A G E N D A

CITY OF SEASIDE CITY COUNCIL/SUCCESSOR AGENCY TO REDEVELOPMENT AGENCY OF THE CITY OF SEASIDE	JOINT SPECIAL MEETING Council Chamber 440 Harcourt Avenue Thursday, March 17, 2016 5:30 PM

PLEASE TURN OFF YOUR CELL PHONES UPON ENTERING THE MEETING

1. CALL TO ORDER

Ralph Rubio	Mayor/Chair
Ian N. Oglesby	Mayor Pro Tem/Vice Chair
Dennis Alexander	Council/Agency Member
Jason Campbell	Council/Agency Member
David R. Pacheco	Council/Agency Member

2. PLEDGE OF ALLEGIANCE

3. PUBLIC COMMENTS

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 three minutes. Public Comments on specific agenda items are heard under that item. For the public record, please state your name.

4. STUDY SESSION

A. HOLD A STUDY SESSION TO CONSIDER THE DRAFT SEASIDE MUNICIPAL WATER SYSTEM WATER RATE STUDY

PURPOSE: The purpose of this item is to give the City Council a presentation of the draft Water Rate Study for their review and to provide direction to staff as appropriate.

RECOMMENDATION: It is recommended that the City Council receive the draft Seaside Municipal Water System Rate Study and provide direction to staff.

5. CONSENT AGENDA

A. APPROVE THE MINUTES OF MARCH 3, 2016 JOINT SPECIAL MEETING

PURPOSE: To review and approve the minutes from the March 3, 2016 Meeting.

RECOMMENDATION: That the minutes be reviewed and approved.

B. APPROVE AND FILE SUCCESSOR AGENCY CHECKS

PURPOSE: It is requested that the Successor Agency Board approve and file the accounts payable and wired payments made during the period of February 23, 2016 through March 7, 2016. In addition, approval of the payroll and benefits checks, direct deposits and wired payments related to the period of March 3, 2016 is requested. Total Accounts Payable and Payroll for the above referenced period is $16,568.20.

RECOMMENDATION: It is recommended that the Successor Agency Board approve and file the attached checks.

6. BUSINESS ITEMS

A. CONSIDERATION OF AN EXCLUSIVE NEGOTIATING AGREEMENT WITH MIDCOAST HOLDINGS, LLC AND THE CITY OF SEASIDE/SUCCESSOR AGENCY FOR DEVELOPMENT OF SEASIDE CONCOURS AUTO CENTER AT FIRST AVENUE AND LIGHTFIGHTER DRIVE IN THE FORMER FORT ORD

PURPOSE: The purpose of this item is for the City Council/Successor Agency to consider an Exclusive Negotiating Agreement (the “ENA” or Agreement”) for agency-owned lands identified as Property No.15 (the“Commercial Recreation Parcel” or the “Site”) under the Agency’s Long-Range Property Management Plan (the“LRPMP”) with MidCoast Holdings, LLC. The Commercial/Recreational Parcel is located in the former Fort Ord and is generally bounded by Gigling Road to the south, First Avenue to the east, Lightfighter Drive to the north and Highway One to the west.

RECOMMENDATION: It is recommended that the City Council approve an Exclusive Negotiating Agreement with Mid Coast Holdings, LLC to develop the Seaside Concours Auto Center.

7. CLOSED SESSION

A. CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9

City of Seaside v. City of Sand City: City Council of Sand City: does 1-10, inclusive, respondents King Ventures and Roes, does 1-10 inclusive, real parties in interest Monterey County Superior Court Case No. M126354

B. CONFERENCE WITH REAL PROPERTY NEGOTIATORS – GOVERNMENT CODE SECTION 54956.8

1. **Property Location: 2 McClure Way** (Bayonet & Black Horse Golf Course Property): Negotiating Parties for the City:Craig Malin, City Manager and Larry Seeman, Land Use Planning Consultant. Negotiating Parties for Seaside Donald Diamond Resort Development, LLC: Under Negotiation: Instructions to negotiator will concern price and terms of payment as well as other contingencies.
2. **Property Location: Projects at Main Gate:** Negotiator for the Agency/City:Craig Malin, Executive Director/City Manager. Under Negotiation: Provide direction/instructions to negotiator.

8. ADJOURNMENT

Next Regularly Scheduled Meeting:
April 7, 2016
Seaside City Hall
5:30 PM

The City of Seaside is an ADA accessible facility and is committed to include the disabled in all of its services, programs and activities. Any person who requires accommodation to be able to participate in this meeting is asked to contact the office of the City Clerk at 899-6707, no fewer than two business days prior to the meeting to allow for reasonable arrangements.The City Council Chambers is equipped with a portable microphone for anyone unable to come to the podium. Assisted listening devices are also available.

Meetings that are held in the City Council Chambers are broadcast live to all Seaside residents on Comcast Channel 25 and U-verse Channel 99. Meetings are also available through live streaming at: http://cvp.telvue.com/player?id=T01629&video=52314&noplaylistskin=1&width=400&height=300 Videos of past meetings are available on demand through the City's website: http://www.ci.seaside.ca.us

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 Government Code Section 54954.2(a) or Section 54956.

CITY OF SEASIDE
STAFF REPORT

Item No.: 4.A.

TO:	City Council
FROM:	Craig Malin, City Manager
BY:	Diana Ingersoll, Deputy City Manager Resource Management Services Tim O'Halloran, City Engineer/Public Works Services Manager Rick Riedl, Senior Engineer Daphne Hodgson, Deputy City Manager Administrative Services
DATE:	March 17, 2016
SUBJECT:	**HOLD A STUDY SESSION TO CONSIDER THE DRAFT SEASIDE MUNICIPAL WATER SYSTEM WATER RATE STUDY**

PURPOSE

The purpose of this item is to give the City Council a presentation of the draft Water Rate Study for their review and to provide direction to staff as appropriate.

RECOMMENDATION

It is recommended that the City Council receive the draft Seaside Municipal Water System Rate Study and provide direction to staff.

BACKGROUND

The Seaside Municipal Water System (SMWS) is comprised of 785 water service connections serving approximately 3,300 customers. The water system consists of one water well, two water tanks (500,000 gallons each) and seven miles of distribution piping. The water system serves the northeast portion of the City of Seaside and is bounded by La Salle Avenue to the north, Hilby Avenue to the south, Soto Street to the west and General Jim Moore Boulevard to the east. California America Water Company (Cal Am) and Marina Coast Water District (MCWD) are the water utility purveyors that serve the remaining Seaside residents.

The City operates the water system as an Enterprise Fund. Therefore all operating, maintenance and capital costs of the system are funded by user fees and an occasional grant for a capital project. The user fees are collected based on consumption and meter charges. A small portion of revenue comes from service installations, interest income, and other miscellaneous income sources. The City of Seaside currently uses a tiered rate structure that may need to be modified because of a court ruling in the City of San Juan Capistrano. The Court ruled that the City of San Juan Capistrano's tiered rate structure violated Proposition 218's proportionality requirements because the City failed to demonstrate that the tiers corresponded to the actual cost of providing service at a given level of usage. An Executive Summary on the draft rate study is included as an attachment to provide additional information.

