



A G E N D A

CITY OF SEASIDE
CITY COUNCIL

REGULAR MEETING
Council Chamber
440 Harcourt Avenue
Thursday, March 15, 2018
7:00 PM

PLEASE TURN OFF YOUR CELL PHONES UPON ENTERING THE MEETING

1. **CALL TO ORDER**

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

Ralph Rubio	Mayor
Dennis Alexander	Council Member
Jason Campbell	Council Member
David R. Pacheco	Council Member
Kayla Jones	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, or for Presentations or items on the Consent 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.

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. **PRESENTATION OF THE MARCH 2018 HOUSE OF THE MONTH**

B. **PROCLAMATION ACKNOWLEDGING THE SEASIDE HIGH SCHOOL
DRAMATIC ARTS PROGRAM**

C. COMMUNITY UPDATE PRESENTATION FROM MONTEREY SALINAS TRANSIT

PURPOSE & RECOMMENDATION: To receive a Community Update presentation from representatives from Monterey Salinas Transit.

8. CONSENT AGENDA

The Consent Calendar includes routine items that can be approved with a single motion and vote. A member of the City Council or a member of the public may request that any time be pulled from the Consent Calendar for separate consideration.

A. APPROVE MINUTES OF MARCH 1, 2018

RECOMMENDATION: It is recommended that the minutes be reviewed and approved.

B. APPROVE AND FILE CITY CHECKS

PURPOSE & RECOMMENDATION: It is requested that the City Council approve and file the accounts payable and wired payments made during the period of February 17, 2018 through March 2, 2018. In addition, approval of the payroll and benefits checks, direct deposits and wired payments related to the period of March 1, 2018 is requested. Total Accounts Payable and Payroll for the above referenced period is \$2,083,118.90.

C. APPROVE CO-SPONSORSHIP AND WAIVE ALL FEES RELATED TO THE 2018 SUSTAINABLE SEASIDE 7TH ANNUAL SEASIDE EARTH DAY CELEBRATION AT SEASIDE CITY HALL LAWN IN APRIL 2018

PURPOSE & RECOMMENDATION: The purpose of this item is to consider Sustainable Seaside's request for co-sponsorship to waive all fees in the approximate amount of Two Thousand Six Hundred Fifteen Dollars (\$2,615.00) related to the Seaside Sustainable 7th Annual Seaside Earth Day Celebration at City Hall Lawn in April 2018. Staff recommends that the City provide co-sponsorship of the Seaside Sustainable 7th Annual Seaside Earth Day Celebration.

D. ADOPT RESOLUTIONS APPROVING THE DEVELOPMENT/OPERATING AGREEMENT FOR PHSL, LLC. DBA SUGAR LEAF TRADING CO., A CANNABIS DISPENSARY, LOCATED AT 840 W. BROADWAY AVENUE, Suite B3.

PURPOSE & RECOMMENDATION: To adopt resolutions approving a Development/Operating Agreement between the City of Seaside and Sugarleaf, LLC., governing the operations and community benefit requirements for a Adult Use and Medical Cannabis Dispensary located at 880 W. Broadway Ave.

E. ADOPT A USE PERMIT PERMITTING A CANNABIS DISPENSARY OPERATED BY SUGARLEAF, LLC., LOCATED AT 840 B-3 BROADWAY AVE.

PURPOSE & RECOMMENDATION: In accordance with Ordinance No. 1043, it is recommended that City Council approve the Use Permit allowing an Adult and Medical Cannabis Dispensary at 840 B-3 Broadway Ave. in accordance with the Resolution provided as Attachment 1 to the staff report.

F. ADOPT A USE PERMIT PERMITTING A CANNABIS DISPENSARY LOCATED AT 575 BROADWAY AVE., OPERATED BY RARE EARTH, LLC.

PURPOSE & RECOMMENDATION: In accordance with Ordinance No. 1043, it is recommended that City Council approve the Use Permit allowing an Adult and Medical Cannabis Dispensary at 575 Broadway Ave. in accordance with the Resolution provided as Attachment 1 to the staff report.

G. ADOPT RESOLUTIONS APPROVING THE DEVELOPMENT/OPERATING AGREEMENT FOR RARE EARTH, LLC., A CANNABIS DISPENSARY, LOCATED AT 575 W. BROADWAY AVENUE.

PURPOSE & RECOMMENDATION: To adopt resolutions approving a Development/Operating Agreement between the City of Seaside and Rare Earth, LLC., governing the operations and community benefit requirements for a Adult Use and Medical Cannabis Dispensary located at 575 W. Broadway Ave.

H. ADOPT RESOLUTIONS APPROVING THE DEVELOPMENT/OPERATING AGREEMENT FOR CANOPY, LLC., A CANNABIS DISPENSARY, LOCATED AT 1900 FREMONT BLVD.

PURPOSE & RECOMMENDATION: To adopt resolutions approving a Development/Operating Agreement between the City of Seaside and Canopy, LLC., governing the operations and community benefit requirements for a Adult Use and Medical Cannabis Dispensary located at 1900 Fremont Blvd.

I. ADOPT RESOLUTIONS APPROVING THE DEVELOPMENT/OPERATING AGREEMENT FOR HIGHER LEVEL OF CARE, LLC., A CANNABIS DISPENSARY, LOCATED AT 310 W. AMADOR AVENUE.

PURPOSE & RECOMMENDATION: To adopt resolutions approving a Development/Operating Agreement between the City of Seaside and Higher Level of Care, LLC., governing the operations and community benefit requirements for a Adult Use and Medical Cannabis Dispensary located at 310 Amador Ave.

J. ADOPT RESOLUTIONS APPROVING THE DEVELOPMENT/OPERATING AGREEMENT FOR CANNATOPIA, LLC., A CANNABIS DISPENSARY, LOCATED AT 680 W. BROADWAY AVENUE.

PURPOSE & RECOMMENDATION: To adopt resolutions approving a Development/Operating Agreement between the City of Seaside and Cannatopia, LLC., governing the operations and community benefit requirements for a Adult Use and Medical Cannabis Dispensary located at 680 W. Broadway Ave.

K. ADOPT RESOLUTIONS APPROVING THE DEVELOPMENT/OPERATING AGREEMENT FOR PLANTACEA, LLC., A CANNABIS DISPENSARY, LOCATED AT 1717 FREMONT BLVD.

PURPOSE & RECOMMENDATION: To adopt resolutions approving a Development/Operating Agreement between the City of Seaside and Plantacea, LLC., governing the operations and community benefit requirements for a Adult Use and Medical Cannabis Dispensary located at 1717 Fremont Blvd.

9. PUBLIC HEARING

A. REAFFIRMING CONSISTENCY OF THE COMPREHENSIVE UPDATES TO THE ZONING CODE, AMENDING TITLE 17 OF THE SEASIDE MUNICIPAL CODE, WITH THE FORT ORD REUSE PLAN.

PURPOSE & RECOMMENDATION: This item has been scheduled to conduct a public hearing to reaffirm that adoption of text amendments to the Zoning Ordinance, amending Title 17 (Zoning Code) of the Seaside Municipal Code, is consistent with the Base Reuse Plan of the Fort Ord Reuse Agency (FORA). It is recommended that the City Council adopt the draft Resolution provided as Attachment 1.

B. CONSIDERATION OF APPLICATION FOR USE PERMIT AND LICENSE TO DISPENSE ADULT USE AND MEDICAL CANNABIS A COMMERCIALY ZONED LOCATIONS IN THE CITY OF SEASIDE AT 1717 FREMONT STREET TO BE OPERATED BY PLANTACEA LLC.

PURPOSE & RECOMMENDATION: To adopt a Use Permit allowing the operation of a Cannabis Dispensary at 1717 Fremont Street operated by Plantacea LLC.

10. BUSINESS ITEMS

A. DISCUSS AND APPROVE RESOLUTION ADOPTING AN UPDATED RECORD MANAGEMENT POLICY AND RECORD RETENTION SCHEDULE

PURPOSE & RECOMMENDATION: To review and approve an updated Record Retention Policy and Schedule incorporating legislative changes and best practices since the last update in 2014.

11. **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.

12. **ADJOURNMENT**

Next Regularly Scheduled Meeting:
APRIL 5, 2018
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, they are asked to contact the City Clerk at 899-6707 no fewer than two business days prior to the meeting to allow reasonable arrangements. The City Council chamber is equipped with a portable microphone and assisted listening devices are available at all meetings.

City Council 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 PROCLAMATION



Seaside High School Dramatic Arts Program Recipients of a National Grant

WHEREAS, the Seaside High School Dramatic Arts Program has been a support system for many students as well as a vital resource of social inclusion and confidence building; and

WHEREAS, members of the Seaside High School Dramatic Arts Program have built a community within this program where they are encouraged to express themselves and celebrate their diversities; and

WHEREAS, in January 2018, R.I.S.E. America launched a nation-wide search for theater programs across the country who greatly deserve recognition and funding through their grant program; and

WHEREAS, the Seaside High School Dramatic Arts Program submitted both a written essay and a video submission to R.I.S E America, emphasizing the positive impact of the program as well as the logistical needs affecting the program's further production advancement; and

WHEREAS, recognizing the success and dynamic role the Seaside High School Dramatic Arts Program plays in the lives of individuals, program members, and the community, R.I.S.E. America selected the Seaside High School's Dramatic Arts Program as one of the 50 schools chosen to receive \$10,000 in grant funding for further program development.

NOW THEREFORE, BE IT PROCLAIMED, that, I, The Honorable Ralph Rubio, Mayor of the City of Seaside, on behalf of the City Council, do hereby recognize the achievements of Seaside High School Dramatic Arts Program director, River Navaille as well as the numerous program members for their efforts in earning the R.I.S.E. America Grant and their diligent commitment ensuring the present and future success of the Seaside High School Dramatic Arts Program.

Ralph Rubio
Mayor

March 15, 2018



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 7.C.

TO: City Council

FROM: Craig Malin, City Manager

BY: Lesley Milton-Rerig, City Clerk

DATE: March 15, 2018

**SUBJECT: COMMUNITY UPDATE PRESENTATION FROM MONTEREY
SALINAS TRANSIT**

PURPOSE & RECOMMENDATION

To receive a Community Update presentation from representatives from Monterey Salinas Transit.

BACKGROUND

This item is to receive a presentation from Hunter Horvath, Assistant General Manager of Monterey Salinas Transit (MST) on current projects, budget, ridership, Measure Q and Measure X spending and challenges facing MST. The City Council is encouraged to ask questions as appropriate. Presentation is attached.

FISCAL IMPACT

There is no fiscal impact associated with this item.

ATTACHMENTS

1. MST Presentation
-

Reviewed for Submission to the
City Council by:

A handwritten signature in blue ink, consisting of a large, stylized 'C' followed by several horizontal strokes.

Meeting Date: March 15, 2018

Craig Malin, City Manager

Monterey-Salinas Transit

Community Update

MST Fast Facts

MST

SERVICE AREA



MST

MONTEREY-SALINAS TRANSIT

MST Fast Facts

MST

FIXED ROUTE

Population Served: **435,232**
Service Area: **295 square miles**
Fleet Size: **122**
Operating Expenses FY 2017: **\$37,233,619**
Capital Expenses FY 2017: **\$10,532,211**
Passengers Carried: **4,262,312**
Farebox Recovery Ratio: **26.6%**
Stops in Service Area: **1,317**
Revenue Miles Traveled: **4,572,297**
Routes: **58**
Employees: **250**

MST

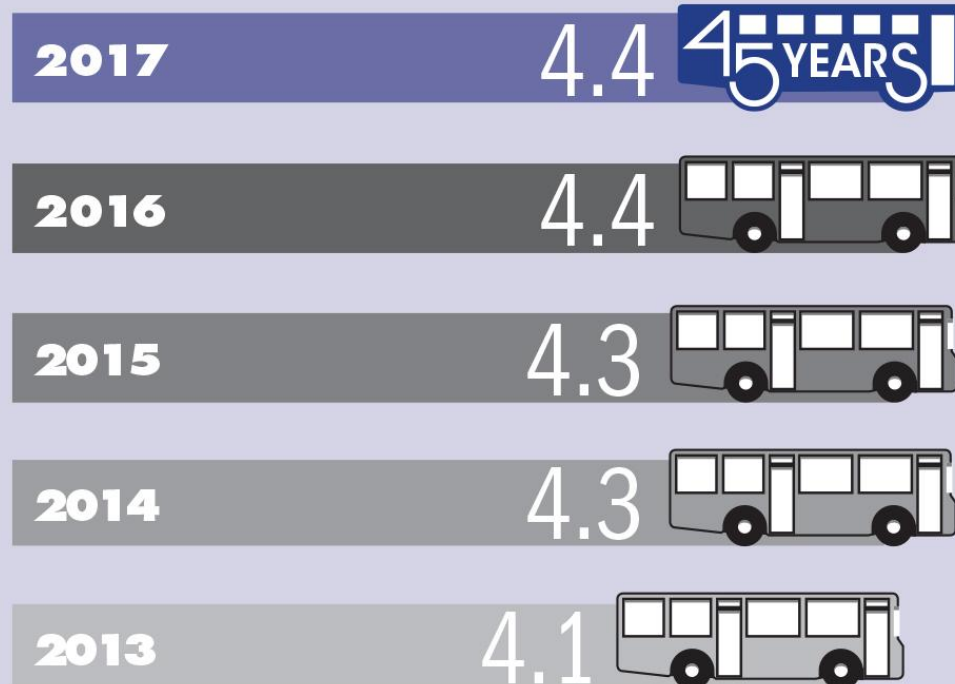
RIDES

Fleet Size: **34**
Operating Expenses FY 2017: **\$4,114,519**
Capital Expenses FY 2017: **\$707,391**
Passengers Carried: **132,769**
Farebox Recovery Ratio: **11.7%**
Revenue Miles Traveled: **976,231**

