covering all of its operations with the following minimum limits of liability:

1. Commercial General Liability, Including, but not limited to premises, personal injuries, products, and completed operations, with a combined single limit of not less than \$1,000,000.00 (one million dollars) per occurrence.

Worker's Compensation

MCDSS/COUNTY shall provide Worker's Compensation Insurance to all participants injured on the job, not due to any failure of the CITY OF SEASIDE in applying the terms of this Memorandum.

Current protocol for Worker's Compensation filing is as follows:

- CITY OF SEASIDE is responsible to initiate and complete the Worker's Compensation packet upon the injury of said individual.
- The site supervisor forwards the Worker's Compensation packet to the MCDSS/COUNTY's GA supervisor overseeing the GA-WEP in the specific district office.

Automobile Liability

CITY OF SEASIDE agrees that no participant shall be required to, or allowed to, operate a motor vehicle as part of his/her job duties, therefore *Automotive Liability coverage* is not required under this MOU.

VII. ASSIGNMENT AND SUBCONTRACTING

Neither party to this Memorandum shall, on the basis of this Memorandum, encumber or in any way contract on behalf of, or In the name of, any other party to this Memorandum. An assignment of any or all of this Memorandum must be approved by the MCDSS/COUNTY.

VIII. MODIFICATIONS

This agreement may be supplemented, amended or modified only by the mutual agreement of the parties. No supplement, amendment, or modification of this agreement shall be binding unless it is in writing and signed by both parties. Both parties agree there are no oral understandings or agreements not incorporated herein.

IX. CONFIDENTIALITY

The CITY OF SEASIDE, its officers, employees, agents, and subcontractors shall comply with Welfare and Institutions Code Sec. 10850, 45 CFR Sec. 205.50, and all other applicable provisions of law which provide for the confidentiality of records and prohibit their being opened for examination for any purpose not directly connected with the administration of public social services. Whether or not covered by W&I Code Sec. 10850 or by 45 CFR Sec. 205.50, confidential medical or personnel records and the identities of customers and complainants shall not be disclosed unless there is proper consent to such disclosure or a court order requiring disclosure. Confidential Information gained by CITY OF SEASIDE from access to any such records, and from contact with Its customers and complainants, shall be used by CITY OF SEASIDE only in connection with

Its conduct of the program under this agreement. MCDSS/COUNTY, through the Director of the Department of Social Services, and his/her representatives, shall have access to such confidential information and records to the extent allowed by law, and such information and records in the hands of the MCDSS/ COUNTY shall remain confidential and may be disclosed only as permitted by law.

X. INDEPENDENT AGENT

CITY OF SEASIDE shall act independently under the terms of this Memorandum, and as such shall have no authority, expressed or implied, to bind MCDSS/COUNTY to any agreement, settlement, liability, or understanding whatsoever, and agrees to not perform any acts as agent for same.

XI. NON-DISCRIMINATION

CITY OF SEASIDE agrees to abide with and shall include nondiscrimination and compliance provisions of the following clause in all subcontracts to perform work under this Agreement.

“During the performance of this Agreement CITY OF SEASIDE shall not unlawfully discriminate against any person because of gender, race, color, ancestry, religious creed, political affiliation, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, sexual orientation, or denial of family care leave, either in CITY OF SEASIDE's employment practices, or in the furnishing of services to customers. The CITY OF SEASIDE and its subcontractors shall insure that the evaluation and treatment of employee and applicants for employment, and all persons receiving and requesting services, are free from such discrimination and harassment. The CITY OF SEASIDE and its subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government code, Section 12900 et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing government Code, Section 12990 (a-f) set forth In Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are Incorporated into this contract by reference and made a part hereof as if set forth in full.”

XII. EXHIBITS

Exhibit H: HIPPA Business Associate Agreement

IN WITNESS WHEREOF, This Memorandum of Understanding is executed in duplicate,
this _____ day of _____ 20__.

MONTEREY COUNTY DSS

CITY OF SEASIDE

(signature)

(signature)

(print name and title)

Craig Malin, City Manager

Approved as to form:

Deputy County Counsel Monterey County

Date: _____



CITY OF SEASIDE STAFF REPORT

Item No.: 8.E.

TO: City Council

FROM: Craig Malin, City Manager

BY: Ben Nurse, Housing Program Manager

DATE: November 19, 2020

**SUBJECT: ACCEPT THE UNITED WAY EMERGENCY FOOD AND SHELTER
PROGRAM GRANT FUNDS IN THE AMOUNT \$35,000 AND
AUTHORIZE THE CITY FINANCE DIRECTOR TO MAKE THE
NECESSARY FINANCIAL TRANSACTIONS.**

PURPOSE & RECOMMENDATION

To accept the United Way Emergency Food and Shelter Program grant funds in the amount of \$35,000 and authorize the City Finance Director to make the necessary financial transactions.

BACKGROUND

On May 28, 2020, City of Seaside was awarded \$14,429 from the Emergency Food and Shelter Phase 37 funding and \$20,571 from United Way CARES Act funding, related to COVID-19 economic relief. The total \$35,000 is required to be used for the City of Seaside's Residential Rent and Utility Assistance Program.

FISCAL IMPACT

No impact on the general fund.

ATTACHMENTS

None

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager



CITY OF SEASIDE STAFF REPORT

Item No.: 9.A.

TO: City Council

BY: Dana Morrison

DATE: November 19, 2020

SUBJECT: SECOND READING AND ADOPTION OF AN AMENDED ORDINANCE ESTABLISHING REGULATIONS FOR PERMANENT SMALL CELL WIRELESS FACILITIES (SEASIDE MUNICIPAL CODE - CHAPTER 17.55), AND ADOPTION OF ASSOCIATED RESOLUTION UPDATING TO THE CITY'S PLANNING FEE SCHEDULE AND AUTHORIZING THE CITY FINANCE DIRECTOR TO MAKE THE NECESSARY FINANCIAL UPDATES.

PURPOSE & RECOMMENDATION

Adoption of an Ordinance adopting Chapter 17.55 to establish reasonable, uniform and comprehensive standards and procedure for small cell wireless facilities within the City and address cost recovery associated with small cell wireless facility permit applications, including recouping fees for City-hired independent experts and outside consulting fees. 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.

City Council (2nd Round)

On November 5, 2020, at the regularly scheduled City Council meeting, the amended Small Cell Ordinance was introduced. The Council held a public hearing, reviewed and waived the first reading of the Ordinance. The Council discussed the following items: altering the definition of pedestrian, the creation of an in-lieu fund for tracking landscape maintenance of small cell sites, and reducing the allowed size of associated accessory small cell equipment.

Tonight – Second Reading and Adoption

The items raised by the Council at the November 5, 2020 public hearing have been addressed. The Small Cell Ordinance is returning tonight for second reading and adoption; as well as adoption of the associated Fee Schedule Resolution.