Rate Study

The Seaside Municipal Water System contracted with Bartle Wells Associates to conduct a rate study. The previous water rates were adopted on February 19, 2009, based on a rate study conducted prior to the adoption. A new rate study and new rates are needed at this time.

The rate study was undertaken in order provide an analysis of the full cost of operating and maintaining the water system. In addition, the rate study was to incorporate the Capital Improvement Program (CIP). The current Capital Improvement Program identifies approximately $500,000 in projects for fiscal year ending June 30, 2016 (FY 2015/16) and approximately $2 million in projects for 5 years following.

Because the implementation schedule for capital projects will affect the expenditure flow and therefore impact SMWS customer fees, various alternatives were evaluated and three alternative funding scenarios (Scenarios A, B and C) were developed.

Rate Scenario A:

This scenario is full-cost based rates. The rates include all operating and maintenance costs and it assumes that the SMWS is operated on a "Pay-As-You-Go" basis (all capital projects cash funded). The first year rate increase for an average residential customer is approximately 90 percent. This is an average rate increase for a typical household customer of $50.00 per month (from a current average bill of $53.00, to an estimated average bill of $103.00). The annual rate increases thereafter are approximately 10% to 45%.

Alternative Rate Scenario B:

This scenario assumes that the SMWS will borrow in FY 2016/17 to finance the $2 million in capital projects from FY 2016/17 to FY 2020/21. The estimated first year rate increase for an average residential customer would be approximately 75 percent This is an average rate increase for a typical household customer of $40.00 per month (from a current average bill of $53.00, to an estimated average bill of $93.00). The annual rate increases thereafter are approximately 10% to 30%.

Alternative Rate Scenario C:

This scenario assumes that the SMWS is operated on a "Pay-As-You-Go" basis with most of the capital projects deferred. The estimated first year rate increase for an average residential customer would be approximately 73 percent. This is an average rate increase for a typical household customer of $39.00 per month (from a current average bill of $53.00, to an estimated average bill of $92.00). The annual rate increases thereafter are approximately 10% to 30%.

It is recommended that the City Council direct staff to finalize the rate study by selecting an alternative outlined above or providing additional direction on a preferred method for funding the Seaside Municipal Water System.

CEQA Requirements:

This Water Rate Study is for the establishment, modification, structuring, restructuring, or approval of rates, or other charges by the City, a public agency, which are for the purposes outlined in CCR Title 14, Sections 15273(a) and (b), outlined above. Therefore, the Water Rate Study is exempt from California Environmental Quality Act (CEQA) requirements.

FISCAL IMPACT

There is no fiscal impact to considering the proposed water rates.

ATTACHMENTS

1. Executive Summary

Reviewed for Submission to the
City Council by:

Craig Malin, City Manager

Executive Summary
Draft Rate Study
Seaside Municipal Water System

The Seaside Municipal Water System (SMWS) is comprised of 785 service connections serving approximately 3,300 customers. The water system consists of one water well, two water tanks (500,000 gallons each) and seven miles of distribution piping. The water system serves the northeast portion of the City of Seaside and is bounded by La Salle Avenue to the north, Hilby Avenue to the south, Soto Street to the west and General Jim Moore Boulevard to the east. The City operates the water system as an Enterprise Fund. Upgrading of the system is funded through revenues in excess of maintenance and operation expenses. The majority of revenue comes from billings for consumption and meter charges. A very small portion of revenue comes from service installations, interest income, and other miscellaneous income sources. California America Water Company (Cal Am) and Marina Coast Water District (MCWD) are the water utility purveyors that serve the remaining Seaside residents.

On April 20, 2015, the Fourth District Court of Appeal, Division Three, ruled that the City of Capistrano's inclining, tiered block rate structure violated Proposition 218's proportionality requirements (California Constitution, article XIII D, section 6). Although the opinion in Capistrano Taxpayers Association v. City of San Juan Capistrano held that tiered rates, or inclining block rates that go up progressively in relation to usage, are compatible with Proposition 218, in this instance, the court concluded that the City failed to demonstrate that the tiers correspond to the actual cost of providing service at a given level of usage. The City of Seaside employs a tiered rate structure that may need to be modified to be in accordance with this court's ruling.

<u>Rate Study</u>

The rate study was undertaken in order to support the Capital Improvement Program (CIP) that would include capital improvement projects, and capital outlay and operations and maintenance activities. The Capital Improvement Program identifies approximately $500,000 in projects for fiscal year ending June 30, 2016 (FYE 2016) and approximately $2 million in projects for 5 years following.

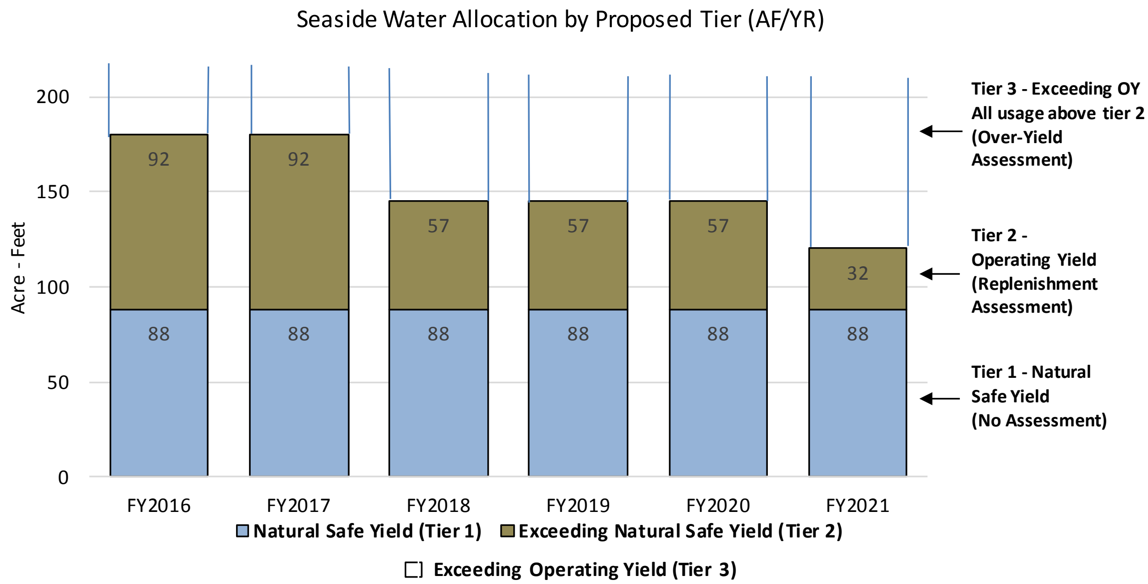
Since the implementation schedule for capital projects will affect the expenditure flow and could affect SMWS customer fees, alternatives were evaluated that included debt financing and deferring capital projects. Therefore, the attached Rate Study develops two alternative funding scenarios (Scenarios B and C) that could provide services to the SMWS customers while reducing the significant first year customer fee increase relevant to Rate Scenario A.