MST Fast Facts

2017 MST **RIDERSHIP**

Total Number of Passenger Boardings Between July 1, 2016
and June 30, 2017 (in Millions)

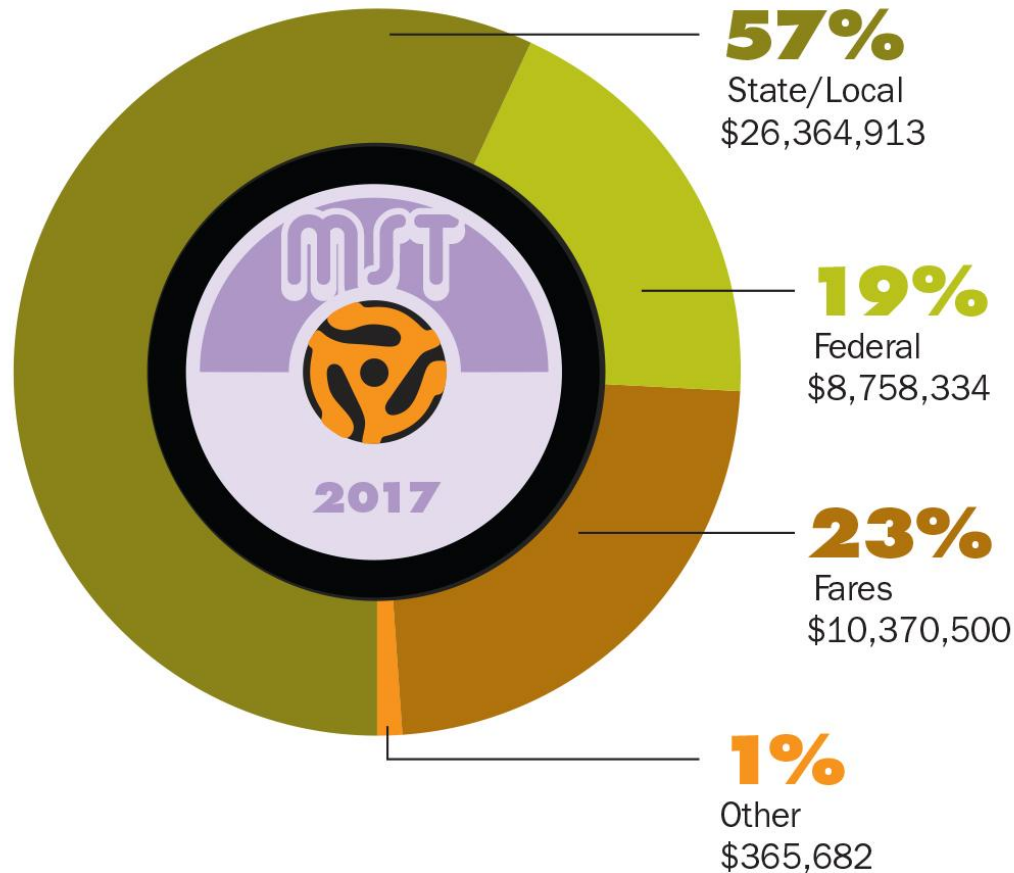


MST Fast Facts

- 231,706 miles between preventable accidents
- 89% on time performance
- 91% of riders rate MST service good or excellent
- Recognized Nationally as an innovative leader

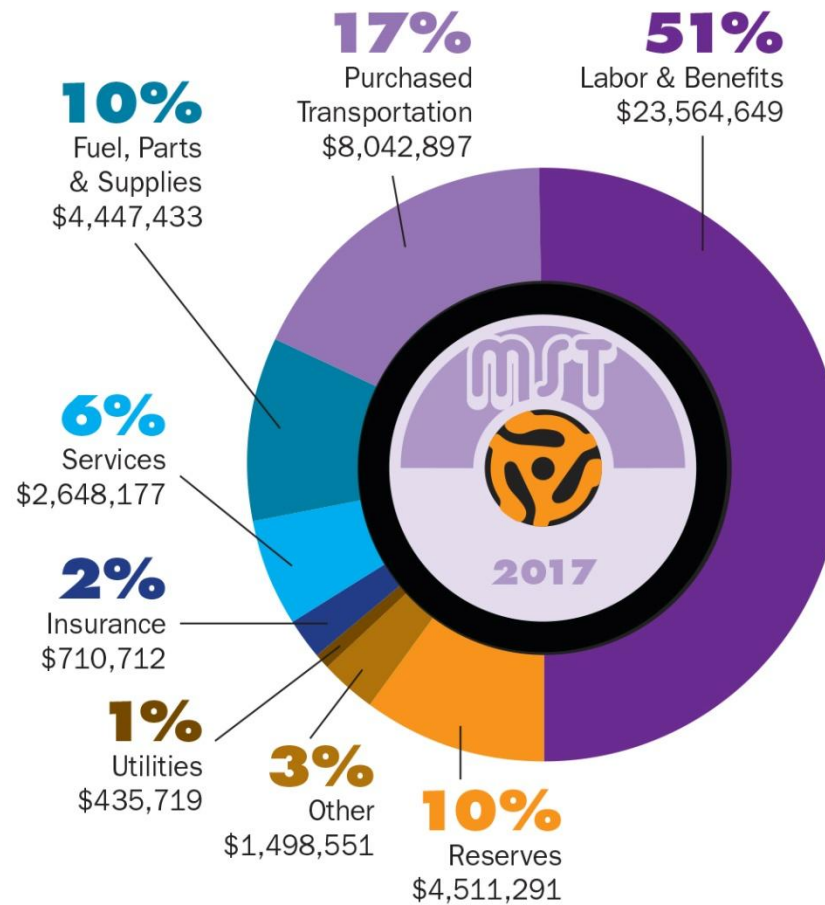
MST Budget

OPERATING REVENUE **\$45,859,429**



MST Budget

OPERATING EXPENSES **\$45,859,429**



Recent Accomplishments

- RealTime bus arrival information deployed
- Monterey Bay bus facility under construction
- Grant to build new bus facility in King City
- 33 new buses arriving this year:
 - 26 standard buses
 - 2 zero emission buses
 - 5 MST trolleys
- Discounts and new services for seniors, veterans and persons with disabilities

MST RealTime

RealTime bus arrivals via:

- Telephone
- Smart phone app
- Text message
- Google Maps





Monterey-Salinas Transit x Playa / Sand City Station x

Secure | https://www.google.com/maps/dir/Playa+Sand+City+Station,+Sand+City,+CA+93955/Steinbeck+Museum,+Main+Street,+Salinas,+CA/@36.6532295,-121.8207369,12z/am=t/data=!4m17!4m16!1m5!1m11s...

from Playa / Sand City Station, Sand City, CA 93955 to National Steinbeck Center, 1 Main St, Salinas, CA 9...

3:41 PM - 4:20 PM (39 min)

20

3:41 PM from Playa / Sand City Station - 1 min late \$3.50 1 min

SCHEDULE EXPLORER

3:41 PM ○ Playa / Sand City Station
Sand City, CA 93955

3:40 PM ○ Playa / Sand City Station

3:41 PM

20 Salinas
38 min (31 stops) - 1 min late · Stop ID: 5460

4:19 PM ○ Salinas Transit Center / Gate 7

Walk
About 1 min, 466 ft

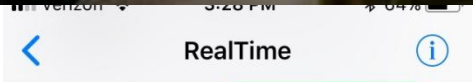
4:20 PM ● National Steinbeck Center
1 Main St, Salinas, CA 93901

Cost: \$3.50

Tickets and information
Monterey-Salinas Transit • 1 (888) 678-2871

Map data ©2018 Google United States Terms Send feedback 2 mi

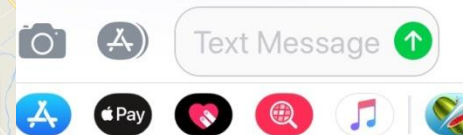
3:37 PM 1/25/2018



Next 0788

(MSTNEXT):NEX
T: 0788

Line	Arrivals
Linea	Llegadas
JZB	12:37p
JZB	1:07p(s)
012	1:10p
JZB	1:37p(s)
094	1:37p(s)



MST South County Campaign

- Grant funded promotional campaign
- April – July 2017
- TV, radio, bus, billboard on Highway 101 in Chualar, and social media
- 15 years serving South County
- 200,000 passengers annually
- May 4th ride free on line 23



MST Measure Q

- 1/8 of one percent county-wide sales tax to protect and maintain transit services for veterans, seniors and persons with disabilities
- November 2014
- Passed with 72.4 % support

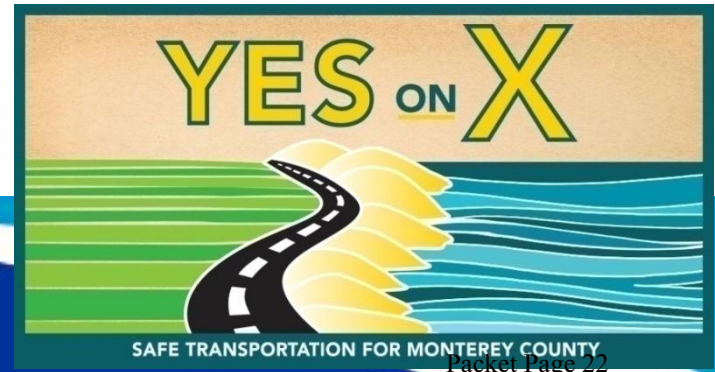


MST Measure Q 5-Year Plan

- Protect and enhance existing services
- Paratransit emergency response module
- Veteran free annual bus pass program
- Veteran helping veterans program
- Volunteer driver reimbursement program
- Flex voucher system

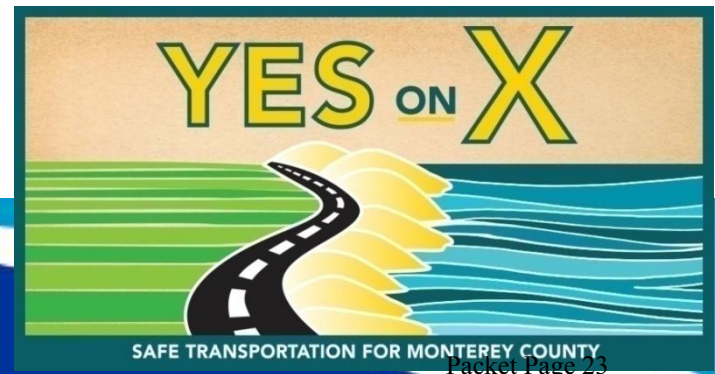
MST and Measure X

- 3/8 of one-percent countywide sales tax to support local roads, regional mobility, and transit services for youth seniors, working families and persons with disabilities for 30 years
- Estimated dollars raised over the life of the tax: \$600 million (2015 dollars)
- Nov 2016 - 67.7% support



MST and Measure X

- Highway 1 rapid bus (Surf!) - \$15M
- Salinas Valley commuter bus / facilities - \$25M
- Transportation for seniors and persons with disabilities - \$15M



The Future of MST.....



MST Major Projects

- Operations and maintenance facilities:
 - Monterey Bay (April 2018)
 - South County \$11.2M (2019)
 - Salinas \$14.5M (2020)
- Salinas Mobility Center (July 2018)
- Salinas Transit Center improvements \$400K (July 2018)
- Highway 1 rapid bus corridor \$40.7M (2023)

MST Major Challenges

- Bus driver recruitment
- National Highway Trust Fund insolvency
- Zero emission bus regulations
- Efforts to repeal State gas tax funds

Thank You!

Follow us on social media

Facebook: @montereysalinas.transit

Twitter: @MST_BUS

Instagram: mst_bus

www.mst.org • 888-MST-BUS1



DRAFT MINUTES

CITY OF SEASIDE
CITY COUNCIL

REGULAR MEETING
COUNCIL CHAMBER
Thursday, March 1, 2018
7:00 PM

1. **CALL TO ORDER**

Mayor Rubio called the meeting to order at 7:00 PM.

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

PRESENT: Alexander, Campbell, Jones, Pacheco, Rubio

ABSENT: None

3. **INVOCATION AND PLEDGE OF ALLEGIANCE**

Mayor Pro Tem Alexander led the Pledge of Allegiance and Pastor Arsenal Sims led the invocation.

4. **REVIEW OF AGENDA**

No changes were requested.

5. **PUBLIC COMMENT**

Mayor Rubio invited comments from the Public.

- Michael Campos expressed concern regarding the possible closure of Highland Street and Plumas Avenue, enacted by the City of Del Rey Oaks and he believes it will impact the City of Seaside negatively creating a public safety issue and urged the City to work more closely with Del Rey Oaks.
- Peter Keiser spoke to the forty days of life vigil at the Planned Parenthood clinic until the 25th of March, spoke in support of traditional marriage and indicated he does not support an LGBT month or parade in the City of Seaside.

6. **PUBLIC AGENCY COMMUNICATIONS**

Economic Development Program Manager Stearns announced a design competition at the intersection of Canyon Del Rey and Del Monte Blvd to design a gateway sign. The City website has been updated about the competition. Entries are due March 19, 2018 via email by 5 PM.

A. **CANYON DEL REY BOULEVARD CORRIDOR STUDY**

Virginia Murrillo, Transportation Planner from The Transportation Agency of Monterey County reported on the joint project between Seaside, Del Rey Oaks and TAMC, funded by the CalTrans Strategic Partnership Program. The purpose of the study is to look at safety improvements for the Canyon Del Rey corridor for all modes of transportation. The complete corridor is under review, paying special attention to the intersections. There are any opportunities for connectivity to parks, the recreation trail and intersections and the focus is in safety improvements with goal is to prioritize improvements to fund and complete. This study will make the projects more competitive in the future for grant funds. Ms. Murrillo answered questions from the Council.