CHANGES TO SMALL CELL CHAPTER 17.55:

1. Amended definition of pedestrian (page 3 of Attachment 2/Exhibit A):

'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 any necessary means of conveyance for transportation.

2. Amended the size of associated accessory equipment for small cells (page 25 of Attachment 2/Exhibit A):

17.55.100.b.3.vi:

1. All associated small cell accessory equipment shall be designed to the smallest technically feasible size.

a. Residential Districts: Accessory equipment shall be designed to be 9 cubic feet in volume in any residential district.

i. The Community Development Director may approve the smallest technically feasible size, of associated accessory equipment, up to 21 cubic feet in volume upon the submission of clear and convincing evidence as to why the preferred size is technically infeasible.

b. Non-Residential Districts: Accessory equipment shall be designed to be 17 cubic feet in volume in any non-residential district.

i. The Community Development Director may approve the smallest technically feasible size, of associated accessory equipment, up to 28 cubic feet in volume upon the submission of clear and convincing evidence as to why the preferred size is technically infeasible.

3. Begun initialization of process for the creation of an in-lieu fund for the purpose of tracking of any landscaping maintenance of small cell sites which falls under the care of the City. Authorize the City Finance Director to make the necessary financial updates.

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

Staff recommends that the City Council conduct the second reading and adopt Small

Cell Wireless Ordinance (Chapter 17.55).

Staff recommends that the City Council approve the associated Resolution updating the Planning Department Fee Schedule to include Small Cell Permit fees and authorizing the City Finance director to make the necessary financial updates.

ATTACHMENTS

1. Attachment 1_ Council Small Cell Ordinance_11.19.2020
 2. Attachment 2 (Exhibit A)_Amended Small Cell Ord (Chapter 17.55)_11.19.2020
 3. Attachment 3_ Council Resolution_Fee Schedule_11.19.2020
 4. Attachment 4 (Exhibit B)_Changes to Planning Fee Schedule_Small Cell_11.19.2020
-

ORDINANCE NO. XXXX**AN ORDINANCE OF THE CITY 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, 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, Assistant City Manager/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 any necessary means of conveyance 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 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. All associated small cell accessory equipment shall be designed to the smallest technically feasible size.
 - a. Residential Districts: Accessory equipment shall be designed to be 9 cubic feet in volume in any residential district.
 - i. The Community Development Director may approve the smallest technically feasible size, of associated accessory equipment, up to 21 cubic feet in volume upon the submission of clear and convincing evidence as to why the preferred size is technically infeasible.
 - b. Non-Residential Districts: Accessory equipment shall be designed to be 17 cubic feet in volume in any non-residential district.
 - i. The Community Development Director may approve the smallest technically feasible size, of associated accessory equipment, up to 28 cubic feet in volume upon the submission of clear and convincing evidence as to why the preferred size is technically infeasible.

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 PERMITS AND ASSOCIATED FEES, AND AUTHORIZING THE CITY FINANCE DIRECTOR TO MAKE THE NECESSARY FINANCIAL UPDATES.

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 and authorizes the City Finance Director to make the necessary financial updates.

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.			



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 9B.

TO: City Council

FROM: Craig Malin, City Manager

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

DATE: November 19, 2020

SUBJECT: INTRODUCTION OF AN ORDINANCE AMENDING SEASIDE MUNICIPAL CODE 13.24 ADJUSTING QUALIFICATIONS FOR WATER ALLOCATIONS FOR ACCESSORY DWELLING UNITS AND ADDING RETROFIT REQUIREMENTS; AND ADOPTION OF RESOLUTIONS SETTING A COST FOR WATER RELEASE PERMITS FOR ADUs, ALLOCATING 5 ACRE FEET FOR THE RESIDENTIAL ADU CATEGORY, APPROVING AN ADU WATER ALLOCATION POLICY, AND RESCINDING RESOLUTION 2020-61 AND REPRIORITIZING 34.693 ACRE-FEET OF AVAILABLE WATER ALLOCATION

RECOMMENDATION

Adopt the draft resolutions and introduce and pass to print the draft ordinance amending Seaside Municipal Code 13.24.

BACKGROUND

Water is a scarce resource in the City of Seaside and its management has long been codified in the City of Seaside through the water allocation program. The City has addressed how it manages its scarce resource by allocating water to categories of land use development it wishes to maintain a small amount of water supply. In October 2019 the Seaside City Council adopted Ordinance 1064 that codified the long standing water allocation policies pursuant to Ordinance 892 and established a new Residential ADU water allocation category for Accessory Dwelling Units (ADU's) and Junior Accessory Dwelling Units (JADUs) because the

City wished to promote affordable housing. Ordinance 1064 set forth the Council policy of providing ADU and JADU's which are deed restricted with water release permits at no cost. However, if a ADU or JADU was not income restricted, the Council policy required the purchase of a water release permit in an amount equivalent to the market rate of water. While the ordinance did establish a category, the anticipated 5-acre foot allocation to the Residential Category and attendant adjustments to the other categories was never formally made by the Council and the Resolution establishing the purchase price for the water release permit was not completed. In the absence of making a water allocation for ADU's homeowners would be forced to develop using only the water savings and retrofit water credits from the main house or purchase water credits on the open market.

Since 2016, the State of California has adopted and promoted legislation to increase the supply of affordable housing and in particular streamline the creation of accessory dwelling units. Those changes are contained in the Government Code. Government Code section 65852.2, effective to 2025, relative to ADUs streamlines the permitting process for the creation of ADUs and places limits on local agencies with respect to fees and charges. However, the section also recognizes the limitations of water and sewer supply to serve ADUs and requires confirmation from water purveyors about the availability of water for ADUs. Within the Monterey Peninsula Management District boundaries, water supplies are regulated by water credit permits. The legislation allows cities to designate areas where resources are so constrained that ADU's are prohibited. It also limits some of the exactions and fees normally associated with development. In the absence of any water allocation to the Residential ADU category, an ADU applicant would be forced to provide sufficient water savings from retrofitting the primary residences on the property and/or go out to the open market to purchase water credits in order to proceed with the development of an ADU. As a side note, the private market for water credits has diminished over the last year, however, some of the holders of water under the Seaside Basin Adjudication (managed by the Watermaster) have been known to transfer allocations of water for the going market rate.

The Council's adoption of Ordinance 1064 established the high priority the Council has placed on the creation of affordable housing by establishing deed restricted units would be provided water release permits at no cost while unrestricted units would have to purchase water release permits at the market rate for water. As part of the City Council's portfolio of strategies to increase affordable housing in the City, and to encourage the development of accessory dwelling units, the following actions have been completed to date:

- Adopted Ordinance 1064 that included Residential ADU water allocation category
- Adopted Resolution 19-95 that eliminated inspection fees for ADUs and plan check fees for any application using a pre-approved architectural design for ADUs for a period of 2 years

During the review and preparation of this item to establish the purchase price for a water release permit to unrestricted applications for ADU's and JADUs, other issues have arisen that require clarification and revision to the Water Allocation Ordinance in order to codify the

maximum water savings and maximize the total number of ADU's which may be created with a 5-acre foot allocation.