<u>Rate Increases:</u> Rate increases are required to fund future capital projects and maintain the fiscal health of the water enterprise. The two main driving forces behind the rate increases are capital projects and water availability.

> <u>Water Availability:</u> The Municipality is faced with the issue of water availability. The municipality is restricted (by the Seaside Groundwater Basin Water Master) on the amount of water that can be pumped out of the Seaside Basin. If Municipality pumps over the proposed limits (shown in **Figure 1** on the next page), the municipality must pay a unit fee per acre-foot of water.

Capital Projects: As mentioned previously, the municipality requires capital improvements over the next 5 years. The level of funds needed varies depending on the scenario Council will choose to pursue.

Figure 1



Alternative Rate Scenario A:

This scenario assumes that the SMWS is operated on a "Pay-As-You-Go" basis (all capital projects cash funded) with a first year rate increase for an average residential customer of approximately 90 percent and annual rate increases thereafter of approximately 45% to 10% to finance the proposed capital expenditures and O&M activities. The average residential customer currently pays $53.36 per month under current rates. Under Scenario A, a customer will pay $102.52 on average in FY2017.

Alternative Rate Scenario B:

This scenario assumes that the SMWS will acquire a loan in FYE2017 to finance the $2 million in capital projects from FYE2017 to FYE2021. The estimated first year rate increase for an average residential customer would be approximately 75 percent and annual rate increases thereafter of approximately 30% to 10%. The average residential customer currently pays $53.36 per month under current rates. Under Scenario B, a customer will pay $94.16 on average in FY2017.

Alternative Rate Scenario C:

This scenario assumes that the SMWS is operated on a "Pay-As-You-Go" basis with most of the capital projects deferred. The estimated first year rate increase for an average residential customer would be approximately 66 percent and annual rate increases thereafter of approximately 7% to 25%. The average residential customer currently pays $53.36 per month under current rates. Under Scenario C, a customer will pay $88.58 on average in FY2017.

It is recommended that the City Council direct staff to finalize the rate study by selecting an alternative outlined above or providing additional direction on a preferred method for funding the Seaside Municipal Water System.

Proposed Residential Fixed Rates: The municipality will continue to be charged a fixed rate per meter on a monthly basis. The current rates for a ¾" meter are shown below in Table 1.

Table 1: Fixed Residential Rates

	Current	Proposed ($/month per 3/4" or less meter)				
WATER	**FY2016**	**FY2017**	**FY2018**	**FY2019**	**FY2020**	**FY2021**
Scenario A: Pay-As-You-Go	$15.32	$36.27	$48.96	$66.10	$66.10	$66.10
Scenario B: Financing	$15.32	$32.64	$38.52	$42.37	$46.61	$48.94
Scenario C: Deferred	$15.32	$30.22	$35.06	$38.57	$41.65	$43.73

Proposed Residential Volumetric Rates: The proposed residential volumetric rates are shown in **Table 2.** The residential rates will move from a 6 tier structure to a 3 tier structure. The rate structure is based on unit charges imposed by the Seaside Groundwater Basin Water Master and is compliant with the legal requirements set forth by Proposition 218.

Table 2: Residential Volumetric Rates

Volumetric Residential Rates							
			FY2017 ($/tcf)	**FY2018** ($/tcf)	**FY2019** ($/tcf)	**FY2020** ($/tcf)	**FY2021** ($/tcf)
Scenario A	**Pay-As-You-Go**	Tier 1	$0.86	$1.44	$1.95	$1.95	$2.35
		Tier 2	$1.48	$2.06	$2.57	$2.57	$2.97
		Tier 3	$1.64	$2.22	$2.72	$2.72	$3.13
Scenario B	**Financing**	Tier 1	$0.77	$1.14	$1.25	$1.37	$1.74
		Tier 2	$1.40	$1.76	$1.87	$1.99	$2.36
		Tier 3	$1.55	$1.91	$2.02	$2.15	$2.52
Scenario C	**Deferred Capital**	Tier 1	$0.72	$1.03	$1.14	$1.23	$1.56
		Tier 2	$1.34	$1.65	$1.76	$1.85	$2.18
		Tier 3	$1.49	$1.81	$1.91	$2.00	$2.33

Residential Water Allocation						
		FY2017 (tcf)	**FY2018** (tcf)	**FY2019** (tcf)	**FY2020** (tcf)	**FY2021** (tcf)
All Scenarios	Tier 1	0 to 29	0 to 29	0 to 29	0 to 29	0 to 29
	Tier 2	29 to 60	29 to 60	29 to 49	29 to 49	29 to 40
	Tier 3	60 +	60 +	49 +	49 +	40 +

tcf = ten cubic feet = 74.8 gallons of water

DRAFT MINUTES

CITY OF SEASIDE
CITY COUNCIL

REGULAR MEETING
COUNCIL CHAMBER
Thursday, March 3, 2016
5:30 PM

1. **CALL TO ORDER**

The meeting was called to order at 5:30 PM.

2. **ROLL CALL – ESTABLISHMENT OF QUORUM**

PRESENT: Alexander, Campbell, Oglesby, Pacheco, Rubio
ABSENT: None

3. **PLEDGE OF ALLEGIANCE**

4. **PUBLIC COMMENT**

Mayor Rubio invited public comment for items not on the agenda.

- Helen Rucker expressed frustration with the number of mobile recreational vehicles in the City. She requested that the City address the issue. It blocks the traffic and thinks it is dangerous for backing out of drive ways and for line of sight issues at intersections. There are more of them present and they present a traffic danger.

Mr. Rubio informed her that the Planning Commission just approved a draft ordinance and are recommending it to the City Council or approval.

5. **CLOSED SESSION**

Legal Counsel Freeman read the items under discussion for Closed Session.

Mayor Rubio invited public comment on the item.

- Mr. Steve Bloomer commented on the agenda to clarify the location of the item under negotiation. He wanted to make clear that the location was East of Fort Ord.

The City Council adjourned to closed session at 5:34 PM.

A. PURSUANT TO GOVERNMENT CODE 54957.6 - CONFERENCE WITH LABOR NEGOTIATORS

B. CONFERENCE WITH REAL PROPERTY NEGOTIATORS PURSUANT TO GOVERNMENT CODE SECTION 54956.8:

6. **CONSENT CALENDAR**

MOVER:	Council Member Dave Pacheco
SECONDER:	Mayor Pro Tem Ian Oglesby
AYES:	Ralph Rubio, Ian Oglesby, Dennis Alexander, Jason Campbell, Dave Pacheco
NOES:	None

A. APPROVE AND FILE SUCCESSOR AGENCY CHECKS

Action: Approved & Accepted

7. BUSINESS ITEMS

A. CONSIDERATION OF A SECOND AMENDMENT TO AN EXCLUSIVE NEGOTIATING AGREEMENT (ENA) WITH KB BAKEWELL SEASIDE VENTURE LLC FOR DEVELOPMENT OF AN INTEGRATED MIXED USE PROJECT ON THE SURPLUS II AND "26 ACRES" LAND SITES IN THE FORMER FORT ORD, EXTENDING THE ENA PERIOD FOR NINE (9) MONTHS.