The Council questioned sidewalk and bike lane improvements and spoke in support of the proposed improvements. Council Member Campbell requested that all of the intersections be evaluated, and questioned if the Fremont/CDR project with the City of Monterey is still continuing to which she

confirmed the project is out to bid and construction will begin soon. Mr. Campbell also questioned environmental corridors to which she said there will be a preliminary look at environmental impacts but full EIRs will be conducted after projects are identified. She also affirmed that part of the study is to understand the impacts if the Corridor is transferred back to the jurisdictions.

7. **PRESENTATIONS**

A. **PRESENTATION AND RECOGNITION OF THE 2018 SEASIDE FIREFIGHTER AND SEASIDE POLICE OFFICER OF THE YEAR.**

Mayor Rubio welcomed Police Chief Abdul Pridgen to the City Family.

Fire Chief Dempsey awarded Fire Engineer Blake Sardina the Firefighter of the Year Award and spoke to his great professional achievements for the City. Police Chief Abdul Pridgen awarded Police Officer Joseph Rogish with the Police Officer of the Year award and detailed his achievements and strength of moral character. Both individuals were nominated and selected by their peers.

B. **PROCLAMATION DECLARING MARCH AS AMERICAN RED CROSS MONTH**

Mayor Rubio presented the proclamation declaring March as American Red Cross Month to Council Member Alexander, Fire Chief Dempsey and Public Affairs Officer/City Clerk Milton for their participation with the Central Coast Chapter of the American Red Cross.

C. **PROCLAMATION RECOGNIZING THE OUTSTANDING EFFORTS OF SEASIDE HIGH SCHOOL**

Mayor Rubio acknowledged the MPUSD District and Specifically Seaside High School Principal and Staff for being recognized for their outstanding efforts and being nominated nationally as a school of opportunity. The Council spoke in support of the schools achievements and impacts to youth in the community.

D. **PROCLAMATION DECLARING MARCH AS WOMEN'S HISTORY MONTH**

Mayor Rubio and Council Member Jones presented the proclamation.

E. **PRESENTATION ON MID YEAR BUDGET REPORT FROM THE MONTEREY COUNTY CONVENTION AND VISITORS BUREAU**

Tammy Blount, Executive Director of the Monterey County Visitors and Convention Bureau presented the quarterly update. She reported on the results of the TOT for the quarter and noted fluctuations were due to the Embassy Suites renovation, still ending the year ahead. She did report that the total return on investment for the City of Seaside's contribution is \$110 per \$1 invested and total economic impact generated by MCCVB is \$5.5 million from July 2017 to Jan 2018 through group bookings. She explained their marketing and sales agency as an POE strategy Paid/Owned/Earned and that they are starting to set records with their ad campaigns. The social networks are growing as that is how the majority of people are taking in information.

Council Member Pacheco requested coverage for the City's Fourth of July fireworks event. Council Member Campbell requested explanation of the counting of visitors specifically questioning if Short Term Rental figures were included to which she responded that figures only include paid accommodations that are taxed, so since STRs are not currently taxed, they are not being counted.

8. **CONSENT CALENDAR**

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

On motion by Mayor Pro Tem Dennis Alexander and seconded by Council Member Dave Pacheco

and passed by the following vote the City Council approved the Consent Agenda as presented.

RESULT:	Approved
MOVER:	Mayor Pro Tem Dennis Alexander
SECONDER:	Council Member Dave Pacheco
AYES:	Ralph Rubio, Dennis Alexander, Jason Campbell, Dave Pacheco, Kayla Jones
NOES:	None
ABSENT:	None

A. APPROVE MINUTES OF FEBRUARY 15, 2018

Action: Approved

B. APPROVE AND FILE CITY CHECKS

Action: Approved

C. ON-CALL LIST FOR CAPITAL IMPROVEMENT PROGRAM PROJECT MANAGEMENT SERVICES

Action: Approved and Adopted Resolution 18-09

9. PUBLIC HEARING

A. AN ORDINANCE AMENDING CERTAIN PROVISIONS WITHIN TITLE 17 OF THE ZONING CODE TO ADD EMERGENCY SHELTERS AS A PERMITTED BY RIGHT LAND USE IN THE COMMUNITY COMMERCIAL (CC) ZONING DISTRICT AND ON LANDS LOCATED WITHIN CENSUS TRACT 137 AND CERTAIN DEVELOPMENT STANDARDS APPLICABLE TO ALLOWING AN EMERGENCY SHELTER AS A PERMITTED USE. (SECOND READING, ROLL CALL VOTE)

Economic Development Program Manager Stearns spoke to the details of the second reading reassuring that this action is required by the State of California and will allow The City's revised General Plan to be adopted as it will comply with the housing element once the zoning amendment has been made. he explained the action relates to creating an opportunity for zoning by right for emergency shelters, but does not create a City run shelter. Ms. Stearns answered questions from the Council. Council Member Alexander questioned management of the shelter to which she explained the regulations require management to be on site at the facility. Mayor Rubio opened the public hearing.

- Felix Bachofner said it was not clear if this is an expansion of similar opportunities or is it limited to this zone as he believed the use may be appropriate all along the eastern side of Fremont and hoped the zone would be expanded.

Having no further requests to speak Mayor Rubio closed the public hearing.

Ms. Stearns explained it is zoning by right. It would be allowed as a permitted use in that area but that it does not preclude an applicant for applying for the use in other areas of the City.

On motion by Mayor Pro Tem Dennis Alexander and seconded by Council Member Dave Pacheco and passed by the following roll call vote the City Council Adopted Ordinance 1048 amending certain provisions within Title 17 to add emergency shelters as a permitted by right land use in specific zones.

RESULT:	Approved
MOVER:	Mayor Pro Tem Dennis Alexander
SECONDER:	Council Member Dave Pacheco

AYES:	Ralph Rubio, Dennis Alexander, Jason Campbell, Dave Pacheco, Kayla Jones
NOES:	None
ABSENT:	None

10. BUSINESS ITEMS

A. APPROVE A CONTRACT WITH RINCON CONSULTANTS TO PERFORM A SPECIFIC PLAN AMENDMENT AND CEQA ADDENDUMS ASSOCIATED WITH THE MAIN GATE PROJECT

City Manager Malin spoke to the need to enter into this contract for services in order to continue the process of the Main Gate development. He stated that since the footprint of the project is significantly less than the adopted specific plan, an amendment needs to be done to account for the reduction.

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

Council Member Campbell questioned how the project would be a lower overall impact to which Mr. Malin said that the current specific plan is an auto dominated plan while the new plan is a mix of uses that includes more hotel, less retail, and more residential so there will be less cars. Development intensity is expected to be less and going through this process will allow us to further define the equation. Council Member Campbell requested assurance that the costs will be borne by the developer to which Mr. Malin affirmed.

On motion by Mayor Pro Tem Dennis Alexander and seconded by Kayla Jones and passed by the following vote the City Council adopted resolution 18-10 and Authorized the City Manager to execute an agreement with Rincon Consultants.

RESULT:	Adopted
MOVER:	Mayor Pro Tem Dennis Alexander
SECONDER:	Kayla Jones
AYES:	Ralph Rubio, Dennis Alexander, Jason Campbell, Dave Pacheco, Kayla Jones
NOES:	None
ABSENT:	None

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

Council Member Pacheco spoke to the effective and collaborative efforts of some of the City committees, he explained that at Fremont and Del Monte Blvd, there are constant parking of cars for sale, sometimes blocking businesses and the appearance of it is not conducive to the community and requested regulation and enforcement of cars for sale on major thoroughfares. Council Member Jones thanked the Recreation Department for the outstanding Daddy/Daughter dance and reported that there will be a Town Hall Meeting with Del Rey Oaks, TAMC and FORTAG. She also requested to agendaize on the March 15th agenda a resolution taking a position in support of stronger gun control. Council Member Alexander requested a study session possibly creating a public safety commission.

12. ADJOURNMENT

On motion, the meeting was adjourned at 8:29 PM.

Respectfully submitted,

Lesley Milton-Rerig, City Clerk

Ralph Rubio, Mayor



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 8.B.

TO: City Council

FROM: Craig Malin, City Manager

BY: Daphne Hodgson, Deputy City Manager Administrative Services
Lori Merwin, Finance Assistant

DATE: March 15, 2018

SUBJECT: APPROVE AND FILE CITY CHECKS

PURPOSE & RECOMMENDATION

It is requested that the City Council approve and file the accounts payable and wired payments made during the period of February 17, 2018 through March 2, 2018. In addition, approval of the payroll and benefits checks, direct deposits and wired payments related to the period of March 1, 2018 is requested. Total Accounts Payable and Payroll for the above referenced period is \$2,083,118.90.

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:

- \$15,679.25 to E2 Consulting Engineers, Inc. for November, 2017 services for 942 Angelus Way sewer line upgrade and the Del Monte lift station.
- \$27,323.55 to PNC Equipment Finance for quarterly lease for: 3 pickup trucks, a vactor truck and a patch truck.
- \$22,676.95 to PNC Equipment Finance for quarterly lease for Library/City Hall/Fire

energy project.

- \$12,985.85 to Wallace Group for LAFCO application support.
- \$10,400.00 to Zarcos Tree Service for tree trimming on Broadway Avenue during February, 2018.
- \$85,718.83 to Old Town Carpets & Floors, Inc. for carpet tiles and carpet installation fees for City Hall.
- \$11,658.43 to Richards Watson & Gershon for legal services through December 31, 2017 for Seaside Resort, Keep Ft. Ord Wild, Landwatch Monterey County.

The remaining checks, totaling \$153,397.68 include payments to vendors for operating expenditures.

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

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

FISCAL IMPACT

There are no impacts associated with this action.

ATTACHMENTS

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager



CITY OF SEASIDE STAFF REPORT

Item No.: 8.C.

TO: City Council

FROM: Craig Malin, City Manager

BY: Nancy Towne, Recreation Services Director
Dan Meewis, Recreation Supervisor

DATE: March 15, 2018

**SUBJECT: APPROVE CO-SPONSORSHIP AND WAIVE ALL FEES RELATED
TO THE 2018 SUSTAINABLE SEASIDE 7TH ANNUAL SEASIDE
EARTH DAY CELEBRATION AT SEASIDE CITY HALL LAWN IN
APRIL 2018**

PURPOSE & RECOMMENDATION

The purpose of this item is to consider Sustainable Seaside's request for co-sponsorship to waive all fees in the approximate amount of Two Thousand Six Hundred Fifteen Dollars (\$2,615.00) related to the Seaside Sustainable 7th Annual Seaside Earth Day Celebration at City Hall Lawn in April 2018. Staff recommends that the City provide co-sponsorship of the Seaside Sustainable 7th Annual Seaside Earth Day Celebration.

BACKGROUND

Sustainable Seaside is requesting co-sponsorship to waive all fees related to the Seaside Sustainable 7th Annual Seaside Earth Day Celebration at City Hall Lawn in April 2018. A Special Event application was submitted and reviewed by staff and the Special Event Committee.

This is a community celebration of arts, nature and sustainability. This annual event focuses our attention on how we all can be more environmentally friendly in our neighborhoods, in the city, and the world. It is both a celebration and educational event, meant to raise awareness of and foster sustainability locally and towards a healthy planet.

They are also requesting the use of a portable stage, electrical access, 20 tables, 90 chairs, and sound system. This is the first request from Sustainable Seaside for co-sponsorship of this event.

FISCAL IMPACT

Should the City Council approve the request for co-sponsorship of the Seaside Sustainable 7th Annual Seaside Earth Day Celebration to waive all fees, the approximate fiscal impact is as follows:

Public Works Staff/Set-up and Tear Down	\$2,400.00
Special Event Application Fee	\$ 90.00
<u>Insurance Coverage</u>	<u>\$ 125.00</u>
TOTAL	\$2,615.00

ATTACHMENTS

1. Sustainable Seaside Fee Waiver Request And Event Application 2018
-

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager



City of Seaside

FEE WAIVER REQUEST

Name of Applicant: Catherine Crockett Organization: Sustainable Seaside

Address: 1739 Havana Street Seaside CA 93955
Street City State Zip

Home Phone: (831) 394-1915 Cell Phone (831) 915-7257 Email Address cm_crockett@sbcglobal.net

Room(s) Requested: Seaside City Hall Lawn

Day(s) and Date(s) Requested: either Saturday, April 21, 2018 or Sunday, April 22, 2018

Hours Requested (include set-up time): 1pm - 5pm. Event: 2pm - 4pm Estimated Attendance: 150 to 200

Description of Event Seaside Earth Day Celebration

Special Instructions or Equipment to Be Brought In See attached instructions

Reason for Requesting Fee Waiver:

This is a community celebration of arts, nature and sustainability. This annual event focuses our attention on how we all can be more environmentally friendly in our neighborhoods and in our city. With information tables, demonstrations and speakers, the event will highlight the many ways individuals and organizations in our community are working to become more sustainable. It is both a celebration and an educational event meant to raise awareness of and foster sustainability locally and towards a healthy planet.

Have you received a Fee Waiver in the past? Yes ☒ No ☐

If so, what was the date of your event? October 4, 2016 – Candidates Forum at Oldemeyer Center

Is your organization based in Seaside? Yes ☒ No ☐

What percentage of your members or participants resides in Seaside? 90%

Are you a registered non-profit organization? Yes ☒ No ☐

What is your organization's non-profit number? 26-1183384 for Communities for Sustainable Monterey County, with which Sustainable Seaside is affiliated.

Is organization able to provide liability insurance? If the City of Seaside co-sponsors, (as confirmed by Gloria Stearns), insurance will be covered, otherwise CSMC will also provide an insurance rider.

Will alcohol be served or sold at your event? Yes ☐ No ☒

ATTACHMENT A

Sustainable Seaside Special Event Application: Earth Day Celebration, April 21 or 22, 2018

DESCRIPTION OF EVENT-PLEASE ATTACH SITE/ROUTE MAP

Please provide detailed description of your event. Include details regarding any components of your event such as the use of vehicles, animals, rides, sanitation provisions or any other pertinent information about the event.

Description:

This is a community celebration of arts, nature and sustainability. This annual event focuses our attention on how we all can be more environmentally friendly in our neighborhoods, in our city, and the world.