Water Allocation Program (SMC 13.24)

The City's Water Allocation Program was created in 1995 to establish and manage the City's limited supplies of water. It was recognized that new water sources on the Monterey Peninsula were extremely limited and that demand for water in the City of Seaside exceeded capacity. The City's Water Allocation policies have been governed in accordance with Ordinance 892, adopted in 2001. Those policies established criteria and priorities for categories of water allocation, the establishment of the Water Allocation Committee and how to prioritize and score applications received requesting water allocations based on a points system contained in the ordinance.

Ordinance 1064, adopted on October 3, 2019 codified in the Municipal Code the long standing water allocation policies governed by Ordinance 892 and specifically prioritized two categories for water allocation: commercial and institutional and established the new category for Residential Accessory Dwelling Units (ADUs). Other changes were made to allow Residential ADUs to be administered on a first-come, first serve basis without the need to go through the Water Allocation Committee evaluation. As stated in the SMC Section 13.24, the Water Allocation Program as written is specifically for water allocation within Monterey Peninsula Water Management District boundary, excluding the former Fort Ord area.

Proposed Municipal Code Amendments

Municipal Code 13.24.025 C, Water Allocation Categories - Residential Accessory Dwelling Units, allocates water to Residential ADU Category for: 1) Deed Restricted ADUs which provides housing to Low Income and Very Low Income persons and 2) Unrestricted ADUs. The proposed amendment to the Municipal Code will identify income levels consistent with published Department of Housing and Urban Development (HUD) levels and require all existing main house water fixtures and appliances be retrofitted to high efficiency water fixtures as part of the ADU water allocation application. The proposed amendment would maximize ADU developments within the approved water allocation by limiting the amount of water available under the program for an ADU and clarify requirements for deed restricted ADUs.

It is also necessary to address current practices with respect to priority areas. Current practice modifies priority commercial areas by Resolutions, and the text amendment to SMC 13.24.022 Administration provides clean up language to put into effect this practice. The proposed text amendments below shows the deleted text as strikethrough (~~strikethrough~~) and added text in **bold**.

13.24.022 Administration

The City Council shall have the discretion to re-allocate water as deemed necessary for the public health, safety and welfare of the community and to enhance the fiscal stability of the city. The City recognizes the importance of all categories of projects to the overall development of Seaside. The City also recognizes that as the city develops, and as water availability changes, allocation categories and priorities may change. The City Council shall allocate and re-allocate water to each category. The City Council may create, identify or modify sub-categories, such as specific commercial districts or areas, for water allocations dependent upon City priorities and needs deemed necessary to protect the public health, safety and welfare of the community. **Specific commercial districts for water allocation will be established by Resolution.**

13.24.025 C Residential Accessory Dwelling Unit

The Residential Accessory Dwelling Unit (ADU) category shall retrofit the existing dwellings water fixtures to high efficiency water fixtures and appliances. The maximum amount of water allocation to be made available in any application for an ADU water release permit shall be established by resolution. The Residential **Accessory Dwelling Unit (ADU)** category shall be required to purchase water release permits at **an amount established by resolution**, ~~the market rate of water,~~ unless the residential unit is deed restricted to provide for rental or use only to persons of moderate **low income** or lower **very low income as published by the Department of Housing and Urban Development (HUD)**, inclusive of renters utilizing **the Housing Choice Voucher Program (formerly known as "Section 8")** ~~section-8 vouchers for a period of forty-five (45) years. The City of will establish the water release permit purchase by resolution.~~

Water Release Permit Purchase

The Water Allocation Program required unrestricted Residential ADU developments to purchase a water release permit at the market rate of water. Staff reviewed water entitlement charges assessed by neighboring jurisdictions. The cities of Del Rey Oaks and Monterey currently do not have any available water allocation to provide for development. Similar to the City of Seaside, the City of Pacific Grove's water purveyor is Cal Am Water Company (supplied by Carmel River). Pacific Grove constructed a reclamation plant, Pacific Grove Local Water Project (PGLWP), that produced non-potable recycled water for irrigation of the Pacific Grove Golf Links and the El Carmelo Cemetery. The reclamation efforts effectively reduce the amount of potable water Cal Am diverts from the Carmel River. The amount of non-potable water produced by the PGLWP was 69.60 AF (35.99 AF available for use). Based upon the PGLWP, Monterey Peninsula Water Management District (MPWMD) granted Pacific Grove a Water Entitlement. City of Pacific Grove charges \$250,000 per Acre Foot of water. The amount assessed by Pacific Grove was based off of the Malpaso Water

Company (\$240,000/AF) and the Pebble Beach Company (\$250,000/AF) water entitlements for sale at the time Pacific Grove established its charges.

The City of Seaside does not have a reclaimed water project or water supply project that could augment the potable water from Cal Am. Staff recommends a charge of \$250,000 per acre foot for water release permits for ADUs and \$250,000 per acre foot is equivalent to \$2,500 per fixture unit (Attachment 2). Funds from Water Release Permit sales collected would be directed to a fund to purchase water credits from holders of water allocations pursuant to the Seaside Basin Adjudication, developers or property owners wishing to sell such credits to the City, develop a reclaimed water project or water supply project to augment the City's water supply within the MPWMD in order to continue to promote projects within the City of Seaside.

Accessory Dwelling Units (ADU) Water Allocation

Water availability is a significant hindrance to development. The City can further encourage private land owners to embrace and build ADUs if water is made available to them. Allocating 5 Acre Feet to Residential ADUs would provide a minimum of 73 ADUs (given the maximum water usage allowable of 6.8 fixture units). Not all requests for ADU water allocations will need the maximum amount.

Reprioritizing Available Water Allocation

The last time the Council approved reprioritization of the available water allocation for commercial project areas was on July 2, 2020. At the same time the Council approved to allocate 0.836 AF to the Broadway Terrace project area (Ascent). Resolution 20-61 (Attachment 7) included the Ascent water allocation and reprioritization of available water allocation for a total of 33.853 as shown below:

Broadway Catalyst Project [Alhambra to Hillsdale]	0.000
Broadway/Terrace Project (<i>Ascent</i>)	12.88553
Auto Center	3.602
West Broadway Urban Village	11.543
Small Commercial	5.82247

The Broadway Ave/Terrace St. project identified above is the Ascent Project development previously known as Broadway/Terrace. The reallocation/redistribution of water allocation shown in Resolution 20-61 is not reflective of the actions taken by Council. Ascent project requested an additional allocation of 0.836 AF, which was approved by Council on July 2, 2020. The allocation shown above did not take into account the on-site water credit of 1.140 AF. The reprioritization action in August 2019, Resolution 19-62 (Attachment 8) provided a total of 10.910 AF to this project. The amount needed from the City's allocation should be 11.746 AF (10.910 AF + 0.836 AF or 12.886 AF - 1.140 AF). Water allocations are shown rounded up to three significant digits.