Deputy City Manager Ingersoll reported on the item requesting a seconded amendment for the Exclusive Negotiating Agreement with KB Bakewell Seaside Ventures LLC for the development sites, Surplus II and the 26 Acres. She reported that during the time of the ENAs, Staff has completed the appraisals, and a letter of intent of the business terms. This action extends the agreement to be able to complete the environmental documents and the negotiations for a Disposition and Development Agreement. Ms. Ingersoll further clarified that there is no need for Oversight Board or Department of Finance approval because the Surplus II property has been identified in the Long Range Property Management Plan for development. Ms. Ingersoll answered questions from the council.

Council Member Campbell questioned if there are any issues that slowed this proposal down and asked if the process will proceed more quickly to which Ms. Ingersoll spoke to the Surplus II property being a Redevelopment agency property is the reason that the project was stalled. She said that she believes that the process should proceed more quickly now. Legal Counsel Freeman indicated there are word changes to be made to the agreement but are non-substantive.

Mayor Rubio invited comments from the public and had no requests to speak.

The Developer Danny Bakewell Jr. thanked City staff and thanked the City Manager for expediting the process and he looks forward to proceeding with the project. Mayor Pro Tem Oglesby spoke to the difficulty of Surplus II and that it is a difficult parcel in itself and thanked the Developer for taking on the task. Mayor Rubio thanked staff for being aggressive on the schedule and moving the project along.

On motion by Council Member Pacheco and seconded by Council Member Alexander and passed by the following vote the City Council approve the second amendment to the Exclusive Negotiating Agreement with KB Bakewell Seaside venture LLC.

RESULT:	**Approved**
MOVER:	Council Member Dave Pacheco
SECONDER:	Council Member Dennis Alexander

AYES:	Ralph Rubio, Ian Oglesby, Dennis Alexander, Jason Campbell, Dave Pacheco
NOES:	

8. **ADJOURNMENT**

On motion, the meeting was adjourned at 6:03 PM.

Respectfully submitted,

Lesley Milton-Rerig, City Clerk

Ralph Rubio, Mayor

CITY OF SEASIDE
STAFF REPORT

Item No.: 5.B.

TO: Successor Agency to the Redevelopment Agency of the City of Seaside

FROM: Craig Malin, Executive Director

BY: Daphne Hodgson, Deputy City Manager Administrative Services
Krista Oberholtzer, Accounting

DATE: March 17, 2016

SUBJECT: **APPROVE AND FILE SUCCESSOR AGENCY CHECKS**

PURPOSE

It is requested that the Successor Agency Board approve and file the accounts payable and wired payments made during the period of February 23, 2016 through March 7, 2016. In addition, approval of the payroll and benefits checks, direct deposits and wired payments related to the period of March 3, 2016 is requested. Total Accounts Payable and Payroll for the above referenced period is $16,568.20.

RECOMMENDATION

It is recommended that the Successor Agency Board approve and file the attached checks.

BACKGROUND

In accordance with Government Code Section 37208, at each Agency meeting the Board 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, I hereby certify that the above referenced (and attached) list of checks conforms to the approved budget and has been paid. These checks are hereby submitted to the Agency Board for inspection and confirmation.

There were no checks that exceeded $10,000 between February 23, 2016 through March 7, 2016 for Successor Agency related expenses.

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

http://www.ci.seaside.ca.us/index.aspx?page=366

FISCAL IMPACT

The listed checks have been budgeted and paid from the various funds, as appropriate.

ATTACHMENTS

Reviewed for Submission to the
City Council by:

Craig Malin, City Manager

CITY OF SEASIDE
STAFF REPORT

Item No.: 6.A.

TO: City Council

FROM: Craig Malin, City Manager

BY: Diana Ingersoll, Deputy City Manager Resource Management Services
Sharon Mikesell, Administrative Analyst

DATE: March 17, 2016

SUBJECT: **CONSIDERATION OF AN EXCLUSIVE NEGOTIATING AGREEMENT WITH MIDCOAST HOLDINGS, LLC AND THE CITY OF SEASIDE/SUCCESSOR AGENCY FOR DEVELOPMENT OF SEASIDE CONCOURS AUTO CENTER AT FIRST AVENUE AND LIGHTFIGHTER DRIVE IN THE FORMER FORT ORD**

PURPOSE

The purpose of this item is for the City Council/Successor Agency to consider an Exclusive Negotiating Agreement (the "ENA" or Agreement") for agency-owned lands identified as Property No.15 (the"Commercial Recreation Parcel" or the "Site") under the Agency's Long-Range Property Management Plan (the"LRPMP") with MidCoast Holdings, LLC. The Commercial/Recreational Parcel is located in the former Fort Ord and is generally bounded by Gigling Road to the south, First Avenue to the east, Lightfighter Drive to the north and Highway One to the west.

RECOMMENDATION

It is recommended that the City Council approve an Exclusive Negotiating Agreement with Mid Coast Holdings, LLC to develop the Seaside Concours Auto Center.

BACKGROUND

July 24, 2015 staff received an Unsolicited Proposal from Autopilot Development Services, LLC on behalf of Mid Coast Holdings, LLC to develop a luxury auto mall (Seaside Concours Auto Center) on agency-owned property at the corner of First Avenue and Lightfighter Drive.

Following the City's adopted Unsolicited Proposal Review process, staff completed its review of the Proposal on August 18, 2015.

On September 3, 2015, the Successor Agency to the Redevelopment Agency of the City of Seaside directed staff to negotiate an ENA with Mid Coast Holdings for the development of a luxury auto center on the Commercial/Recreation Parcel.

PROPOSED PROJECT SITE

The Commercial/Recreation Parcel site is approximately twenty-nine (29) undeveloped acres located on the former Fort Ord military base at the southwest corner of First Avenue and Lightfighter Drive. The site is bounded by Highway 1 and open space to the west; Lightfighter Drive and the Projects at Main Gate Specific Plan area to the north; military commercial uses to the east (PX and Commissary); and a residential neighborhood and former military housing to the south. The Site is highly accessible for regional customers by virtue of highway access and visibility via Highway 1 on the western boundary of the property.

The Site was transferred to the former Redevelopment Agency from the US Army via the Fort Ord Reuse Authority as an Economic Development Conveyance (the “EDC”) in December 2006.

With the dissolution of redevelopment agencies in February 2012, the Site transferred to the Successor Agency and is subject to the redevelopment dissolution process which includes the preparation of a Long-Range Property Management Plan (the “LRPMP”) that was approved by the Department of Finance on May 28, 2015.