With information tables, demonstrations and speakers, the event will highlight the many ways individuals and organizations in our community are working to become more sustainable. It is both a celebration and an educational event, meant to raise awareness of and foster sustainability locally and towards a healthy planet.

This a non-political event, and we will not be endorsing political candidates, nor will we allow any campaigning at this event.

The event will feature information tables, musical performances, and speakers. This will require:

- 20 six-foot long folding tables, with a chair at each table
- a small stage, (as was used for the Sustainable Seaside's Sustainable Living Tour in Sept 2017)
- 30 folding chairs in front of the stage for the audience
- Electrical connection between the City Hall building and the event stage

Sustainable Seaside will rent a portable toilet with handwashing station for the afternoon. This could be placed on Harcourt Street if the City will help block an areas along the curb closest to the City Hall lawn.

See the attached map of City Hall Lawn for more details.





CITY OF SEASIDE STAFF REPORT

Item No.: 8.D.

TO: City Council

FROM: Craig Malin, City Manager

BY: Rick Medina, Senior Planner

DATE: March 15, 2018

**SUBJECT: ADOPT RESOLUTIONS APPROVING THE
DEVELOPMENT/OPERATING AGREEMENT FOR PHSL, LLC. DBA
SUGAR LEAF TRADING CO., A CANNABIS DISPENSARY,
LOCATED AT 840 W. BROADWAY AVENUE, Suite B3.**

PURPOSE & RECOMMENDATION

To adopt resolutions approving a Development/Operating Agreement between the City of Seaside and Sugarleaf, LLC., governing the operations and community benefit requirements for a Adult Use and Medical Cannabis Dispensary located at 880 W. Broadway Ave.

BACKGROUND

Cannabis dispensaries that have a valid Use Permit must also enter into a Development/Operating agreement with the City of Seaside. The agreement governs the operations of the dispensary and also requires the dispensary to maintain their promises for community benefit. This agreement will provide the City with a vital enforcement tool should a dispensary fail to live up to their community benefits promises and to quickly close a dispensary that violates the terms of this agreement or of their Use Permit.

By approving this agreement, this dispensary will have all of its approvals and will be allowed to open for operation as soon as any tenant improvements to their buildings are complete, and as soon as all inspections are complete. Inspections will include an inspection of the security plan by the Police Chief or designee, and of the safety plan by the Fire Chief or designee.

The Community Benefit, Security and Safety plans are all attachments to the agreement which is attached to this staff report.

FISCAL IMPACT

Meeting Date: March 15, 2018

Adopting this agreement will allow the dispensary to open, which should result in revenues of at least \$150,000 to the City of Seaside, plus additional support for local non-profit organizations.

ATTACHMENTS

1. Draft Resolution
 2. SugarleafDevelopmentOperating Agreement
 3. PharmHouse-Sugarleaf Community Benefit
-

Reviewed for Submission to the
City Council by:

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke.

Craig Malin, City Manager

RESOLUTION NO. 18-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE

**ESTABLISHING A DEVELOPMENT/OPERATING AGREEMENT BETWEEN
THE CITY OF SEASIDE AND PHSL LLC., DBA SUGAR LEAF TRADING CO.
TO GOVERN OPERATIONS AND COMMUNITY BENEFITS FOR A
CANNABIS DISPENSARY**

WHEREAS, the City of Seaside has taken steps to establish regulated cannabis activities in the City subject to an application process that includes a lengthy selection process that will ultimately lead to issuance of 6 permits for Medical Cannabis Dispensaries and 6 permits for Adult Cannabis Dispensaries; and

WHEREAS, the ordinance governing Cannabis Related Uses requires that all operators of dispensaries must enter into a Development/Operating Agreement with the City of Seaside which governs the operations and community benefit requirements associated with the approval of the dispensary; and

WHEREAS, the City desires to permit the operations of the PHSL LLC., DBA Sugar Leaf Trading Co. at 840 Broadway Avenue Suite 3B;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Seaside that the attached Development/Operating Agreement be executed by the City Manager or designee, including any non-substantive changes that may be required.

PASSED AND ADOPTED at a meeting of the City Council of the City of Seaside held on March 15, 2018 by the following vote:

AYES:	Council Members:
NOES:	Council Members:
ABSENT:	Council Members:

Ralph Rubio, Mayor

ATTEST:

APPROVED AS TO FORM:

Lesley Milton-Rerig, City Clerk

**DEVELOPMENT/OPERATING AGREEMENT
BY AND BETWEEN
THE CITY OF SEASIDE
AND
PHSL, LLC DBA SUGAR LEAF TRADING COMPANY**

ARTICLE 1. PARTIES AND DATE.

This Development/Operating Agreement (“Agreement”) is dated March 15, 2018, for execution purposes only and is entered into between (i) the City of Seaside (“City”), a California municipal corporation, and PHSL LLC., DBA Sugar Leaf Trading Company (ii) (“Owner”), a California Limited Liability Company. This Agreement shall become effective on the Effective date defined in section 3.1.6.

ARTICLE 2. RECITALS.

2.1 WHEREAS, City is authorized to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property; and

2.2 WHEREAS, this Agreement and the Project are consistent with the City’s General Plan and Zoning Code and applicable provisions of the City’s Zoning Map as of the Effective Date; and

2.3 WHEREAS, all actions taken and approvals given by the City have been duly taken or approved in accordance with all applicable legal requirements for notice, public hearings, findings, votes, and other procedural matters; and

2.4 WHEREAS, Owner intends to develop a Cannabis Dispensary or Facility, with Commercial Cannabis Activities at the Dispensary or Facility , to the extent contemplated by the Seaside Municipal Code Chapter 19 and all applicable state laws, rules, and regulations.

2.5 WHEREAS, this Agreement, in the future, shall be read consistent with any statewide regulation passed by voter initiative or the state legislature, which decriminalizes or legalizes marijuana for medical or recreational use, also known as Adult Cannabis. This Agreement shall govern the conduct of this business to cultivate and distribute marijuana under such statewide regulation, consistent with any City regulations not preempted by any such statewide regulations.

2.6 WHEREAS, The Owner and City agree for mutual consideration this agreement.

ARTICLE 3. GENERAL TERMS.

3.1 Definitions and Exhibits. The following terms when used in this Agreement shall be defined as follows:

3.1.1 “Agreement” means this Development/Operating Agreement. [This is not a development agreement as defined in Government Code Section 65864 et seq.]

3.1.2 “City” means the City of Seaside, a California municipal corporation.

3.1.3 “Days” mean calendar days unless otherwise specified.

3.1.4 “Development” includes the right to maintain, repair or reconstruct any private building, structure, improvement or facility after the construction and completion thereof; provided, however, that such maintenance, repair, or reconstruction take place within the term of this Agreement on parcels subject to it.

3.1.5 “SMC” means the City of Seaside Municipal Code.

3.1.6 “Effective Date” means the date on which all of the following are true: (i) the City Council adopted a resolution adopting and approving the Development/Operating Agreement and (ii) all Exhibits to this Agreement are finalized, executed by all affected parties (if applicable) and attached hereto; provided, however, that if these conditions have not been fully satisfied by the Owner the Effective Date may not thereafter occur and this Agreement may not thereafter become effective.

3.1.7 “Existing Land Use Regulations” means all Land Use Regulations in effect on the date of execution. Existing Land Use Regulations include all provisions in the SMC Chapter 17, Zoning, and other regulations that are a matter of public record on the date of execution as they may be modified from time to time. Notwithstanding by the Existing Development Approvals. Notwithstanding the foregoing, Existing Land Use Regulations include the regulations set forth in AB 266 and AB 243.

3.1.8 “Owner” means the Business or Dispensary Owner (s).

3.1.9 “Processing Fees” means the normal and customary application, filing, plan check, permit fees for Cannabis activity approvals,

design review, building permits, demolition permits, grading permits, and other similar permits and entitlements, and inspection fees, which fees are charged to reimburse the City's expenses attributable to such applications, processing, permitting, review and inspection and which are in force and effect on a general basis at such time as said approvals, permits, review, inspection or entitlements are granted or conducted by the City.

3.1.10 "Project" means the Commercial Cannabis Activity as set forth in SMC Chapter 19, located on Assessor Parcel Number (APN) _____ that will be state licensed and issued a Dispensary Permit in full accordance with SMC Chapter 19.02.010 as may be amended, as well as in full compliance with all state laws, including but not limited to the Medical Marijuana Regulation and Safety Act adopted by the State of California (also known as AB 266 and AB 243). This Project shall include the cultivation, manufacturing, testing, and distribution, of Cannabis as approved by state and local law. The Project will include construction and development of a [type of facility] Dispensary that will be issued a Dispensary Permit in full accordance with SMC Chapter 19.02.010 as amended as well as in full compliance with all state laws, including but not limited to the Medical Marijuana Regulation and Safety Act and the Adult Use of Marijuana Act.

3.1.11 "Property" means the real property where the Cannabis Dispensary or Facility is to be located as described on Exhibit A and shown on Exhibit B, as set forth in 3.2 below, both attached hereto and incorporated herein by this reference.

3.2 Exhibits. The following documents are attached to and, by this reference, made part of this Agreement:

Exhibit A – Map showing Property and its location.

Exhibit B—Resolution of City Granting a Dispensary Permit With Conditions at [location].

Exhibit C--Owner Commitment to Community Benefit Program.

3.3 Binding Effect of Agreement. The Property and Project are hereby made subject to this Agreement. Subject to the Owner's receipt of all Development/Operating Approvals relative thereto, the Development of the Property is hereby authorized and shall, except as otherwise provided in this Agreement, be carried out only in accordance with the terms of this Agreement, the Development/Operating Plan, and the Dispensary Permit. In the event of conflict or uncertainty between this Agreement, the Dispensary Permit, and the Development Plan, the provisions of the Development/Operating Plan shall control.

3.4 Notices.

3.4.1 Notice Defined. As used in this Agreement, notice includes, without limitation, the communication of notice, request, demand, approval, statement, report, acceptance, consent, waiver, appointment or other communication required or permitted hereunder.

3.4.2 Written Notice and Delivery. All notices shall be in writing and shall be considered given:

- (i) when delivered in person to the recipient named below; or
- (ii) three days after deposit in the United States mail, postage prepaid, addressed to the recipient named below; or
- (iii) on the date of delivery shown in the records of the delivery company after delivery to the recipient named below; or
- (iv) on the date of delivery by facsimile transmission to the recipient named below if a hard copy of the notice is deposited in the United States mail, postage prepaid, addressed to the recipient named below. All notices shall be addressed as follows:

If to the City:

City Manager
440 Harcourt Avenue
Seaside, CA 93955

If to the Owner:

Sugar Leaf Trading Company
880 Broadway Avenue
Seaside, CA 93955

With Copies to:

City Attorney
440 Harcourt Avenue
Seaside, CA 93955

3.4.3 Address Changes. Either party may, by notice given at any time, require subsequent notices to be given to another person or entity, whether a party or an officer or representative of a party or to a different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change.

3.5 Validity of this Agreement. The Owner and the City each

acknowledge that neither party has made any representations to the other concerning the enforceability or validity of any one or more provisions of this Agreement, and that this Agreement has been drafted jointly and not by one party alone.

ARTICLE 4. PUBLIC BENEFITS

4.1 Intent. The parties acknowledge and agree that development of the Project on the Property will result in substantial public needs which will not be fully met by the Development/Operating Plan and further acknowledge and agree that this Agreement confers substantial private benefits on Owner which should be balanced by commensurate public benefits. Accordingly, the parties intend to provide consideration to the public to balance the private benefits conferred on Owner by providing more fully for the satisfaction of the public needs resulting from the Project

4.2 Developer Fee. Applicant agrees to pay all established fees, charges, City costs, taxes, or other similar forms of expenses applicable to all Commercial Cannabis establishments and Dispensary Permits.

4.3 Jobs and Wage Creation.

4.3.1 Local Hiring. Owner agrees to use its reasonable efforts to hire qualified City residents for jobs at the Project. Owner shall abide by all local hiring commitments provided in the Owner Commitment to Community Benefit Program in Exhibit C

4.3.2 Mandatory Payment of Wage. Owner agrees to pay all employees wages in accordance with the wage rate provided in the Owner's Community Benefit Plan and the Owner Commitment to Community Benefit Program in Exhibit D.

4.5 Payment of Marijuana Business Operation Tax.

4.5.1 Amount of Tax. Pursuant to Chapter SMC Chapter 5.04.320, Owner shall pay City the annual business operations tax based on a percentage of gross receipts as set by the City Council by Ordinance in accordance with prior voter approval of up to ten percent (10%) annually. Such taxes shall be remitted in accordance with regulations adopted by City.

4.5.2 All other taxes established by Ordinance shall be paid in accordance with the SMC and State law, as both may be amended from time to time.

ARTICLE 5. REVIEW FOR COMPLIANCE.

5.1 Periodic Review. The City Manager or designee may review this Agreement annually, on or before each anniversary of the Effective Date or upon receipt of a request by Owner to extend the term, in order to ascertain Owner's good faith compliance with this Agreement including the Dispensary Permit. During the periodic review Owner shall be required to demonstrate good faith compliance with the terms of the Agreement, through submitting an annual monitoring report, records, or equivalent written materials to the City Manager or designee. The City may elect to extend the permits without review. Owner shall be entitled to a review hearing pursuant to 6.3 below in the event the City Manager or designee determines Owner is not in compliance with this Agreement, Use Permit or Dispensary Permit.

5.2 Special Review. The City Council may order a special review of compliance with this Agreement at any time. The City Manager or his or her designee shall conduct such special review. During a special review, the Owner shall be required to demonstrate good faith compliance with the terms of the Agreement. The burden of proof on this issue shall be on the Owner.