The Water Allocation Committee tracks water allocations within each sub-category. From time to time staff reconciles their own tracking with MPWMD water allocation monthly report which is based upon permitted projects. According to the Monterey Peninsula Water Management District (MPWMD) September 2020 Monthly Allocation Report (Attachment 9), the remaining water allocation available from Seaside's three water accounts is **34.693 AF**. There have been several businesses who have obtained water permits from MPWMD, which was not reflected in the July 2020 reprioritization Resolution 20-61 and projects that the City has approved but have not been permitted by MPWMD. These projects were from the West Broadway Urban Village and Small Commercial project areas.

In December 2019, the Council allocated 0.285 in Reserves, Resolution 19-112 (Attachment 10), for a Shelter on Olympia Avenue owned by Monterey County. The water allocation is approved however MPWMD has not permitted or debited from the City's account. The resolution identified this allocation to come from the small commercial sub-category. In addition, 1.144 AF of Public Credit should be reserved for use for city facilities. For a time, MPWMD provided water credits to jurisdictions that permanently reduced water use through their own facility toilet retrofits or other approved methods. These water credits are reflected in the jurisdiction's MPWMD Public Credit account and are exempt from MPWMD's capacity fee.

Reserving water allocation for the shelter (0.285 AF), Public Credit (1.144 AF) and Residential ADU (5 AF), the following table represents the recommended prioritization for the 33.549 available water allocation:

Category	Allocation Acre Feet (AF)
Commercial	
Broadway Catalyst (Alhambra to Hillsdale)	0.000
Broadway and Terrace Project	11.746
Auto Center Properties	3.602
West Broadway Urban Village	7.545
Small Commercial	5.656
Institutional	0.000
Residential Accessory Dwelling Units	5.000

ADU Water Allocation Policy

In order to maximize the 5 AF allocation for Residential ADUs, staff suggests to limit the amount of water per ADU. A limit of 6.8 fixture units per ADU is recommended. The 6.8 fixture units represents 1 bathroom, clothes washer and a kitchen as follows:

<u>Fixtures</u>	<u>Fixture Units</u>
Washbasin	1
Toilet – High Efficiency	1.3
Shower	2
Kitchen Sink with High Efficiency Dishwasher	1.5
High Efficiency Clothes Washer (5.0 water factor or less)*	1
Total	6.8
*Optional	

Not all requests for water allocations for ADUs will require the total fixture units as shown above. The requirement to retrofit existing main house fixtures and appliances to high efficiency fixtures, provides additional water credits to be applied to the ADU.

Attachment 6 is a summary of the requirements for issuance of water allocation for ADUs as relayed above in this report and identified in the proposed Ordinance and Resolutions attached.

FISCAL IMPACT

Funds from Water Release Permit sales collected would be directed to a fund to purchase water credits, develop a reclaimed water project or water supply project to augment the City's water supply within the MPWMD.

ATTACHMENTS

1. Proposed Ordinance
2. Resolution setting water release permit costs
3. Resolution allocated 5 AF to the Residential ADU Category
4. Resolution rescinding Resolution 20-61 and reprioritize the available water allocation
5. Resolution approving a ADU Water Allocation Policy to limit the number to 6.8 fixture units per ADU
6. Summary of the requirements for issuance of water allocations for ADUs
7. Resolution 20-61
8. Resolution 19-62
9. MPWMD September 2020 Monthly Allocation Report
10. Resolution 19-112

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager

ORDINANCE NO. 20-XX

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SEASIDE

AMENDING SEASIDE MUNICIPAL CODE SECTION 13.24.022 ADMINISTRATION AND SECTION 13.24.025C WATER ALLOCATION CATEGORIES-RESIDENTIAL ACCESSORY DWELLING UNITS ADJUSTING QUALIFICATIONS FOR ACCESSORY DWELLING UNITS (ADU) AND ADDING RETROFIT REQUIREMENTS FOR ADU WATER ALLOCATIONS (FIRST READING - ROLL CALL VOTE)

**THE CITY COUNCIL OF THE CITY OF SEASIDE DOES ORDAIN AS
FOLLOWS:**

SECTION 1. GENERAL PURPOSE

The purpose of this Ordinance is to consider the following text amendments to the Seaside Municipal Code (SMC):

- A. A text amendment to SMC Chapter 13.24 amending Section 13.24.022 that would establish water allocations to commercial sub-categories priorities by resolution; and
- B. A text amendment to SMC 13.24 amending Section 13.24.025C that would require existing residences to retrofit fixtures and appliances to high efficiency fixtures and establish by resolution the maximum amount of water made available for Accessory Dwelling Units.

SECTION 2. FINDINGS

- A. City recognizes that as the City develops, and as water availability changes, allocation categories and priorities may change; and
- B. The City Council has discretion to reallocate water as deemed necessary for public health, safety and welfare of the community, and to enhance the fiscal stability of the city; and
- C. The City Council may create, identify or modify sub-categories dependent on City priorities and needs; and
- D. Allocating water to subcategories shall be established by resolution.

- E. The City recognizes the need to define Low and Very Low income levels for deed restricted Accessory Dwelling Units (ADUs); and
- F. Deed restricted ADUs encourage, promote growth, and provide affordable housing opportunities within the City; and
- G. To maximize the number of ADUs, existing residences will be required to retrofit fixtures and appliances to high efficiency fixtures; and
- H. The maximum amount for water allocations made available for ADUs will be established by resolution.

SECTION 3. ENVIRONMENTAL COMPLIANCE

The proposed changes to the Municipal Code will not result in direct or indirect changes to the environment and do not meet the definition of a project under CEQA. (14 CCR 15378(b)).

SECTION 4. PROPOSED TEXT AMENDMENT

Text proposed to be deleted is listed with strikethrough (~~strikethrough~~) and text added is listed in **bold**.

1. Amend Title 13 Section 24.022 Administration to read as follows:

The City Council shall have the discretion to re-allocate water as deemed necessary for the public health, safety and welfare of the community and to enhance the fiscal stability of the city. The City recognizes the importance of all categories of projects to the overall development of Seaside. The City also recognizes that as the city develops, and as water availability changes, allocation categories and priorities may change. The City Council shall allocate and re-allocate water to each category. The City Council may create, identify or modify sub-categories, such as specific commercial districts or areas, for water allocations dependent upon City priorities and needs deemed necessary to protect the public health, safety and welfare of the community. **Specific commercial districts for water allocation will be established by Resolution.**

2. Amend Title 12 Section 24.025C to read as follows:

C. Residential Accessory Dwelling Units. Accessory dwelling units are a valuable form of additional housing. Accessory dwelling units are smaller habitable dwellings (up to one thousand two hundred square feet) that may be attached or

detached and accessory to a primary dwelling on residentially zoned properties. The city wishes to encourage the development of ADUs as they provide valuable opportunities for property owners and a source of affordable housing.