Under the LRPMP, the Agency recommends that the property be transferred to the City and retained for future development. The LRPMP states that the Commercial/Recreation Parcel site will be disposed of to a qualified developer who will acquire and develop the property in a timely manner in accordance with an approved Disposition and Development Agreement (DDA), which will set the terms of the land acquisition between the City and the selected developer. The developer will be selected through an application process involving solicitation of interested prospective developers with a Request for Qualification (RFQ), Request for Proposals (RFP), qualified bid, or similar means.
Two public roadway rights of way are located in the Commercial/Recreation Parcel. Prior to disposing of the site for future Economic Development, these rights of way will need to be carved out and transferred to the City to be retained for governmental use as public roadways.

PROJECT PROPOSAL

Project Components

The Proposal includes the planning, design and construction of an exclusive five (5) luxury/import dealership complex. The proposed project would be the first truly “luxury brand” auto center on the Central Coast between San Jose and Santa Barbara. Dealership brands such as Lexus, Mercedes-Benz, Infinity and BMW would be targeted as candidates who would consider relocation to the proposed luxury auto mall.

This luxury auto center is proposed to address the current lack of available property in the Seaside Auto Center and in the City that is designated Commercial Automotive land use for the expansion of existing and the addition of new auto dealerships. The limited ability for auto dealers to expand their facilities limits their growth and vitality.
The Conceptual Development Plan provided as Attachment 1, illustrates the proposed layout of five (5) lots which range in size from two (2) to four and a quarter (4.25) acres. Ingress and egress into the site is proposed on First Avenue. Linear parks and retention areas are proposed along the western and southern boundaries of the Site to provide a buffer between the proposed project and Highway 1 and the military housing neighborhood.

The Proposal states that the proposed Concours Auto Center development would be required to follow both CalGreen and LEED certification guidelines and to work to preserve the natural environment and habitat areas by encouraging the reuse of existing and native vegetation, maintaining existing site grades and contours where possible, and implementing lower noise and exterior lighting restrictions in order to minimize any impact to the residential neighbors to the south and wildlife.

Consistency with City Goals and Objectives

Current Planning Documents: Seaside General Plan and Zoning Code

The 2004 City of Seaside General Plan (GP) identifies the Commercial/Recreation Parcel as Parks and Open Space (POS). This land use category is applied in areas where the City wants to preserve natural resources, views, and other visual amenities and to protect people and property from natural and man-made hazards. The POS land use designation also identifies current and planned publicly-owned active and passive parkland of all sizes. Allowable uses may include active and passive parks and recreational activities including sports fields, trails, and playground equipment; public amphitheaters; habitat management; and community centers and gymnasiums. Park related offices and restroom facilities are also permitted.

The Commercial/Recreation Parcel is zoned Open Space – Recreation (OSR). The OSR zone is applied to areas of the City identified by the General Plan as Parks and Open Space (POS) or Recreation Commercial (RC). The OSR zone is applied to publicly owned land that is either used or intended for community recreational purposes, and areas of important aesthetic, historical, or public health and safety significance. Allowable uses include parks, trails, and recreational and cultural facilities. Use permits are required for golf courses, hotels/motels, conference and convention facilities, amphitheaters, cemeteries, and utility facilities.

The proposed use is currently not allowed on the Commercial/Recreational Parcel. While the City is embarking on a city-wide General Plan and Zoning Update, it will move at a slower pace than the proposed project schedule. Therefore, should the Proposal move forward, a General Plan and Zoning amendments would be required as part of the entitlement process.

Economic and Community Benefits

The City Council has set as one of its three year goals "create vibrant, sustainable economic development". The objectives of this goal are: to create higher paying jobs for our citizens; to increase revenues that will allow the City to provide quality services for our residents; and to improve and to maintain the City's appearance including public facilities and infrastructure.

Job Creation

The Proposal states that there will be an increase of temporary construction and material supplier jobs during the estimated two (2) year project construction period. Upon dealership's opening, an estimated 300 to 500 new permanent jobs will be generated by the project and businesses that will expand or be attracted as a result of the business demands of the Concours Auto Center.

Revenue Generation

The Proposal provides an estimate of $2.5 million in annual tax revenues based on 1% of $50,000,000 in sales for each of the five (5) dealerships. Applying the City's 1% transaction tax to this estimate results in an estimated $250,000.00 of Annual Tax Revenue.

Project Schedule

Staff will work continue to work closely with the Developer to review and establish a schedule that incorporates all required components of the entitlement and LRPMP process including, but not limited to, a General Plan/Zoning amendments, project environmental review, and consistency with the Fort Ord Base Reuse Plan (BRP).

Project Financing

Mid Coast Holding's estimated project cost is $12,673,250. The project will be funded through cash resources of the members of Mid-Coast Holdings and private investors which may include a Real Estate Investment Trust (REIT). No financial participation by the City of Seaside is requested.

Qualifications and Experience of Proponent

Principals of Mid Coast Holdings include, but may not be limited to, Peter Blackstock and Richard Cartell. Together, Mr. Blackstock and Mr. Cartell have sixty (60) years of experience inthe development, design, construction and operational aspects of auto dealerships and auto mall/center facilities. Mr. Blackstock is the principal/owner of Lexus of Monterey Peninsula and Victory Toyota and was an active participant in the Seaside Auto Center revitalization completed in 2008. Mr. Cartell through his architectural practice and real estate development firm has managed the planning and development of over 400 dealerships and auto center projects throughout the United States. Mr. Cartell's experience in Seaside includes being the Master Plan Consultant for the Seaside Auto Center revitalization project and the expansion and/or renovation of Lexus Monterey Peninsula, Victory Toyota, and Cypress Coast Ford facilities. He is currently working with Cypress Coast Honda to redevelop its site and facilities.

POTENTIAL ECONOMIC AND COMMUNITY BENEFITS

The proposed project will have multiple benefits if the luxury auto dealers are able to relocate and expand their businesses within Seaside's city limits. First, existing luxury auto dealers could remain in Seaside, thus retaining a critical tax revenue base. Approximately sixty (60%) of the City's sales tax revenues are generated by auto sales at the Seaside Auto Mall. Retention and expansion of existing businesses are important to the economic viability of the City.

Second, additional space would become available in the Seaside Auto Mall for other dealerships to expand and prosper, conceivably resulting in increased sales tax revenue generated from future auto sales.

FISCAL IMPACT

The approval of the ENA will have no fiscal impact on the City's General Fund. The ENA requires the Developer to deposit $55,000 to reimburse the City for costs associated with the application processing and the negotiation of the Disposition and Development Agreement (DDA). This includes, but is not limited to, staff time and legal fees. The City will bill the Developer monthly for reimbursable costs to the ENA. In addition, within six months of the effective date of the ENA, the Developer shall deposit with City an additional $50,000.00 to commence the required CEQA review of the proposed project.