5.3 Review Hearing. At the time and place set for the review hearing, the Owner shall be given an opportunity to be heard. If the City Manager finds, based upon substantial evidence, that the Owner has not complied in good faith with the terms or conditions of this Agreement, the City Manager may recommend that the City Council terminate this Agreement notwithstanding any other provision of this Agreement to the contrary, or modify this Agreement and impose such conditions as are reasonably necessary to protect the interests of the City. The decision of the City Council shall be final, subject only to judicial review pursuant to Code of Civil Procedure Section 1094.5.

5.4 Failure to Conduct Review. The City's failure to conduct a periodic review of this Agreement shall not constitute a breach of this Agreement or a waiver of future periodic reviews.

5.5 Cost of Review. The costs incurred by City in connection with the periodic reviews shall be borne by Owner.

ARTICLE 6. ANNEXATION INTO DISTRICTS

6.1 Owner agrees to the Subject Property being annexed into any current or future Community Facilities District, Community Services District, or any other tax district which would pertain to the Property.

ARTICLE 7. DEFAULTS AND REMEDIES.

7.1 Remedies in General. It is acknowledged by the parties that the City would not have entered into this Agreement if it were to be liable in damages under this Agreement, or with respect to this Agreement or the application thereof, except as hereinafter expressly provided. Subject to

extensions of time by mutual consent in writing, failure or delay by either party to perform any term or provision of this Agreement shall constitute a default. In the event of alleged default or breach of any terms or conditions of this Agreement, the party alleging such default or breach shall give the other party not less than thirty (30) days' notice in writing specifying the nature of the alleged default and the manner in which said default may be satisfactorily cured during any such thirty (30) day period, the party charged shall not be considered in default for purposes of termination or institution of legal proceedings. Notwithstanding the foregoing to the contrary, if the alleged default is of such a nature that it cannot be cured within thirty (30) days, the alleged defaulting party shall not be deemed in default as long as such party commences to cure such default within such thirty (30) day period and thereafter diligently prosecutes such cure to completion.

7. 2 After notice and expiration of the thirty (30) day period, the other party to this Agreement, at its option, may institute legal proceedings pursuant to this Agreement.

7.3 In general, each of the parties hereto may pursue any remedy at law or equity available for the breach of any provision of this Agreement, except that the City shall not be liable in monetary damages, unless expressly provided for in this Agreement, to the Owner or to any successors in interest of the Owner, or to any other person, and the Owner covenants on behalf of itself and all successors in interest to the Property or any portion thereof, not to sue for damages or claim any damages:

(i) For any breach of this Agreement or for any cause of action which arises out of this Agreement: or

(ii) For the impairment or restriction of any right or interest conveyed or provided under, with, or pursuant to this Agreement, including, without limitation, any impairment or restriction which the Owner characterizes as a regulatory taking or inverse condemnation; or

(iii) Arising out of or connected with any dispute, controversy or issue regarding the application or interpretation or effect of the provisions of this Agreement.

7.4 Nothing contained herein shall modify or abridge the Owner's rights or remedies (including its rights for damages, if any) resulting from the exercise by the City of its power of eminent domain. Nothing contained herein shall modify or abridge the Owner's rights or remedies (including its rights for damages, if any) resulting from the grossly negligent or malicious acts of the City and its officials, officers, agents and employees. Nothing herein shall modify or abridge any defenses or immunities available to the City and its employees pursuant to the Government Claims Act and all other applicable statutes and

decisional law.

7.5 Release. Except for those remedies set forth in Sections 8.1 and 8.4, the Owner, for itself, its successors and assignees, hereby releases the City, its officers, agents and employees from any and all claims, demands, actions, or suits of any kind or nature arising out of any liability, known or unknown, present or future, based or asserted, pursuant to Article 1, Section 19 of the California Constitution, the Fifth Amendment of the United States Constitution, or any other law or ordinance which seeks to impose any other liability or damage, whatsoever, upon the City because it entered into this Agreement or because of the terms of this Agreement.

The Owner acknowledges that it may have suffered, or may suffer, damages and other injuries that are unknown to it, or unknowable to it, at the time of execution of this Agreement. Such fact notwithstanding, the Owner agrees that the release provided in this Section 7.2 shall apply to such unknown or unknowable claims or damages. Without limiting the generality of the foregoing, the owner acknowledges the provisions of California Civil Code Section 1542, which provide:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release which if known by him or her must have materially affected his or her settlement with the debtor.”

The owner hereby waves, to the maximum legal extent, the provisions of California Civil Code Section 1542 and all other statutes and judicial decisions of similar effect.

Initial_____

7.6 Attorneys' Fees and Costs. In any action or proceeding between the City and the Owner brought to interpret or enforce this Agreement, or which in any way arises out of the existence of this Agreement or is based upon any term or provision contained herein, the “prevailing party” in such action or proceeding shall be entitled to recover from the non-prevailing party, in addition to all other relief to which the prevailing party may be entitled pursuant to this Agreement, the prevailing party's reasonable attorneys' fees and litigation costs, in an amount to be determined by the court. The prevailing party shall be determined by the court in accordance with California Code of Civil Procedure Section 1032. Fees and costs recoverable pursuant to this Section 8.5 include those incurred during any appeal from an underlying judgment and in the

enforcement of any judgment rendered in any such action or proceeding. The parties agree that each contributed to the drafting of this Agreement, and that neither party is responsible for its drafting in determining whether any ambiguities exist as a result of drafting. Ambiguities shall not automatically be ruled against either party.

ARTICLE 8. THIRD PARTY LITIGATION.

8.1 General Plan Litigation. The City has determined that this Agreement is consistent with its General Plan. The Owner has reviewed the General Plan and concurs with the City's determination.

8.1 Hold Harmless Agreement. Owner hereby agrees to, and shall hold City, its elective and appointive boards, commissions, officers, agents, and employees harmless from any liability for damage or claims for damage for personal injury, including death, as well as from claims for property damage which may arise from Owner or Owner's contractors, subcontractors, agents, or employees operations under this Agreement, whether such operations be by Owner, or by any of Owner's contractors, subcontractors, agents, or employees operations under this Agreement, whether such operations be by Owner, or by any of Owner's contractors, subcontractors, or by any one or more persons directly or indirectly employed by, or acting as agent for Owner or any of Owner's contractors or subcontractors. Owner agrees to and shall defend City and its elective and appointive boards, commissions, officers, agents and employees from any suits or actions at law or in equity for damage caused, or alleged to have been caused, by reason of any of the aforesaid operations.

8.2 Indemnification. Owner shall defend, indemnify and hold harmless City and its agents, officers and employees against and from any and all liabilities, demands, claims, actions or proceedings and costs and expenses incidental thereto (including costs of defense, settlement and reasonable attorneys' fees), which any or all of them may suffer, incur, be responsible for or pay out as a result of or in connection with any challenge to the legality, validity or adequacy of any of the following: (i) this Agreement and the concurrent and subsequent permits, licenses and entitlements approved for the Project or Property; (ii) the environmental impact report, mitigated negative declaration or negative declaration, as the case may be, prepared in connection with the development of the Property; and (iii) the proceedings undertaken in connection with the adoption or approval of any of the above. In the event of any legal or equitable action or other proceeding instituted by any third party (including a governmental entity or official) challenging the validity of any provision of this Agreement or any portion thereof as set forth herein, the parties shall mutually cooperate with each other in defense of said action or proceeding. Notwithstanding the above, the City, at its sole option, may tender the complete defense of any third party challenge as described herein. In the event the City

elects to contract with special counsel to provide for such a defense, the City shall meet and confer with Owner regarding the selection of counsel, and Owner shall pay all costs related to retention of such counsel.

8.3 Accept Reasonable Good Faith Settlement. With respect to Article 10, the City shall not reject any reasonable good faith settlement. If the City does reject a reasonable, good faith settlement that is acceptable to the Owner, the Owner may enter into a settlement of the action, as it relates to the Owner, and the City shall thereafter defend such action (including appeals) at its own cost and be solely responsible for any judgments rendered in connection with such action. This Section 9.3 applies exclusively to settlements pertaining to monetary damages or damages which are remedial by the payment of monetary compensation. The Owner and the City expressly agree that this Section 10.6 does not apply to any settlement that requires an exercise of the City's police powers, limits the City's exercise of its police powers, or affects the conduct of the City's municipal operations.

ARTICLE 9. MISCELLANEOUS PROVISIONS.

9.1 Entire Agreement. This Agreement sets forth and contains the entire understanding and agreement of the parties, and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements that are not contained or expressly referred to herein. No testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement, provided, however, City at its option may rely on statements by Owner's agents at the public hearings leading to the City's approval of the project or on written documents by Owner or Owner's agents that are a part of the public record.

9.2 Severability. If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement. The foregoing notwithstanding, the provision of the public benefits set forth in Article 4, including the payment of the fees set forth therein, are essential elements of this Agreement and the City would not have entered into this Agreement but for such provisions, and therefore in the event that any portion of such provisions are determined to be invalid, void or unenforceable, at the City's option this entire Agreement shall terminate and from that point on be null and void and of no force and effect whatsoever.

9.3 Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole

according to its fair language and common meaning to achieve the objectives and purposes of the parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.

9.4 Section Headings. All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

9.5 Singular and Plural; Gender, and Person. Except where the context requires otherwise, the singular of any word shall include the plural and vice versa, and pronouns inferring the masculine gender shall include the feminine gender and neuter, and vice versa, and a reference to "person" shall include, in addition to a natural person, any governmental entity and any partnership, corporation, joint venture or any other form of business entity.

9.6 Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

9.7 Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

9.8 No Third Party Beneficiaries. The only parties to this Agreement are Owner and the City. This Agreement is made and entered into for the sole protection and benefit of the parties and their successors and assigns. There are no third party beneficiaries and this Agreement is not intended, and shall not be construed, to benefit, or be enforceable by any other person whatsoever.

9.9 Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed hereunder by such benefited party.

9.10 Successors in Interest. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties to this Agreement. All provisions of this Agreement shall be enforceable as equitable servitudes.

The burdens of the Agreement shall be binding upon, and the benefits of the Agreement shall inure to all successors in interest to the parties to this Agreement.

9.11 Counterparts. This Agreement may be executed by the parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.

9.12 Jurisdiction and Venue. Any action at law or in equity arising under this Agreement or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed and prosecuted in the Superior Court of the County of Monterey, State of California, and the parties hereto waive all provisions of federal or state law or judicial decision providing for the filing, removal or change of venue to any other state or federal court, including, without limitation, Code of Civil Procedure Section 394.

9.13 Agent for Service of Process. In the event the Owner is not a resident of the State of California or it is an association, partnership or joint venture without a member, partner or joint venturer, resident of the State of California, or if it is a foreign corporation, then the Owner shall file, upon its execution of this Agreement, with the City Manager the name of a natural person acting as the agent of owner residing in the State of California, giving his or her name, residence and business addresses, as its agent for the purpose of service of process in any court action arising out of or based upon this Agreement, and the delivery to such agent of a copy of any process in any such action shall constitute valid service upon the Owner. If for any reason service of such process upon such agent is not feasible, then in such event the Owner may be personally served with such process out of this County and such service shall constitute valid service upon the Owner. The Owner is amenable to the process so described, submits to the jurisdiction of the Court so obtained, and waives any and all objections and protests thereto.

9.14 Authority to Execute. The person or persons executing this Agreement on behalf of the Owner warrants and represents that he/she/they have the authority to execute this Agreement on behalf of his/her/their corporation, partnership or business entity and warrants and represents that he/she/they has/have the authority to bind the Owner to the performance of its obligations hereunder.

Each individual executing this Agreement on behalf of his or her respective company or entity shall represent and warrant that:

9.14.1 The individual is authorized to execute and deliver this Agreement on behalf of that company or entity in accordance with a duly adopted resolution of the company's board of directors or appropriate governing body and in accordance with that company's or entity's articles of incorporation or charter and bylaws or applicable formation documents; and

9.14.2 This Agreement is binding on that company or entity in accordance with its terms; and

9.14.3 The company or entity is a duly organized and legally existing company or entity in good standing; and

9.14.4 The execution and delivery of this Agreement by that company or entity shall not result in any breach of or constitute a default under any mortgage, deed of trust, loan agreement, credit agreement, partnership agreement, or other contract or instrument to which that company or entity is party or by which that company or entity may be bound.

9.15 Nexus/Reasonable Relationship Challenges. Owner consents to, and waives any rights it may have now or in the future to challenge the legal validity of, the conditions, requirements, payment of any kind of fee whatsoever, policies or programs set forth in this Agreement including, without limitation, any claim that they constitute an abuse of the police power, violate substantive due process, deny equal protection of the laws, effect a taking of property without payment of just compensation, or impose an unlawful tax.

9.16 Owner Compliance with Laws. Owner hereby agrees to comply with all applicable state, federal and local laws, regulations, rules and policies.

9.17 No Damages Relief Against City. The parties acknowledge that the City would not have entered into this Agreement had it been exposed to damage claims from Owner, or Owners successors in interest, assigns, partners, or anyone acting on behalf of the Owner for any breach thereof. As such, the parties agree that in no event shall Owner, or Owners successors in interest, assigns, partners, or anyone acting on behalf of the Owner be entitled to recover damages against City for breach of this Agreement.

9.18 Laws. Owner agrees to comply with all applicable state, regional, and local laws, regulations, policies and rules.

9.19 Compliance with Conditions of Approval. Owner agrees to comply with and fulfill all conditions of approval for any and all entitlement, permits, and/or licenses it receives from the City. All conditions of approval for all entitlements, permits and/or licenses are hereto incorporated.

9.20 Owner agrees to comply with all applicable provisions of any current or future applicable federal, state, or local marijuana/Cannabis laws, including AB 266 and AB 243, as duly adopted, including any and all development standards, license and revocation procedures, and the like. Should there be anything in federal or state law, including but not limited to AB 266 or AB

243 which contradicts any provision in this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the dates written above.