Water shall be allocated to the residential ADU category for (1) deed-restricted ADUs to low and very low and (2) unrestricted ADUs. Both categories shall be allocated on a first-come, first-served basis until the total amount of water allocation established by resolution has been allocated.

The Residential Accessory Dwelling Units (ADUs) shall retrofit the existing dwellings water fixtures to high efficiency water fixtures and appliances. The maximum amount of water allocation to be made available in any application for an ADU water release permit shall be established by resolution. The Residential **Accessory Dwelling Unit (ADU)** category shall be required to purchase water release permits at **an amount established by resolution,** ~~the market rate of water,~~ unless the residential unit is deed restricted to provide for rental or use only to persons of ~~moderate~~ **low income** or **very low lower income** **as published by the Department of Housing and Urban Development (HUD),** inclusive of renters utilizing **the Housing Choice Voucher Program (formerly known as "Section 8")** ~~section 8 vouchers for a period of forty-five (45) years. The City will establish the water release permit purchase by resolution.~~

Water allocation approval alone does not imply project approval. Projects are required to obtain all other necessary approvals as required by the city and any other governmental agency having jurisdiction over the project.

If changes made to the existing structure do not intensify the existing use pertaining to water, then no additional water determinations are necessary.

The total number of ADU units created, including the number of deed-restricted affordable units, will be reported to California Department of Housing and Community Development as part of the required housing element annual progress report. (Ord. 1064 § 2, 2019)

SECTION 4. EFFECTIVE DATE

This Ordinance shall become effective thirty (30) days after its final passage and adoption at a duly noticed public hearing for the second reading of the proposed text amendments.

INTRODUCED AND PASSED TO PRINT at a regular meeting of the City Council of the City of Seaside, State of California, on the 19th day of November, 2020.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Seaside, State of California, on the __ day of _____, 20__, by the following vote:

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

Ian N. Oglesby, Mayor

ATTEST:

Lesley Milton, City Clerk

RESOLUTION NO. 20-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE

**SETTING PURCHASE PRICE FOR ACCESSORY DWELLING UNITS (ADU)
WATER RELEASE PERMITS**

WHEREAS, ADUs are a critical form of infill development that can be affordable and offer important housing choices for property owners; and

WHEREAS, affordable housing is a priority in the city and restricted ADUs provide housing opportunities for low income and very low income renters; and

WHEREAS, deed restricted ADUs will not be charged for water release permits; and

WHEREAS, unrestricted ADU developments are required to purchase water release permits if not deed restricting the ADU; and

WHEREAS, the most recently available charges assessed by neighboring cities place the value of water at \$2,500 per fixture unit.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Seaside set the purchase price for water release permits for Accessory Dwelling Units at \$2,500 per fixture unit. and direct the Finance Director to collect as appropriate and deposit.

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

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

APPROVED:

ATTEST:

Ian N. Oglesby, Mayor
City of Seaside

Lesley Milton, City Clerk

RESOLUTION NO. 20-

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE
ALLOCATING 5 ACRE FEET TO THE RESIDENTIAL ACCESSORY DWELLING
UNIT (ADU) CATEGORY**

WHEREAS, a recent California Senate Bill, No. 1069, (Senate Bill) has provided a land use approval path for Accessory Dwelling Units (ADUs), which are smaller habitable dwellings (up to 1,200 square feet) that may be attached or detached and accessory to a primary dwelling on residentially zoned properties; and

WHEREAS, ADUs are a critical form of infill development that can be affordable and offer important housing choices for property owners and within existing neighborhoods; and

WHEREAS, ADUs serve different populations ranging from students and young professionals to young families, people with disabilities and senior citizens and can augment a full and robust affordable housing program; and

WHEREAS, water availability is a large hindrance for development; and

WHEREAS, the City of Seaside has discretion to reallocate water as deemed necessary for the public health, safety and welfare of the community, and to enhance the fiscal stability of the City; and

WHEREAS, the City of Seaside can further encourage private land owners to embrace and build ADUs if water is made available to them through water allocations; and

WHEREAS, on October 3, 2019, the City Council approved Ordinance 1064, Water Allocation Program, identified a water allocation category for Residential ADUs.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Seaside allocates 5 acre feet to the Residential Accessory Dwelling Unit (ADU) category of the Water Allocation Program.

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

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

APPROVED:

ATTEST:

Ian N. Oglesby, Mayor
City of Seaside

Lesley Milton, City Clerk

RESOLUTION NO. 20-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE

RESCIND RESOLUTION 20-61 AND REPRIORITIZE 34.693 ACRE- FEET OF AVAILABLE WATER ALLOCATION

WHEREAS, the City of Seaside has an available water allocation total of 34.693 Acre-Feet (AF) from all three water accounts identified from Monterey Peninsula Water Management District (MPWMD) as of September 2020; and

WHEREAS, Resolution 20-61 miscalculated the reprioritization of the water allocation and did not account for the recent water permits issued by MPWMD through April 2020; and

WHEREAS, the City of Seaside has water allocated across 5 sub-categories under Commercial which include: Broadway Catalyst, Broadway/Terrace; Auto Center Properties, West Broadway Urban Village, and Small Commercial; and

WHEREAS, the City of Seaside values economic development and being business friendly, resulting in new or expanding small businesses requiring water; and

WHEREAS, Resolution 20-61 also did not account for 1.144 AF in the Public Credit reserved for City facility water use intensification that should not be accounted for in the allocation distribution categories; and

WHEREAS, the City of Seaside chooses to allocate 33.549 AF (34.693-1.144) of water at this time.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Seaside reallocates water as reflected below:

Category	Water Allocation (AF)
Commercial	
Broadway Catalyst (Alhambra to Hillsdale)	0.000
Broadway and Terrace	11.746
Auto Center Properties	3.602
West Broadway Urban Village	7.545
Small Commercial	5.656
Institutional	0.000
Residential ADU	5.000
Total Allocation	33.549

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

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

APPROVED:

ATTEST:

Ian N. Oglesby, Mayor
City of Seaside

Lesley Milton, City Clerk

RESOLUTION NO. 20-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE

**APPROVING AN ACCESSORY DWELLING UNIT (ADU) WATER ALLOCATION
POLICY LIMITING THE AMOUNT OF WATER FOR ADUs**

WHEREAS, Accessory Dwelling Units (ADUs) are a critical form of infill development that can be affordable and offer important housing choices for property owners; and

WHEREAS, ADUs serve different populations ranging from students and young professionals to young families, people with disabilities and senior citizens and can augment a full and robust affordable housing program; and

WHEREAS, local governments can encourage the development of ADUs which can improve access to jobs, education and services for residents; and

WHEREAS, water availability is a significant hindrance to development and Seaside can further encourage private land owners to embrace and build ADUs if water is made available to them; and

WHEREAS, the City of Seaside has allocated 5 acre feet to the Residential ADU category of the Water Allocation Program; and

WHEREAS, 6.8 fixture units is sufficient water allocation needed to construct an ADU to include a wash basin, high efficiency toilet, kitchen sink with high efficiency dishwasher, and high efficiency clothes washer.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Seaside approves an Accessory Dwelling Unit Water Allocation Policy limiting the amount of water allocation to no more than 6.8 fixture units per ADU.