ATTACHMENTS

1. Draft Resolution
2. Mid Coast Holding Group LLC ENA

Reviewed for Submission to the
City Council by:

____
Craig Malin, City Manager

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RESOLUTION NO. 16-

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE

AUTHORIZING THE CITY MANAGER/EXECUTIVE DIRECTOR TO EXECUTE AN EXCLUSIVE NEGOTIATING AGREEMENT (THE "ENA" OR "AGREEMENT") WITH MID COAST HOLDINGS GROUP LLC, A CALIFORNIA LIMITED LIABILITY COMPANY, FOR DEVELOPMENT OF SEASIDE CONCOURS AUTO CENTER A THE CORNER OF FIRST AVENUE AND LIGHTFIGHTER DRIVE

WHEREAS, on July 24, 2015 the Successor Agency and City Council received an Unsolicited Proposal from Mid Coast Holdings LLC to develop a luxury auto mall (Seaside Concours Auto Center) on Agency owned property at the corner of First Avenue and Lightfighter Drive ("the Project"); and

WHEREAS, on September 3, 2015, the Successor Agency to the Redevelopment Agency of the City of Seaside directed staff to negotiate an ENA with Mid Coast Holdings for the development of a luxury auto center on the Commercial/Recreation Parcel.

WHEREAS, once executed, staff, consultants and attorneys' of the City will devote substantial time and effort in meeting with the Developer and its representatives, reviewing proposals, plans and reports, and ensuring the terms of the ENA and the Agreement are carefully followed.

NOW THEREFORE, be it resolved that the Successor Agency to the Redevelopment Agency of the City of Seaside and the City Council of the City of Seaside authorizes the City Manager/Executive Director to execute the ENA with Mid Coast Holdings Group (Exhibit "A") with the term of this ENA to commence on the date hereof and shall end one (1) calendar year after the date of execution. Provided that the Developer is not in default under this ENA and the City has not terminated this ENA pursuant to Section 2, the ENA period may be extended by the mutual written agreement of Developer and the City Manager of the City (acting for the City) for five (5) calendar months and then for three (3) calendar months (i.e., to August 17, 2017 and then November 17, 2017, respectively.

PASSED AND ADOPTED at a Special Joint meeting of the Successor Agency to the Redevelopment Agency of the City of Seaside and the City Council of the City of Seaside duly held on the 17th day of March, 2016, by the following vote:

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

____
Ralph Rubio, Mayor

ATTEST:

____
Lesley Milton-Rerig, City Clerk

EXCLUSIVE NEGOTIATING AGREEMENT

This EXCLUSIVE NEGOTIATING AGREEMENT (this "ENA") is dated as of March 17, 2016 (the "Effective Date") and is entered into by and between the CITY OF SEASIDE, a municipal corporation [,as successor agency to the Redevelopment Agency of the City of Seaside] (the "City") and Mid Coast Holdings Group, LLC, a Limited Liability Company (the "Developer"). The City and the Developer are sometimes individually referred to as a "Party" and are sometimes collectively referred to as the "Parties."

R E C I T A L S

A. The City owns the land in the City of Seaside, California that is generally depicted on the "Site Map" attached hereto as Attachment No. 1 (the "Site").

B. The City has received a proposal from Developer for the purchase or ground leasing of the Site by the Developer and the development of Seaside Concours Auto Center (the "Project") on the Site.

C. After considering the proposal of the Developer, the City has instructed the City's staff to proceed with this ENA between City and Developer to negotiate with each other on an exclusive basis to establish the terms and conditions of a [Ground Lease] [Disposition and Development Agreement] (the "Agreement") that would result in the Developer's [leasing] [acquisition] and development of the Site (the "Project").

D. The Developer and the City are willing to enter into this ENA setting forth, among other things, the terms pursuant to which the City will negotiate with the Developer on an exclusive basis for a specified period regarding the terms of the Agreement.

E. Through the ENA Period (as defined below), the staff, consultants and attorneys' of the City will devote substantial time and effort in meeting with the Developer and its representatives, reviewing proposals, plans and reports, and negotiating and preparing the terms of this ENA and the Agreement.

NOW, THEREFORE, the Parties hereto agree as follows:

1. The term of this ENA shall commence on the date hereof and shall end on the earlier of: (i) the date that is one (1) calendar year after the date of this ENA, as may be extended by the City Manager under this Section 1, or (ii) the date on which the City terminates this ENA as provided in Section 2 below (the "ENA Period"). Provided that the Developer is not in default under this ENA and the City has not terminated this ENA pursuant to Section 2 below, the ENA period may be extended by the mutual written agreement of Developer and the City Manager of the City (acting for the City) for five (5) calendar months and then for three (3) calendar months (*i.e.*, to August 17, 2017 and then November 17, 2017, respectively); provided, however, that the City Manager may only grant an extension if: (i) the Developer is not then in default under this ENA (including, without limitation, Section 7 below); (ii) there are no material issues remaining to be resolved with respect to the Agreement; and (iii) the applicable extension is necessary only to complete the CEQA Documents (as defined in Section 8 below) and then

obtain City Council approval of the Agreement (which approval may be given or withheld in the City's sole and absolute discretion).

2. The City may terminate this ENA if the Developer should fail to comply with or perform any provisions of this ENA, or if progress is not being made in negotiations hereunder, as determined by City in good faith but in its sole and absolute discretion.

3. If the Developer and the City staff have not fully negotiated and agreed upon the terms of the Agreement prior to the end of the ENA Period, then this ENA shall automatically terminate and, except as expressly provided herein, neither party hereto shall have any further rights or obligations under this ENA. In no event shall any such negotiated Agreement become effective unless duly approved by the City board after compliance with the California Environmental Quality Act and all other applicable laws.

4. During the ENA Period (as extended under Section 1, if applicable), the City shall not negotiate with any person or entity other than the Developer for the sale, lease or development of the Site.

5. The Developer shall deliver the materials and information identified on Attachment No. 2 attached hereto to the City within the times set forth on Attachment No. 2. At the beginning of each calendar month during the ENA Period (as extended under Section 1, if applicable), Developer shall provide a written report to the City describing in reasonable detail the Developer's activities with respect to the Project during the preceding calendar month.

6. During the ENA Period (as extended under Section 1, if applicable), the City shall use good faith efforts to complete (or cause to be completed) the matters set forth in Attachment No. 3 attached hereto.