CITY OF SEASIDE

OWNER

By: _____
Ralph Rubio, Mayor

ATTEST:

By: _____
Leslie E. Milton-Rerig, City Clerk

APPROVED AS TO FORM:

By: _____
Don Freeman, City Attorney

5 COMMUNITY BENEFITS PLAN

Pharm House Wellness Center selected Seaside, California to open their dispensary due to the active efforts of the City Council to revitalize the community. These efforts inspired our team, and we want to actively contribute to the effort to rejuvenate the community by giving back.

Pharm House Wellness Center believes that it can and should have a critical role in the quality of life to the community. Our founders believe that we have an important fiduciary obligation to be a “good neighbor” and provide benefits to our community as part of our healthcare mission. Therefore, we view our Community Benefits Plan as a blueprint for how we plan to accomplish this.

Pharm House Wellness Center will support the Community Benefits Plan at the highest level of our organization. Our senior management will be responsible for overseeing the implementation of the Community Benefits Plan, including designating the programs or activities to be included in the plan, allocating the resources, and ensuring its regular evaluation.

Pharm House Wellness Center will support the Community Benefits Plan with the following services:

- Event & Charity Sponsorship: The Pharm House Pledge
- Seaside Hiring Preference
- Fair Pay
- Employee Profit Sharing
- Policies Against Discrimination: The Rooney Rule

Our motto is work here, play here, give here.

We believe in Seaside’s Mission and are excited to contribute to the mission. The founders Wes and Tyson live in Seaside, and they want to city council to see them as partners driving the mission. Pharm House Wellness Center is and will be dedicated to the community – our collective growth and commitment to one another will bring mutual benefits. As seen below, Wes and Tyson have already joined the Seaside community – contributing to Sea Stars park cleaning effort and winning the “POP-tacular” Award during the 2nd Annual PARKing Day.





5.1 EVENT & CHARITY SPONSORSHIP

5.1.1 The Pharm House Pledge

We will donate 1% of profits or \$10,000 (whichever is greater) to the Parks and Recreation Department to promote the City of Seaside. We want to ensure that more family fun activities will be a part of the city's budget for years to come and recognize that sponsoring events will drive locals and tourists to the Seaside community. This will ultimately create economic value for all members of our community. Not only will Pharm House Wellness Center donate to the community, we will appoint an individual to contribute to the City Council to drive community engagement. Some of our ideas include the following:

- Taco Truck Tuesdays
- Live Music on Broadway
- Farmers Markets
- Harvest Festivals
- Corn Hole Tournaments
- Taste of Seaside
- Fort Ord Day

5.1.2 Annual Food Drives

In addition to event sponsorship, Pharm House Wellness Center will host an annual food drive that will be specifically designed to benefit the local community. We will obtain sponsorships from our vendor partners as well as collect food and monetary donations on behalf of the community. All items collected will be distributed locally in partnership with local charities.

5.1.3 Charity Sponsorship

Finally, Pharm House Wellness Center plans on sitting on the board of and sponsoring one or more local charities. As part of our service, we will help guide the contributions of the charity and will make regular monetary donations. The Charity Sponsorships will be local and for charities located within the Seaside Community.

5.2 SEASIDE HIRING PREFERENCE

Pharm House Wellness Center is committed to engage in professional recruiting practices to hire the most qualified candidates. Additionally, an active effort will be made to recruit a diverse workforce based out of Seaside, California. We will do this through local job fairs and other recruiting events.

Our employees will be well paid, well qualified, and well-trained personnel. All employees will be fingerprinted and have successfully passed a criminal background screening. All staff will be required to wear photo identification at all times, while on the dispensary premises.

Employees will be provided with precise definition of responsibilities, clearly understood chains of authority and thorough training. Our staff will be expected to uphold Pharm House Wellness Center’s professional brand image.

5.3 FAIR PAY

As good moral stewards, it is crucial to Pharm House Wellness Center that all employees are taken care of through compensation and benefits. The minimum wage of a full-time employee will be \$40,000. This is 246% above the Federal Poverty Level Guidelines set forth for a 2-person household. We will offer annual employee reviews where increases to compensation will be awarded based on employee performance.

Persons in Household	2017 Federal Poverty Level
1	\$12,060
2	\$16,240

Source: <https://www.zanebenefits.com/blog/2017-federal-poverty-level-guidelines>

All employees will be paid above the State of California’s minimum wage which is \$10.50 per hour. Our average hourly rate will be \$17.00 per hour plus quarterly revenue sharing. The Security Manager will be paid a minimum of \$20 per hour plus quarterly revenue sharing. Below is an outline of the minimum wages that will be paid to employees working for Pharm House Wellness Center.

Position	Rate	% Above Minimum Wage
Budtender	\$17.50	67%
Security	\$17.50	67%
Sec Manager	\$20.00	90%
FOH	\$13.00	24%
Average	\$17.00	62%

5.4 EMPLOYEE REVENUE SHARING

Pharm House Wellness Center is committed to making all employees shareholders. We will do this by creating quarterly projections and offering from 50% of the excess profits to be divided amongst the full and part-time employees on a quarterly payout. By doing this, all employees have the chance earn bonuses with the profitability of the company.

By combining the Employee Revenue Sharing and a Seaside Hiring Preference, this will infuse extra income for employees, and drive community/company engagement. Pharm House Wellness Center believes that this is what separates us from the other bidders and other existing customers.

Revenue Sharing Example:

Net Income Quarterly Projection for Q4 FY 2018: \$317,556.00

Net Income Results: \$397,000.00

Contribution to the General Commission Fund: 50% of surplus income

Fund Deposit to Employees: 50% X 79,444.00 = \$39,722.00

5.5 POLICIES AGAINST DISCRIMINATION: THE ROONEY RULE

Pharm House Wellness Center is committed to a workplace that does not discriminate and provides a safe, fun, and exciting environment for employees to work. To drive this atmosphere, we believe a diverse workforce is necessary. We will hire according to the "Rooney Rule." This is a National Football League (NFL) policy that requires league teams to interview and hire minority candidates for head coaching and senior football operation jobs.

5.5.1 Diversity Plan

Pharm House Wellness Center is an "equal opportunity employer." We will not discriminate and will take measures to ensure that our policies continue to protect against discrimination in employment, recruitment, and advertisements for employment, compensation, termination, upgrading, promotions, and other conditions of employment against any employee or job applicant on the basis of race, creed, color, national origin, or sex.

Additionally, we will exhibit evidence of diversity and inclusion by including minority persons and veterans in Pharm House Wellness Center workforce. Finally, Pharm House Wellness Center will make significant efforts to employ individuals who fall into the category of protected classes. These are individuals who are older than 40. The Age Discrimination in Employment Act (ADEA) forbids age discrimination against people. Pharm House Wellness recognizes the value that these individuals could add to our organization. We will seek out diverse talent and hire on the merit an individual will bring to our organization.

5.5.2 Anti-Harassment Policy

Pharm House Wellness Center is committed in all areas to providing a work environment that is free from harassment. Harassment based on an individual's sex, race, ethnicity, national origin, age, religion or any other legally protected characteristics will not be tolerated. All employees, including supervisors and other management personnel, are expected and required to abide by this policy. No person will be adversely affected in employment with the employer as a result of bringing complaints of unlawful harassment.

If an employee feels that he or she has been harassed on the basis of his or her sex, race, national origin, ethnic background, or any other legally protected characteristic they should immediately report the matter to his or her supervisor. If that person is not available, or if the employee feels it would be unproductive to inform that person, the employee should immediately contact that supervisor's superior or human resources. Once the matter has been reported, it will be promptly investigated, and any necessary corrective action will be taken where appropriate. All complaints of unlawful harassment will be handled in as discreet and confidential a manner as is possible under the circumstances.

Pharm House Wellness Center will take any and all claims of harassment seriously. All claims of harassment reported will be logged and investigated. Any employee determined to engage in improper harassing behavior will be subject to disciplinary action, including the possible termination of employment.



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 8.E.

TO: City Council

FROM: Craig Malin, City Manager

BY: Rick Medina, Senior Planner

DATE: March 15, 2018

**SUBJECT: ADOPT A USE PERMIT PERMITTING A CANNABIS DISPENSARY
OPERATED BY SUGARLEAF, LLC., LOCATED AT 840 B-
3 BROADWAY AVE.**

PURPOSE & RECOMMENDATION

In accordance with Ordinance No. 1043, it is recommended that City Council approve the Use Permit allowing an Adult and Medical Cannabis Dispensary at 840 B-3 Broadway Ave. in accordance with the Resolution provided as Attachment 1 to the staff report.

BACKGROUND

On December 28, 2017, the City Council considered a total of 17 applications for the issuance of a Medical/Adult Recreation Cannabis Facility, one of which the proposed project at 840 B-3 Broadway Avenue. Location Map is provided as Attachment 2.

On December 28, 2017, the City Council acted to approve a total of six licenses. However, due to Ordinance No. 1043 only allowing for a maximum of three licenses for Medical/Adult Recreation Cannabis Facilities within the city, the City Council directed City staff to amend Ordinance 1043 to increase the number of licenses from three medical and three adult to six of each and the number of allowable locations from three to six and the minimum buffers between license locations. Sugarleaf Trading Company, was chosen by City Council to be one of the additional three dispensaries on December 28, 2017 based on the application they submitted in November 2017. All cannabis dispensary applications were reviewed by Planning Commission over the course of two meetings that took place in December 2017.

On February 15, 2018, the City Council adopted an Ordinance making the following amendments to Ordinance 1043:

- Increases the number of licenses from three medical and three adult to six each.
- Increases the number of allowable locations from three to six.

Reduces the buffer between dispensary locations for properties located in the West Broadway Urban Village (WBUV) Specific Plan and those properly zoned parcels that are immediately adjacent to the WBUV from 1,000 to 500 feet (this accommodates all but one of the applications approved by the City Council for continuing towards a Use Permit at locations proposed in their application).

Maintain a buffer of 1,000 feet at all other locations.

The applicant will make a significant investment to occupy a vacant tenant space within the City Center Shopping Center near the Eastern end of Broadway Avenue. The structure has been vacant for some time. Allowing this use will also create energy in an area that is currently lacking foot traffic. The application has been examined by the Seaside Police to ensure security.

FISCAL IMPACT

Adopting this agreement will allow the dispensary to open, which should result in revenues of at least \$150,000 to the City of Seaside, plus additional support for local non-profit organizations.

ATTACHMENTS

1. Draft Resolution
 2. Attachment 2 - Project Location 840 B-3 Broadway Avenue
-

Reviewed for Submission to the
City Council by:

A handwritten signature in blue ink, consisting of a large, stylized 'C' followed by several horizontal strokes.

Craig Malin, City Manager

RESOLUTION NO. 18-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE, STATE OF CALIFORNIA, GRANTING THE APPROVAL OF A DISCRETIONARY USE PERMIT TO ALLOW A MEDICAL/ADULT RECREATIONAL CANNABIS FACILITY LOCATED AT 840 B-3 BROADWAY (APN# 011-297-002) IN THE MIXED USE (MX) ZONING DISTRICT.

WHEREAS, Verducci Enterprises, property owner and PHSLLC, dba-Sugar Leaf Trading Company, applicant, have applied for a Discretionary Use Permit to allow:

A. The establishment of a Medical/Adult Recreation Cannabis facility.

WHEREAS, the proposed project requires discretionary use permit approval, and it is the responsibility of the Planning Commission in the Seaside Municipal Code to have considered and weighed the merits of the application and public input in relation to the policies, standards and intent of the Seaside General Plan and Seaside Municipal Code in making a recommendation on the proposed cannabis facility to the City Council; and

WHEREAS, the Seaside Planning Commission considered oral comments and written information concerning the proposed amendment at three duly noticed special public meetings held on December 4, 2017, December 5, 2017, and December 20, 2017; and

WHEREAS, the Seaside Planning Commission acted to declare the application as being a qualified applicant on December 20, 2017 and made a recommendation that the City Council consider the application for the issuance a cannabis dispensary facility; and

WHEREAS, the Seaside Municipal Code requires the approval of a discretionary use permit by the City Council for a Medical/Adult Recreation Cannabis facility, and it is the responsibility of the City Council to have considered and weighed the merits of the application and public input in relation to the policies, standards and intent of the Seaside General Plan and Seaside Municipal Code in review of the application; and

WHEREAS, the Seaside City Council considered oral comments and written information concerning the proposed amendment at a duly noticed special public meeting held on December 28, 2017; and

WHEREAS, the Seaside City Council acted to grant the approval of a cannabis dispensary license subject to the City amending its Cannabis Ordinance to allow for a total of six dispensary for adult recreation and medical purposes;

WHEREAS, the Seaside City Council acted to adopt Ordinance No. 18-XX amending Section 19.52 to increase the number of allowable adult recreation and medical dispensaries from three to six; and

WHEREAS, the project is a Categorically Exempt, Class 1, Section 15301 meeting the following conditions:

- a) The proposed development will consist of converting an existing commercial building into a retail medical/adult recreation cannabis facility which will not change the intensity of the project site or the City's infrastructure off-site in order to accommodate the proposed use. It can be seen with certainty that the proposed use will not create any significant environmental impact on the community and neighboring properties.

NOW, THEREFORE, BE IT RESOLVED, that the Seaside City Council adopts the following findings for the Medical/Adult Recreation Cannabis facility Discretionary Use Permit

- 1) The proposed use is allowed within the applicable zone and complies with all other applicable provisions of this Zoning Ordinance and the Municipal Code.

Evidence: This project is located within the Mixed use Zoning District in which a Medical/Adult Recreation Cannabis facility may be established with use permit approval.

Evidence: The applicant will provide sufficient security measures to both deter and prevent unauthorized entrance into the facility, eliminate any unauthorized loitering inside and outside of the facility, and minimize excessive calls for service by the City's public safety resources.

Evidence: There are no existing cannabis dispensary facilities operating within 500 feet of the project site.

Evidence: Pharm House Wellness Center scored full points for location of business, which will serve as a catalyst project for the City of Seaside within the West Broadway Urban Village Specific Plan.