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

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

APPROVED:

ATTEST:

Ian N. Oglesby, Mayor
City of Seaside

Lesley Milton, City Clerk

DRAFT City of Seaside ADU Water Allocation Summary

1. The City will allocate water for ADU developments on a first come first serve basis. (SMC 13.24.025C)
2. Residential Accessory Dwelling Unit (ADU) categories (SMC 13.24.025C):
 - a. **Deed Restricted ADUs:** Deed Restricted ADU development requires a deed restriction to be recorded with the County Recorder requiring the ADU be restricted to provide rental housing to a Low or Very Low Income renters as published by the Housing and Urban Development (HUD) or to a renter utilizing Housing Choice Vouchers (formerly Section 8 vouchers). The deed restriction shall be in place for 45 years. There will be no cost for a water release permit for Deed Restricted ADUs.
 - b. **Unrestricted ADUs:** Unrestricted ADU developments which are required to purchase a water release permit will be charged \$2,500 per fixture unit.
3. Applicants are required to retrofit all existing main house water fixtures and appliances to high efficiency water fixtures as part of their Water Release Permit application. (SMC 13.24.025C)
4. The maximum water the City will allocate per ADUs is 6.8 fixture units, sufficient to provide high efficiency (HE) fixture units as identified below: (Resolution 20-XX)

<u>Fixtures</u>	<u>Fixture Units</u>
Washbasin	1
Toilet – High Efficiency	1.3
Shower	2
Kitchen Sink with High Efficiency Dishwasher	1.5
High Efficiency Clothes Washer (5.0 water factor or less)*	1
Total	6.8

*Optional

RESOLUTION 20-61

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE

AMENDING RESOLUTION 11-03 FOR A RE-PRIORITATION OF 38.831 ACRE- FEET OF AVAILABLE WATER ALLOCATION

WHEREAS, the City of Seaside has an available water allocation total of 38.831 AFY from all three water accounts of the Monterey Peninsula Water Management District as of April 2020; and

WHEREAS, the City of Seaside has water allocated across 5 categories which include: Broadway Catalyst between Hillsdale and Alhambra; Broadway and Terrace; Auto Center Properties, West Broadway Urban Village; and Small Commercial; and

WHEREAS, the City of Seaside values economic development and being business friendly, resulting in new or expanding small businesses requiring water; and

WHEREAS, several Auto Center properties have already upgraded facilities and only a few remain to upgrade; and

WHEREAS, the City of Seaside chooses to allocate 33.831 AFY of water at this time; and

WHEREAS, the active project at Terrace and Broadway requires an additional allocation of .43203 AFY to accommodate an additional unit and commercial space;

NOW THEREFORE BE IT RESOLVED, the City of Seaside reallocates water as reflected below:

Broadway Catalyst Project [Alhambra to Hillsdale] 0.0 AFY
Broadway and Terrace Project 12.88553 AFY
Auto Center 3.602 AFY
West Broadway Urban Village 11.543 AFY
Small Commercial 5.82247 AFY

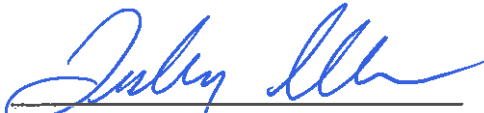
PASSED AND ADOPTED at a regular meeting of the City Council of the City of Seaside duly held on the 2nd day of July 2020.

AYES:	4	COUNCIL MEMBERS:	Campbell, Oglesby, Pacheco, Wizard
NOES:	0	COUNCILMEMBERS:	None
ABSENT:	1	COUNCILMEMBERS:	Kispersky
ABSTAIN:	0	COUNCILMEMBERS:	None



Ian N. Oglesby, Mayor

ATTEST:



Lesley Milton, City Clerk

RESOLUTION 19-62

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE

**AMENDING RESOLUTION 11-03 FOR A RE-PRIORITIZATION OF 38.831
ACRE-FEET OF AVAILABLE WATER ALLOCATION**

WHEREAS, the City of Seaside has an available water allocation total of 38.831 AF from all three water accounts of the Monterey Peninsula Water Management District as of April 2019; and

WHEREAS, the City of Seaside has water allocated across 5 categories which include: Broadway catalyst between Hillsdale and Alhambra; Broadway and Terrace; Auto Center Properties; West Broadway Urban Village; and Small Commercial; and

WHEREAS, the City of Seaside values economic development and being business-friendly, resulting in new or expanding small businesses requiring water; and

WHEREAS, the Broadway catalyst project remains viable, and is likely to occur after new sources of water are available, allowing for an interim allocation of zero acre-feet; and

WHEREAS, several Auto Center properties have already upgraded facilities and only a few remain to upgrade; and

WHEREAS, the City of Seaside chooses to allocate 33.831 AF of water at this time; and

NOW THEREFORE BE IT RESOLVED, the City of Seaside reallocates water as reflected below:

Broadway catalyst project [Alhambra to Hillsdale] 0.0 AF,
Broadway and Terrace project 10.91 AF,
Auto Center 3.602 AF,
West Broadway Urban Village 11.653 AF, and
Small Commercial 7.668 AF.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Seaside duly held on the 1st day of August 2019 by the following vote:

AYES:	COUNCILMEMBERS: Campbell, Kispersky, Oglesby, Pacheco, Wizard
NOES:	COUNCILMEMBERS: None
ABSENT:	COUNCILMEMBERS: None
ABSTAIN:	COUNCILMEMBERS: None



Ian N. Oglesby, Mayor

ATTEST:


Lesley Milton-Rerig, City Clerk

EXHIBIT XX-A
MONTHLY ALLOCATION REPORT
Reported in Acre-Feet
For the month of September 2020

Jurisdiction	Paralta Allocation*	Changes	Remaining	PRE-Paralta Credits	Changes	Remaining	Public Credits	Changes	Remaining	Total Available
Airport District	8.100	0.000	5.197	0.000	0.000	0.000	0.000	0.000	0.000	5.197
Carmel-by-the-Sea	19.410	0.000	1.398	1.081	0.000	1.081	0.910	0.000	0.182	2.661
Del Rey Oaks	8.100	0.000	0.000	0.440	0.000	0.000	0.000	0.000	0.000	0.000
Monterey	76.320	0.000	0.245	50.659	0.000	0.030	38.121	0.000	2.300	2.575
Monterey County	87.710	0.000	10.717	13.080	0.000	0.352	7.827	0.000	1.775	12.844
Pacific Grove	25.770	0.000	0.000	1.410	0.000	0.014	15.874	0.000	0.065	0.079
Sand City	51.860	0.000	0.000	0.838	0.000	0.000	24.717	0.000	23.373	23.373
Seaside	65.450	0.000	0.000	34.438	0.000	33.549	2.693	0.000	1.144	34.693
District Reserve	9.000	0.000	9.000	N/A			N/A			9.000
TOTALS	342.720	0.000	26.557	101.946	0.000	35.026	90.142	0.000	28.839	90.422

Allocation Holder	Water Available	Changes this Month	Total Demand from Water Permits Issued	Remaining Water Available
Quail Meadows	33.000	0.000	32.320	0.680
Water West	12.760	0.000	9.564	3.196

* Does not include 15.280 Acre-Feet from the District Reserve prior to adoption of Ordinance No. 73.