7. Developer shall reimburse City for its actual out-of-pocket costs and expenses (including legal fees and costs) incurred in preparing this ENA and fulfilling its obligations under this ENA from the date hereof, including, but not limited to: (i) the cost of developing, reviewing and processing any general plan amendments and/or specific plan amendments for the Site; (ii) the cost of preparing, reviewing and processing the CEQA Documents (as defined in Section 8 below); (iii) the costs of staff review of Developer submittals and the costs of consultants retained by City in connection with the Agreement or Project (including, without limitation, attorneys' fees and costs) at the rates set forth on Attachment No. 4; and (iv) the cost of negotiation and preparing the Agreement (collectively, the "Reimbursable Costs"). Concurrently with its execution of this ENA, Developer shall deposit with the City the sum of Fifty-Five Thousand and No/100 Dollars ($55,000.00) and on or before the date that is six (6) calendar months after the date of this ENA, Developer shall deposit with City an additional Fifty Thousand and No/100 Dollars ($50,000) (the "Reimbursement Funds"). The Reimbursement Funds may be used and applied from time to time by the City to pay itself for Reimbursable Costs not otherwise paid or reimbursed by the Developer. The Developer shall deposit with the City funds sufficient to replenish the Reimbursement Funds held by City within ten (10) days after written demand by the City with a description of the costs paid from the Reimbursement Funds (unless previously described in writing to Developer). Any remaining amount of the Reimbursement Funds shall be delivered to the Developer (along with a final accounting of the City's application of the Reimbursement Funds) within thirty (30) business days after the earlier of: (i) the execution of the Agreement by the Parties, or (ii) the termination

of this ENA. The provisions of this Section shall survive the expiration or earlier termination of this ENA. Notwithstanding anything to the contrary in this ENA, express or implied, City shall have the right in its sole and absolute discretion to cease evaluation of submittals relating to the Project, stop any other staff work and/or work of its consultants and stop negotiating or discussing the Project and/or Agreement, in whole or in part, in the event that City determines that the sums then on deposit with City are not sufficient to pay for all of the projected/established Reimbursable Costs projected/estimated by City.

8. The City and Developer acknowledge that all applicable requirements of the California Environmental Quality Act ("CEQA") must be met in order to execute and deliver the Agreement and develop the Site and that this may require an environmental impact report, supplemental environmental impact report and/or other reports or analyses for CEQA purposes (collectively, the “CEQA Documents”). The Developer will, at its cost, fully cooperate with the City in the City’s preparation of the CEQA Documents as the lead agency for the CEQA Documents.

9. Developer acknowledges that (a) if the Site or any portion thereof was part of the former Fort Ord, prevailing wages shall be paid in connection with the development of and construction on the Site by Developer (and any transferee of Developer) pursuant to Section 2(a) of the Implementation Agreement between City of Seaside and the Ford Ord Reuse Authority and Section 3.03.090 of the Fort Ord Reuse Authority Master Resolution described therein; and (b) prevailing wages may otherwise be required to be paid if the City provides any financial assistance to the Developer in connection with the Project.

10. Developer acknowledges that Developer shall be required to comply with (and to cause its contractors, subcontractors, tenants to comply with) the City’s Local First Source Recruitment Policy, a copy of which is available from City staff, and to give preference to contractors in the City and then to contractors in the County.

11. The Developer shall bear all costs and expenses of any and all title, environmental, physical, engineering, financial, and feasibility investigations, reports and analyses and other analyses or activities performed by or for the Developer.

12. The Developer and the City understand and agree that neither Party is under any obligation whatsoever to enter into a Agreement. In the event of the expiration or earlier termination of this ENA, the City shall be free at the City's option to negotiate with any persons or entities with respect to the sale, lease and development of the Site.

13. The Developer shall indemnify, defend, and hold the City and City harmless from any and all costs, expenses, losses, claims, liabilities, damages and causes of action arising out of Developer's entering into or performing this ENA and/or Developer's failure to perform any obligation of Developer under this ENA. The Developer’s obligations under the preceding sentence shall survive the expiration or earlier termination of this ENA.

14. The Developer represents and warrants that its undertakings pursuant to this ENA are for the purpose of development of the Site and not for speculation in land, and the Developer recognizes that, in view of the importance of the redevelopment of the Site to the general welfare of the community, the qualifications and identity of the Developer and its principals are of particular concern to the City; therefore, this ENA may not be assigned by the

Developer without the prior express written consent of the City in its sole and absolute discretion. However, the City acknowledges that the Developer may intend to form a new entity controlled by the parties comprising the Developer that will be the Developer entity that will be a party to the Agreement. The City shall have the right to review and approve the organizational documents of such entity and the entities comprising such entity.

15. Any notice, request, approval or other communication to be provided by one Party to the other shall be in writing and provided by certified mail, return receipt requested, or a reputable overnight delivery service (such as Federal Express) and addressed as follows:

If to the Developer:

Rick Cartell/Principal Member
Autopilot Development Services, LLC
7459 E. DE La O Road
Scottsdale, AZ 85255

If to the City:

City of Seaside
440 Harcourt Avenue
Seaside, CA 93955
Attn: City Manager

Notices shall be deemed delivered: (i) if sent by certified mail, then upon the date of delivery or attempted delivery shown on the return receipt; or (ii) if delivered by overnight delivery service, then one (1) business day after delivery to the service as shown by records of the service.

16. For purposes of the negotiations contemplated by this ENA, the Developer's representative shall be Rick Cartell (Phone: (480) 473-0256; Email: cartell@autopilotusa.com) and the City's representative shall be Craig Malin (Phone: (831-899-6700) ; Email: cmalin@ci.seaside.ca.us).

17. This ENA constitutes the entire agreement of the Parties hereto with respect to the subject matter hereof. There are no agreements or understandings between the Parties and no representations by either Party to the other as an inducement to enter into this ENA, except as expressly set forth herein. All prior negotiations between the Parties are superseded by this ENA. Neither the City nor its officers, members, staff or agents have made any representations, warranties or promises to the Developer other than as expressly set forth herein.

18. This ENA may not be altered, amended or modified except by a writing duly approved and executed by all Parties.

19. If any Party should bring any legal action or proceeding relating to this agreement or to enforce any provision hereof, or if the Parties agree to arbitration or mediation relating to this ENA, the Party in whose favor a judgment or decision is rendered shall be entitled to recover reasonable attorneys' fees and expenses from the other. The Parties agree that any

legal action or proceeding or agreed-upon arbitration or mediation shall be filed in and shall occur in the County of Monterey.

20. The interpretation and enforcement of this ENA shall be governed by the laws of the State of California.

21. Time is of the essence of each and every provision hereof in which time is a factor.

22. This ENA may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same ENA.

IN WITNESS WHEREOF, the Parties hereto have executed this ENA as of the day and year first written above.

CITY:

CITY OF SEASIDE

By: ________________________________
________________________________,
Ralph Rubio, Mayor

Attest:

____
Lesley Milton-Rerig City Clerk

Approved at to Form:

____

Bruce Galloway of Richards Watson Gershon

Counsel to City

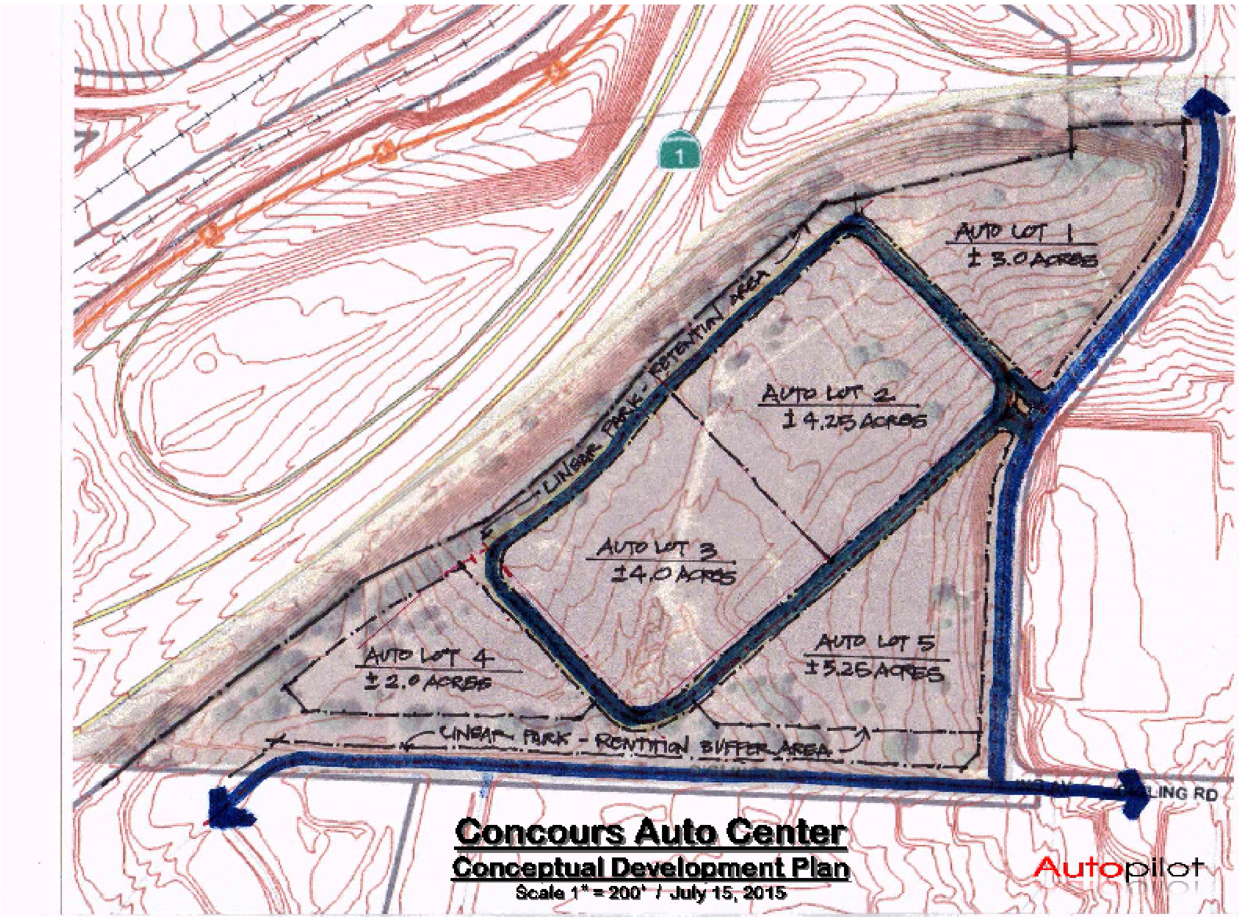
DEVELOPER:

MID COAST HOLDINGS GROUP, LLC
a Limited Liability Company

By: ________________________________
Print Name: ________________________
Title: ______________________________

ATTACHMENT NO. 1

SITE MAP



(Attached.)

ATTACHMENT NO. 2

SPECIFIC DEVELOPER TASKS

1. Within four (4) calendar months after the date of this ENA, Developer shall deliver the following items for City staff review and approval:

   i) Preliminary site plan and revised architectural concept drawings identifying the location, general configuration traffic circulation, and proposed design characteristics of the Project.

   ii) Conceptual development program ("Development Program") for the Project that include a breakdown of the proposed scope of development including a range of building square feet by land use and acreage by land use, improvements, approximate number and mix of any residential units, any affordable housing units by level of affordability, proposed public parks/amenities, circulation acreage, and other general uses.

   iii) Detailed market analysis for the Project demonstrating the marketability of the proposed conceptual development program. If appropriate, the findings of the market study may be used to modify and refine the development concept.

2. Within six (6) calendar months after the date of this ENA, Developer and City staff shall determine the likely type and schedule for obtaining entitlements necessary for construction of the Project including, but not limited to, discretionary permits.

3. Within seven (7) calendar months after the date of this ENA, Developer shall deliver to City for City staff review and approval, a preliminary financing plan for the proposed Project.

4. Within eight (8) calendar months after the date of this ENA, Developer shall submit to City a schedule of development setting forth the proposed timetable for the commencement, substantial completion and final completion of the Project (the "Development Schedule").

5. Within nine (9) calendar months after the date of this ENA, Developer shall deliver to City for City staff review and approval, an organizational chart of the Developer that corresponds to the proposed Development Program.

6. Within nine (9) calendar months after the date of this ENA, Developer shall deliver to the City a fully completed and executed development application including all items identified on the City of Seaside Development Application Submittal Checklist.

7. Developer shall promptly provide comments to the City on the initial draft of the Agreement and subsequent drafts submitted by City.

8. Within ten (10) calendar months after the date of this ENA, Developer shall obtain and review a preliminary report for the Site from a title company selected by Developer and copies of the documents listed as title exceptions therein and shall deliver copies of the

reports and documents to City together with a written description of any objections Developer may have to any of the title exceptions (and the rationale for the objections), it being understood that Developer shall have the right under the Agreement to perform/obtain an ALTA survey at Developer's cost and reasonably object to items (and locations of title exceptions) disclosed by such survey.

Prior to execution of the Agreement, the Developer shall submit to the City for its review and approval all organizational documents for the entities signing the documents (and, to the extent requested by City, information, certifications and/or documents relating to the ownership, control and signing authority of the direct and indirect owners, members or partners of each such entity).

ATTACHMENT NO. 3

SPECIFIC CITY TASKS

1. Within thirty (30) days after the Effective Date, City shall provide to Developer copies of all currently existing plans, studies and other written information regarding the Site in the possession of the City, to the extent not previously delivered to Developer and to the extent material to the Project. Thereafter, the City shall promptly provide to Developer within ten (10) days after receipt thereof copies of all plans, studies and other written information material to the Project which are received by the City.

2. As soon as they are available, the City shall provide the Developer with copies of contracts entered into between the City and its consultants for the Project. Developer shall have the right to review and provide input to any and all consultant contracts procured on its behalf prior to execution by the City.

3. Within four (4) months after the date of this ENA, Developer and City staff shall determine the likely type and schedule for obtaining entitlements necessary for construction of the Project including, but not limited to, the Discretionary Permits.

4. City shall use good faith efforts to diligently prepare and process the required CEQA Documents. City agrees to submit a CEQA status report to the Developer monthly during the term of this ENA or as mutually determined by the Parties.

5. City and City staff will review the Developer's development application and other submissions in a timely manner.

6. On or before May 1, 2016, City shall provide an initial draft of the Agreement to Developer and shall thereafter revise the draft Agreement to the extent reasonably permitted by the Agreement negotiations.

7. No consents, approvals or comments by City staff or City staff shall diminish, affect or waive either: (i) rights of the City to later impose conditions and requirements under CEQA; (ii) the rights of the City not to approve the Agreement; (iii) the City’s governmental rights, powers and obligations.