Evidence: Pharm House Wellness Center scored well for business plan points by demonstrating revenue and capitalization, achievable within the City of Seaside based on the project location being located within an established retail area and the project location having access from the City's entrances on Fremont Boulevard to the north and south and the entrance on Broadway Avenue to the east.

Evidence: Pharm House Wellness Center scored well for local enterprise and community benefits points, which fosters economic and community development within the City of Seaside and provides financial contributions to local non-profit community organizations within the City of Seaside.

Evidence: Pharm House Wellness Center made commitments to exemplary security and façade improvement upgrades, which promotes neighborhood unity and land use compatibility/vitality within the City of Seaside.

Evidence: Pharm House Wellness Center scored full points for safety and security, which helps to provide public safety within the City of Seaside by not creating any type of nuisance which would be detrimental to the overall general health, safety and welfare of the community and/or cause a financial burden on public safety resources for unnecessary calls for service.

- 2) The proposed use is consistent with the General Plan and any applicable specific plan.

Seaside General Plan Conformance

Evidence: Per the General Plan Land Use Element, the site is designated as Mixed use (MX) West Broadway Urban Village Specific Plan. The following Goals and Policies would apply:

Land Use Element Goal LU-1: Promote a mixture of land uses and a balance of jobs and housing to support a community in which people can live, work, and play.

Evidence: The project site will be contained within an existing commercial building which has demonstrated that it can contain the necessary capacity to operate a cannabis dispensary without overburdening existing roadways and City infrastructure,

Land Use Element Policy LU-1.1: The proposed use would serve to implement and diversify the land uses within the West Broadway Urban Village Specific Plan and improve the City's job housing balance.

Evidence: The project would occupy a vacant tenant space, increase pedestrian activity, have the potential for increased pass by trips for adjoining businesses, and will employ Seaside residents.

Land Use Element Policy LU-1.2: The proposed use will serve to provide additional jobs to improve the City's job housing balance.

Evidence: *The project will employ Seaside residents.*

Land Use Element Goal LU-1.3: Encourage regional commercial and visitor-serving commercial development that will enhance the identity of Seaside and attract visitors to the community.

Evidence: The project would occupy a vacant tenant space, increase pedestrian activity, and complete a commercial façade upgrade.

Land Use Element Goal LU-2: Revitalize existing commercial areas.

Evidence: The cannabis facility will serve to establish a regional commodity within the City of Seaside that will provide a substantial investment within the community that will serve to improve the character of the West Broadway Specific Plan area and attract customers both from the Monterey Bay area and tourism.

Element Policy –LU-2.1:

The proposed project will serve to revitalize an existing commercial area of the community that is targeted as a specific plan area to provide new jobs and services as the downtown core of the community.

Evidence: The proposed use will serve to fill a vacant commercial site and remove a blighted condition through the extended vacancy of the site since it was constructed.

- 3) The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and planned future land uses in the vicinity.

Evidence: The proposed Medical/Adult Recreation Cannabis facility will meet the needs of the community consistent within the West Broadway Urban Village Specific Plan design goals and improve the overall business character with the infusion of new façade treatments and monetary investment in the infrastructure of the site.

- 4) The site is physically suitable for the type, density and intensity of discretionary use being proposed, including access, utilities, and the absence of physical constraints.

Evidence: The project site is served by existing water, wastewater, and electrical infrastructure and facilities with adequate capacity to serve the proposed project. The proposed conversion of a retail commercial building to a Medical/Adult Recreation Cannabis facility with interior changes and exterior façade changes conforms to Land Discretionary use Element of the Seaside General Plan.

- 5) 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.

Evidence: The proposed Medical/Adult Recreation Cannabis facility will provide for a community facility that is safe and attractive for a Cannabis dispensary use.

Evidence: The proposed conversion of a commercial retail building to a Medical/Adult Recreation Cannabis facility would not be detrimental to the public health, safety and general welfare of the people of the City and surrounding neighborhood. The proposed use is located on an in-fill site and would help maintain a compact city form consistent with the scale and character of the surrounding commercial neighborhood.

BE IT FURTHER RESOLVED, that the City Council approves the Discretionary Use Permit Application for “Pharm House Wellness Center” subject to the following conditions:

Project Specific

Planning:

1. Except as modified by required conditions of approval, the permittee shall have the right to operate a Medical/Adult Recreation Retail Cannabis Facility substantially in accordance with the project material stamped “Received by the City of Seaside - December 1, 2017” and subject to the floor plan and exterior façade being modified to

comply with the general Cannabis and conditions listed. The aerial site plan is provided as Exhibit "A".

Cannabis

1. Cannabis may not be inhaled, smoked, eaten, ingested, or otherwise consumed within the Business, on the Property, in the parking areas of the Property, or in those areas restricted under the provisions of Health and Safety Code §11362.79.
2. All storage, display, sales or other distribution of cannabis shall occur only within an enclosed area of a medical cannabis business and shall not be visible from the exterior of the business. Delivery shall be as approved by the Seaside Police Department.
3. The cannabis facility shall have an odor-absorbing ventilation and exhaust system to ensure that odor generated inside the premises is not detected outside the premises.
4. A sign shall be posted in a conspicuous location inside the property advising that use of cannabis may impair a person's ability to drive a motor vehicle or operate heavy machinery.
5. No person, other than a patient, caregiver, licensee, employee, or a contractor shall be in the medical cannabis dispensary room.
6. Medical/Adult Cannabis Dispensary hours of operation shall be as regulated by State and City law.
7. Adults 21 and over can buy cannabis at retail dispensaries with an "A" adult use license as of Jan 1, 2018 as regulated by State Law.
8. No Cannabis Dispensary, Management Employee or employee shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on the Property or in the parking area of the property.

Testing, Packaging, Labeling

9. All cannabis product labels shall also include the following information, prominently displayed and in a clear and legible font: For packages containing only dried flower, the net weight of medical cannabis in the package; A warning if nuts or other known allergens are discretionary used; List of pharmacologically active ingredients, including, but not limited to, tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid content, the THC and other cannabinoid amount in milligrams per serving, servings per package, and the THC and other cannabinoid amount in milligrams for the package total; Clear indication, in bold type, that the product contains medical cannabis; Identification of the source and date of cultivation and manufacture.
10. Only generic food names may be used to describe edible medical cannabis products. Businesses should refer to State and local law to determine what activities are permitted or prohibited for licensed dispensaries in the City of Seaside. Failure to comply may result in penalties, suspension or revocation of the dispensary business license.

Transportation

11. All cannabis-infused products must be hand packaged, sealed and labeled, and the products stored in closed containers that are labeled. All medical cannabis in a usable form for medicinal use must be packaged and stored in closed containers that are labeled.
12. Each container used to transport or deliver cannabis must be labeled as regulated by State law. The label shall be shown to any law enforcement officer who requests to see the label.

Community Relations

13. Each Cannabis Business shall designate a Community Relations Liaison, who shall be at least twenty-one (21) years of age; and shall provide the Liaison's name to the City Manager. The Liaison shall receive all complaints received by the City Manager regarding the Medical/Adult Use Cannabis Dispensary, and make good faith attempts to promptly resolve all complaints.

Inspections

14. State and Local representatives (Health, Fire and Building inspectors) may enter and inspect the Property of each Cannabis Business between the hours of nine (9) am and eight (8) pm or during normal business hours.
15. Licensing authorities and State and Local agencies may, at any time, inspect shipments and request documentation for current inventory.
16. Every Cannabis Business shall implement sufficient security measures, as approved by the Seaside Police Department to both deter and prevent unauthorized entrance into areas containing cannabis or cannabis products and theft of cannabis or cannabis products. These security measures, as appropriate, shall include, but not be limited to, the following: (a) Preventing individuals from remaining on the premises if they are not engaging in activity expressly related to the operations of the business; (b) Establishing limited access areas accessible only to authorized personnel; (c) Storing all finished cannabis and cannabis products in a secured and locked room, safe, or vault, and in a manner as to prevent diversion, theft, and loss.
17. Each Cannabis Business shall install and maintain a fully operational digital video surveillance and camera recording system that monitors no less than the front and rear of the Property, all points of ingress and egress at the business, all points of sale within the business, all areas within the business where medical cannabis products are displayed for sale, and all limited access areas within the facility as approved by the Seaside Police Department.
18. The video and surveillance system shall, at a minimum, meet the following requirements: (a) Capture a full view of the public right-of-ways and any parking lot under the control of the medical cannabis business; (b) Record and maintain video 24/7 for a minimum of ninety (90) days, or as otherwise determined by the Seaside Police Department.

19. The cannabis business shall install and use a safe for storage of any processed cannabis and cash on the property when the business is closed to the public. The safe shall be incorporated into the building as a secure receptacle.
20. The cannabis business shall install and discretionary use a fire and burglar alarm system that is monitored by a company that is staffed twenty-four hours (24) a day, seven (7) days a week. The security plan submitted to the City shall identify the company monitoring the alarm, including contact information. Changes in the security plan shall be approved by the Seaside Police Department prior to implementation.
21. A cannabis business engaged in retail sales shall retain and maintain a security guard or patrol, licensed by the State of California, generally located at an indoor guard station, to an extent sufficient to ensure safety and approved by the Seaside Police Department.
22. No dried cannabis shall be stored at the property in structures that are not completely enclosed, in an unlocked vault or safe, or in any other unsecured storage structure.
23. Windows and roof hatches at the Cannabis Business shall be secured so as to prevent unauthorized entry.

Accounting/Record Keeping

24. The Cannabis Business shall maintain an inventory management system. The point of sale software shall be, upon regulatory implementation of the MMRSA, compliant with the State Unique Identifier and Track and Trace Program.
25. The records of the business shall clearly track cannabis product inventory purchased and/or grown and sales and disposal thereof to clearly track revenue from sales of any medical cannabis from other paraphernalia or services offered by the Cannabis Business.
26. The records shall clearly show the source, amount, price and dates of all cannabis received or purchased, and the amount, price, dates and business, patient or caregiver for all cannabis sold.
27. Each Cannabis Business shall keep a complete set of books of account, invoices, copies of orders and sales, shipping instructions, bills of lading, weigh bills, bank statements including cancelled checks and deposit slips and all other records necessary to show fully the business transactions of such licensee.
28. Each business shall maintain an inventory record documenting the dates and amounts of cannabis sold at the Property, and the daily amounts of cannabis stored on the Property.
29. Receipts shall be maintained via a computer program or by pre-numbered receipts and discretionary used for each sale.
30. Each business shall maintain on-site proof of a valid Business License Permit issued by the City of Seaside.

31. All records kept and maintained by the licensee shall at all times protect the confidential information of the patient or caregiver. All records must be identified as confidential and any disclosure shall be limited in a manner that maintains the confidentiality of the information contained therein.
32. A Cannabis Dispensary holding a Business License Permit shall report to the City Manager each of the following within the time specified; provided that if no time is specified, such a report shall be provided within fifteen (15) days of the triggering event: (1) The transfer or change of ownership interest, business manager, or in the permit application at least thirty days before the transfer or change; (2) Sales and taxable transactions and file sales and discretionary use tax reports to the City quarterly; (3) A conviction of any disqualifying crime by any applicant of a Cannabis Business.

City Standards

33. Discretionary Use Permit approval is subject to revocation procedures contained in S.M.C.S. 17.80.060 in the event any of the conditions of this approval are violated, this discretionary permit was granted on the basis of false or misleading information, written or oral, given willingly or negligently by the applicant or property owner, and/or there has been a discontinuance of the discretionary use, or purposed for which the permit was issued, for a period of 180 days or more.
34. This Discretionary Use Permit is subject to procedures and requirements of Chapter 17.64 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Article 6 (Zoning Ordinance Administration) of Title 17 of the Municipal Code.
35. 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.
36. Any proposed future development shall comply with the requirements of the applicable City and County agencies and must be in compliance with State Law.
37. The project shall comply with the requirements and the applicable ordinances of the Monterey Peninsula Water Management District (MPWMD) and Monterey Regional Water Pollution Control Agency (MRWPCA).
38. 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.

39. Applicant must execute and maintain a valid Development/Operating Agreement setting forth the terms and conditions under which the facility will operate which will be reviewed periodically for compliance including, but not limited to, timely payment of all fees and taxes.
40. For purposes of assuring compliance, the applicant, agents, representatives or their assignees agree not to deny or impede access to the subject property by City employees in the performance of their duties.

PASSED AND ADOPTED at the special meeting of the City Council of the City of Seaside, State of California, on the 15th of March, 2018, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Ralph Rubio, Honorable Mayor

ATTEST:

Lesley Milton-Rerig, City Clerk

Resolution No. 18-XX

These permits are hereby accepted upon the express terms and conditions hereof, and shall have no force or effect unless and until agreed to, in writing, by the applicant and property owner(s).

The undersigned hereby acknowledge the approved terms and conditions and agree to fully conform to, and comply with, said terms and conditions within the time frames approved by the City of Seaside City Council.