RESOLUTION NO. 19-112

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE,

APPROVING REALLOCATING 0.285 AF WATER FROM SMALL COMMERCIAL FUND TO RESERVE FUND, AND APPROVING WAC-19-26: MONTEREY COUNTY, PROPERTY OWNER, AND COMMUNITY HUMAN SERVICES, APPLICANT, 0.285 AF OF WATER FROM RESERVE FOR THE SHELTER AT 1292 OLYMPIA AVENUE LOCATED IN THE COMMERCIAL MIXED-USE (CMX) ZONING DISTRICT. THE PROJECT IS EXEMPT CLASS1, SECTION 15301.A FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) GUIDELINES.

WHEREAS, the City Council periodically reallocates water between various funds, which include: Broadway catalyst, Broadway and Terrace, Auto Center, West Broadway Urban Village, Small Commercial, ADUs, and Reserve per Ordinances 850 and 892; and

WHEREAS, a request for 0.285 AF of water has been made by a shelter which was considered and recommended for approval by the Water Allocation Committee at the November 20, 2019 meeting with unanimous agreement that the request would go to City Council; and

WHEREAS, the shelter request is unique and does not clearly fit within the parameters of the water allocation program, which deems it eligible for consideration for allocation using the Reserve fund, per Ordinance 850; and

WHEREAS, the City Council understands the need and appreciates the benefits that a shelter will provide for the community; and

WHEREAS, reallocating 0.285 AF of water from the Small Commercial fund to the Reserve fund is a minor reallocation.

NOW, THEREFORE, BE IT RESOLVED, that the City Council approves reallocating 0.285 AF water from the Small Commercial fund to the Reserve fund and using the Reserve fund allocation for the 0.285 AF requested by the shelter at 1209 Olympia Avenue, with the following conditions.

Project Specific:

Planning:

1. Except as modified by required conditions of approval, plans submitted for a building permit shall substantially conform to the plans identified as "1292 Olympia Avenue" stamped as received on "November 11, 2019".
2. The water allocation is valid only for the implementation of changing the modular building located at the project site from a Group I office water use to a Group III emergency shelter dormitory water use per the Monterey Peninsula Water Management District (MPWMD) regulations in the amount of 0.285 acre feet. A determination letter from MPWMD is provided as Exhibit A - Attachment 2. Any change in the land use at this site prior to a Certificate of Occupancy shall cause the water permit to become null and void. Any change in the use of the emergency shelter to a higher water use in the future must be approved by the Water Allocation Committee Zoning Administrator as a minor change.
3. Applicant must secure a Certificate of Occupancy for the improvements within one year from the issuance of the Water Permit.

Standard:

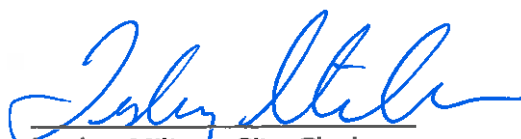
4. Water Allocation approval shall be valid for a period of one (1) year from the date of approval of this project in accordance with S.M.C.S. 17.54.080. Project approval will become null and void if a building permit is not exercised within one (1) year from date of approval.
5. Proposed changes to the approved application(s) must receive approval from the Zoning Administrator.
6. The applicant agrees as a condition and in consideration of the approval of this discretionary permit that it will defend, indemnify and hold harmless the City of Seaside or its agents, officers and employees from any claim, action or proceeding against the City or its agents, officers or employees to attack, set aside, void or annul this approval. The applicant will reimburse the City for any court costs and attorney's fees, which the City may be required by a court to pay as a result of such action. City may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his obligations under this condition. The City shall promptly notify the applicant of any such claim, action, or proceeding, and the City shall cooperate fully in the defense thereof.
7. The project shall be responsible for all applicable local and/or regional development and/or impact fees including, but not limited to, sewer, water, and traffic fees, which shall be paid prior to building permit issuance.
8. The proposed project shall comply with the applicable requirements of the Monterey Peninsula Water Management District for the installation of new water fixtures and landscape irrigation equipment.
9. The issuance of building permits involving the installation of new water shall be subject to the availability of an adequate supply of water and sewer capacity to serve the project.
10. Water conservation fixtures shall be provided in the proposed project.

PASSED AND ADOPTED at the regular meeting of the City Council of the City of Seaside, State of California, on the 19th of December 2019 by the following vote:

AYES:	5	COUNCIL MEMBERS:	Oglesby, Pacheco, Campbell, Wizard, Kispersky
NOES:	0	COUNCIL MEMBERS:	None
ABSENT:	0	COUNCIL MEMBERS:	None
ABSTAIN:	0	COUNCIL MEMBERS:	None


Ian N. Oglesby, Mayor

ATTEST:


Lesley Milton, City Clerk



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 10.A.

TO: City Council

FROM: Craig Malin, City Manager

BY: Nisha Patel, Public Works Director/City Engineer
Misty Bradshaw, Associate Engineer

DATE: November 19, 2020

**SUBJECT: ADOPT A RESOLUTION AUTHORIZING STAFF TO MODIFY THE
SCOPE OF WORK FOR THE PAVEMENT REHABILITATION
PHASE 3 PROJECT TO INCLUDE A CHANGE IN THE FULL DEPTH
RECLAMATION STREETS SELECTED FOR TREATMENT**

PURPOSE & RECOMMENDATION

Adopt a Resolution (Attachment 1) authorizing staff to modify the scope of work for the Pavement Rehabilitation Phase 3 Project.

BACKGROUND

On May 21, 2020, Council awarded the construction contract to Teichert Construction for the Pavement Rehabilitation Phase 3 Project. As part of their contract, both Kimball Avenue from Fremont Boulevard to Wheeler Street, and Wheeler Street from Kimball Avenue to Hilby Avenue were to receive a FDR treatment as well as installation of pedestrian intersection bulbouts and ADA access ramps. Teichert has since started work on Kimball Avenue and Wheeler Street by completing construction of concrete ramp improvements in preparation of the FDR work.

FDR rehabilitation consists of pulverizing the full depth of the existing asphalt and base material down to between nine and twelve inches below grade, adding cement treatment to the pulverized base, followed by recompaction of the pulverized material. Then a final placement of a new asphalt roadway is installed above the compacted cement treated base.

Teichert began preparations for the FDR treatment for Kimball Avenue and Wheeler Street, and through potholing the below ground utilities they discovered that there were both shallow PG&E gas lines and California American Water (CalAm) water lines within the project area. PG&E's gas main line is located 7 inches below the road surface at the shallowest point with gas service laterals only 5 inches below the ground surface. PG&E's standard requires that gas lines have a minimum of 18" of cover from the top of their pipe to the ground surface. As a matter of public safety, PG&E would like to lower or relocate the gas main line located within the roadways of Kimball Avenue and Wheeler Street. This process may take PG&E one to two years to complete. CalAm's water line on Kimball Avenue is located 12" below the ground surface at the shallowest. In order to safely implement FDR treatments, the water main requires a minimum depth of about 2 feet below grade. FDR treatment is not feasible on Kimball Avenue due to the depth of the CalAm water main.

It is recommended the FDR treatment on Kimball Avenue and Wheeler Street be removed from Teichert's scope of work. Because work on the curb ramps and underground utilities was already completed on the street segments, the roadways will still need to be cleaned up, potholes and trenches will need to be patched, and roadways will need to be backfilled and graded to the new lip of gutters around the new pedestrian bulbouts and ADA ramps.

Staff evaluated other potential roadways to add to the scope in lieu of Kimball Avenue and Wheeler Street. The segment of Echo Avenue from Fremont Boulevard between Baker Street is a potential option with a current Pavement Condition Index of 32, which is in poor condition and could benefit of the installation of FDR at this time. ADA ramps have already been constructed at both ends of the Echo Avenue roadway segment as part of a previous project. Due to the width of the roadway, the square footage of Echo Avenue segment is comparable to the combined square footage of Kimball Avenue and Wheeler Street segments. It is further recommended that staff negotiate with Teichert to add Echo Avenue from Fremont Boulevard to Baker Street to the project scope of work in lieu of Kimball Avenue and Wheeler Street.

Following PG&E's gas line relocation, the City will revisit the recommended treatment on Kimball Avenue and Wheeler Street on a future phase of pavement rehabilitation.

ENVIRONMENTAL REVIEW

This project is exempt from the California Environmental Quality Act (CEQA) pursuant to Class 1, Section 15301: Existing Facilities Class 1 exemptions consist of the operation, repair, maintenance, permitting, leasing, licensing, or minor alterations of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use.

Evidence: The propose project scope change consists of pavement rehabilitation which would not result in an expansion or significant modification of the existing roadway.

FISCAL IMPACT

There will be no overall impact to the project budget by adding the Echo Avenue segment to the scope of work. The Kimball Avenue and Wheeler segments are currently funded from non-bonded accumulated revenue generated from Measure X and SB1. The square footage for Echo Avenue is approximately equal to the combined square footage of Kimball Avenue and Wheeler Street, thus the cost to perform FDR treatment on Echo Avenue is roughly equivalent, and any increase would be within the overall approved construction contingency for the project.

ATTACHMENTS

1. Resolution

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

AUTHORIZING STAFF TO MODIFY THE SCOPE OF WORK FOR THE PAVEMENT REHABILITATION PROJECT TO INCLUDE A CHANGE IN THE FULL DEPTH RECLAMATION STREETS SELECTED FOR TREATMENT

WHEREAS, on May 21, 2020 the City awarded the construction contract to Teichert Construction for the Pavement Rehabilitation Phase 3 Project; and

WHEREAS, the scope of work included full depth reclamation (FDR) treatment on Kimball Avenue from Fremont Boulevard to Wheeler Street, and Wheeler Street from Hilby Avenue to Kimball Avenue; and

WHEREAS shallow gas and water lines were discovered below Kimball Avenue and Wheeler Street which makes FDR infeasible; and

WHEREAS a matter of public safety PG&E would like to relocate or lower their gas mainline along both Kimball Avenue and Wheeler Street; and

WHEREAS staff is working with Teichert Construction to investigate whether Echo Avenue is a viable option to receive FDR treatment in lieu of Kimball Avenue and Wheeler Street; and

WHEREAS, following PG&E's gas mainline relocation the City will revisit the recommended treatment on Kimball Avenue and Wheeler Street on a future phase of pavement rehabilitation; and

WHEREAS, in accordance with Title 14, California Code of Regulations, Section 15301.c, "Existing Facilities" the following actions are categorically exempt from the California Environmental Quality Act (CEQA);

"Existing highways and streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities (this includes road grading for the purpose of public safety)".

NOW, THEREFORE BE IT RESOLVED, City Council of the City of Seaside authorizes the change in scope to remove Kimball Avenue and Wheeler Street from Pavement Rehabilitation Phase 3 Project construction scope of work and authorize staff to enter into negotiations with Teichert Construction to add Echo Avenue from Fremont Boulevard to Baker Street to receive FDR treatment.

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:

Ian N. Oglesby, Mayor

ATTEST:

Lesley Milton, City Clerk



CITY OF SEASIDE STAFF REPORT

Item No.: 10.B.

TO: City Council

BY: Craig Malin, City Manager

DATE: November 19, 2020

**SUBJECT: DISCUSS EXTENSION OF CURRENT PERMITS AT COLONEL
DURHAM RV PARKING SITE TO MAY 15, 2020**

PURPOSE & RECOMMENDATION

Extend current permits to February 1, 2021.

BACKGROUND

The Colonel Durham RV parking site was established in July as an alternative site to the prior Roberts Lake location. It was directed by the City Council to be a temporary location, for 120 days. The site had the advantages of being larger, quieter and considerably safer from a COVID-19 transmission perspective in that it reduced cross-usage with park users from Seaside or other communities. The site also has the advantage of being served with potable water, and a shower was constructed for residents. The site is not a long-term location, as the property is under contract to be sold for the Campus Town project.

Parking by permit was granted to individuals who were previously parked at the Roberts Lake location, consistent with efforts to shelter in place. In July 32 vehicles were permitted at the site. People residing in three vehicles have since left the site, two of which had their permits revoked for violating rules strictly prohibiting physical violence. Consistent with shelter in place protocols, people who leave the site voluntarily are not permitted to return.

City expenses for site operations are approximately \$9,000 per month, funded through CARES Act revenue.

At present, no better or more cost-efficient site has been identified to replace the site at the conclusion of the Council-authorization. The staff recommendation to extend the authorization to February 1, 2021 is premised on being the same date the State

has chosen for eviction protections to end. Should that date be extended or should the local emergency order extend past February 1, staff will bring back the authorization date for further review. To assist residents with planning for a transition from the site, case management services will be provided.

FISCAL IMPACT

Approximately \$9,000 per month, funded through CARES Act revenue

ATTACHMENTS

None