Applicant's Signature

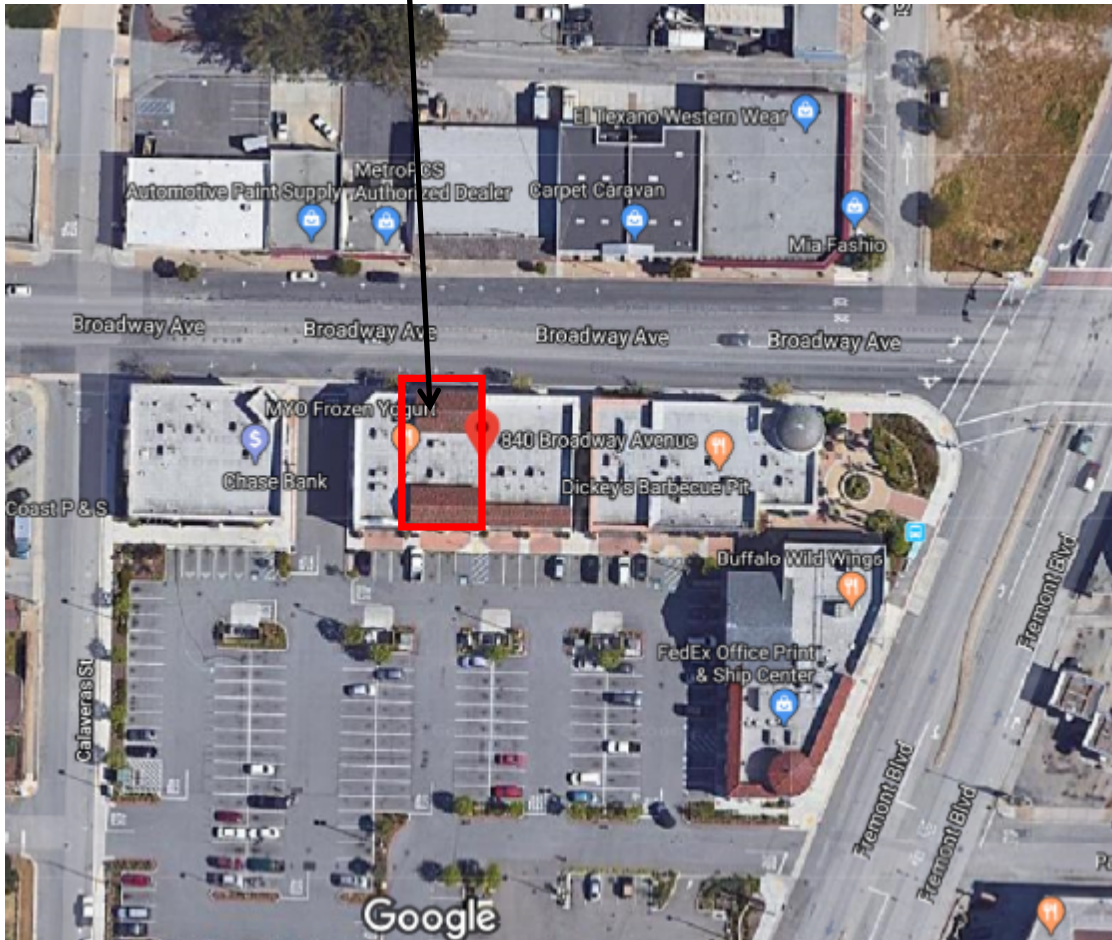
Date

Property Owner's Signature (if different from above)

Date

Project Location

Project Site: 840 Broadway Avenue





**CITY OF SEASIDE
STAFF REPORT**

Item No.: 8.F.

TO: City Council

FROM: Craig Malin, City Manager

BY: Kurt Overmeyer, Economic Development Manager

DATE: March 15, 2018

**SUBJECT: ADOPT A USE PERMIT PERMITTING A CANNABIS DISPENSARY
LOCATED AT 575 BROADWAY AVE., OPERATED BY RARE
EARTH, LLC.**

PURPOSE & RECOMMENDATION

In accordance with Ordinance No. 1043, it is recommended that City Council approve the Use Permit allowing an Adult and Medical Cannabis Dispensary at 575 Broadway Ave. in accordance with the Resolution provided as Attachment 1 to the staff report.

BACKGROUND

City Council adopted an ordinance on February 15, 2018 which allows up to six locations for Cannabis Dispensaries in Seaside, increasing the number from three. Rare Earth, LLC., was chosen by City Council to be one of the additional three dispensaries on December 28, 2017 based on the application they submitted in November 2017. All cannabis dispensary applications were reviewed by Planning Commission over the course of two meetings that took place in December 2017.

The applicant will make a significant investment in an aging structure near the western end of Broadway Avenue. The structure has been vacant for some time and the owner has had enormous difficulty securing a long term tenant due to the aging and obsolete structures. Allowing this use will also create energy in an area that is currently lacking foot traffic.

FISCAL IMPACT

Adopting this agreement will allow the dispensary to open, which should result in revenues of at least \$150,000 to the City of Seaside, plus additional support for local non-profit organizations.

ATTACHMENTS

1. Attachment 1 -Draft Resolution 575 Broadway
 2. Attachment 2 - Project Location 575 Broadway Avenue
-

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager

RESOLUTION NO. 18-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE, STATE OF CALIFORNIA, GRANTING THE APPROVAL OF A DISCRETIONARY USE PERMIT TO ALLOW A MEDICAL/ADULT RECREATIONAL CANNABIS FACILITY LOCATED AT 575 BROADWAY (APN# 011-555-008) IN THE MIXED USE (MX) ZONING DISTRICT.

WHEREAS, Heydar Movahedi, property owner and Sihaund, applicant, have applied for a Discretionary Use Permit to allow:

A. The establishment of a Medical/Adult Recreation Cannabis facility.

WHEREAS, the proposed project requires discretionary use permit approval, and it is the responsibility of the Planning Commission in the Seaside Municipal Code to have considered and weighed the merits of the application and public input in relation to the policies, standards and intent of the Seaside General Plan and Seaside Municipal Code in making a recommendation on the proposed cannabis facility to the City Council; and

WHEREAS, the Seaside Planning Commission considered oral comments and written information concerning the proposed amendment at three duly noticed special public meetings held on December 4, 2017, December 5, 2017, and December 20, 2017; and

WHEREAS, the Seaside Planning Commission acted to declare the application as being a qualified applicant on December 20, 2017 and made a recommendation that the City Council consider the application for the issuance a cannabis dispensary facility; and

WHEREAS, the Seaside Municipal Code requires the approval of a discretionary use permit by the City Council for a Medical/Adult Recreation Cannabis facility, and it is the responsibility of the City Council to have considered and weighed the merits of the application and public input in relation to the policies, standards and intent of the Seaside General Plan and Seaside Municipal Code in review of the application; and

WHEREAS, the Seaside City Council considered oral comments and written information concerning the proposed amendment at a duly noticed special public meeting held on December 28, 2017; and

WHEREAS, the Seaside City Council acted to grant the approval of a cannabis dispensary license subject to the City amending its Cannabis Ordinance to allow for a total of six dispensary for adult recreation and medical purposes;

WHEREAS, the Seaside City Council acted to adopt Ordinance No. 18-XX amending Section 19.52 to increase the number of allowable adult recreation and medical dispensaries from three to six; and

WHEREAS, the project is a Categorically Exempt, Class 1, Section 15301 meeting the following conditions:

- a) The proposed development will consist of converting an existing commercial building into a retail medical/adult recreation cannabis facility which will not change the intensity of the project site or the City's infrastructure off-site in order to accommodate the proposed use. It can be seen with certainty that the proposed use will not create any significant environmental impact on the community and neighboring properties.

NOW, THEREFORE, BE IT RESOLVED, that the Seaside City Council adopts the following findings for the Medical/Adult Recreation Cannabis facility Discretionary Use Permit

- 1) The proposed use is allowed within the applicable zone and complies with all other applicable provisions of this Zoning Ordinance and the Municipal Code.

Evidence: This project is located within the Mixed use Zoning District in which a Medical/Adult Recreation Cannabis facility may be established with use permit approval.

Evidence: The applicant will provide sufficient security measures to both deter and prevent unauthorized entrance into the facility, eliminate any unauthorized loitering inside and outside of the facility, and minimize excessive calls for service by the City's public safety resources.

Evidence: There are no existing cannabis dispensary facilities operating within 500 feet of the project site.

Evidence: Pharm House Wellness Center scored full points for location of business, which will serve as a catalyst project for the City of Seaside within the West Broadway Urban Village Specific Plan.

Evidence: Pharm House Wellness Center scored well for business plan points by demonstrating revenue and capitalization, achievable within the City of Seaside based on the project location being located within an established retail area and the project location having access from the City's entrances on Fremont Boulevard to the north and south and the entrance on Broadway Avenue to the east.

Evidence: Pharm House Wellness Center scored well for local enterprise and community benefits points, which fosters economic and community development within the City of Seaside and provides financial contributions to local non-profit community organizations within the City of Seaside.

Evidence: Pharm House Wellness Center made commitments to exemplary security and façade improvement upgrades, which promotes neighborhood unity and land use compatibility/vitality within the City of Seaside.

Evidence: Pharm House Wellness Center scored full points for safety and security, which helps to provide public safety within the City of Seaside by not creating any type of nuisance which would be detrimental to the overall general health, safety and welfare of the community and/or cause a financial burden on public safety resources for unnecessary calls for service.

- 2) The proposed use is consistent with the General Plan and any applicable specific plan.

Seaside General Plan Conformance

Evidence: Per the General Plan Land Use Element, the site is designated as Mixed use (MX) West Broadway Urban Village Specific Plan. The following Goals and Policies would apply:

Land Use Element Goal LU-1: Promote a mixture of land uses and a balance of jobs and housing to support a community in which people can live, work, and play.

Evidence: The project site will be contained within an existing commercial building which has demonstrated that it can contain the necessary capacity to operate a cannabis dispensary without overburdening existing roadways and City infrastructure,

Land Use Element Policy LU-1.1: The proposed use would serve to implement and diversify the land uses within the West Broadway Urban Village Specific Plan and improve the City's job housing balance.

Evidence: The project would occupy a vacant tenant space, increase pedestrian activity, have the potential for increased pass by trips for adjoining businesses, and will employ Seaside residents.

Land Use Element Policy LU-1.2: The proposed use will serve to provide additional jobs to improve the City's job housing balance.

Evidence: *The project will employ Seaside residents.*

Land Use Element Goal LU-1.3: Encourage regional commercial and visitor-serving commercial development that will enhance the identity of Seaside and attract visitors to the community.

Evidence: The project would occupy a vacant tenant space, increase pedestrian activity, and complete a commercial façade upgrade.

Land Use Element Goal LU-2: Revitalize existing commercial areas.

Evidence: The cannabis facility will serve to establish a regional commodity within the City of Seaside that will provide a substantial investment within the community that will serve to improve the character of the West Broadway Specific Plan area and attract customers both from the Monterey Bay area and tourism.

Element Policy –LU-2.1:

The proposed project will serve to revitalize an existing commercial area of the community that is targeted as a specific plan area to provide new jobs and services as the downtown core of the community.

Evidence: The proposed use will serve to fill a vacant commercial site and remove a blighted condition through the extended vacancy of the site since it was constructed.

- 3) The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and planned future land uses in the vicinity.

Evidence: The proposed Medical/Adult Recreation Cannabis facility will meet the needs of the community consistent within the West Broadway Urban Village Specific Plan design goals and improve the overall business character with the infusion of new façade treatments and monetary investment in the infrastructure of the site.

- 4) The site is physically suitable for the type, density and intensity of discretionary use being proposed, including access, utilities, and the absence of physical constraints.

Evidence: The project site is served by existing water, wastewater, and electrical infrastructure and facilities with adequate capacity to serve the proposed project. The proposed conversion of a retail commercial building to a Medical/Adult Recreation Cannabis facility with interior changes and exterior façade changes conforms to Land Discretionary use Element of the Seaside General Plan.

- 5) 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.

Evidence: The proposed Medical/Adult Recreation Cannabis facility will provide for a community facility that is safe and attractive for a Cannabis dispensary use.

Evidence: The proposed conversion of a commercial retail building to a Medical/Adult Recreation Cannabis facility would not be detrimental to the public health, safety and general welfare of the people of the City and surrounding neighborhood. The proposed use is located on an in-fill site and would help maintain a compact city form consistent with the scale and character of the surrounding commercial neighborhood.

BE IT FURTHER RESOLVED, that the City Council approves the Discretionary Use Permit Application for “Pharm House Wellness Center” subject to the following conditions:

Project Specific

Planning:

1. Except as modified by required conditions of approval, the permittee shall have the right to operate a Medical/Adult Recreation Retail Cannabis Facility substantially in accordance with the project material stamped “Received by the City of Seaside - December 1, 2017” and subject to the floor plan and exterior façade being modified to

comply with the general Cannabis and conditions listed. The aerial site plan is provided as Exhibit "A".

Cannabis

1. Cannabis may not be inhaled, smoked, eaten, ingested, or otherwise consumed within the Business, on the Property, in the parking areas of the Property, or in those areas restricted under the provisions of Health and Safety Code §11362.79.
2. All storage, display, sales or other distribution of cannabis shall occur only within an enclosed area of a medical cannabis business and shall not be visible from the exterior of the business. Delivery shall be as approved by the Seaside Police Department.
3. The cannabis facility shall have an odor-absorbing ventilation and exhaust system to ensure that odor generated inside the premises is not detected outside the premises.
4. A sign shall be posted in a conspicuous location inside the property advising that use of cannabis may impair a person's ability to drive a motor vehicle or operate heavy machinery.
5. No person, other than a patient, caregiver, licensee, employee, or a contractor shall be in the medical cannabis dispensary room.
6. Medical/Adult Cannabis Dispensary hours of operation shall be as regulated by State and City law.
7. Adults 21 and over can buy cannabis at retail dispensaries with an "A" adult use license as of Jan 1, 2018 as regulated by State Law.
8. No Cannabis Dispensary, Management Employee or employee shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on the Property or in the parking area of the property.

Testing, Packaging, Labeling

9. All cannabis product labels shall also include the following information, prominently displayed and in a clear and legible font: For packages containing only dried flower, the net weight of medical cannabis in the package; A warning if nuts or other known allergens are discretionary used; List of pharmacologically active ingredients, including, but not limited to, tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid content, the THC and other cannabinoid amount in milligrams per serving, servings per package, and the THC and other cannabinoid amount in milligrams for the package total; Clear indication, in bold type, that the product contains medical cannabis; Identification of the source and date of cultivation and manufacture.
10. Only generic food names may be used to describe edible medical cannabis products. Businesses should refer to State and local law to determine what activities are permitted or prohibited for licensed dispensaries in the City of Seaside. Failure to comply may result in penalties, suspension or revocation of the dispensary business license.

Transportation

11. All cannabis-infused products must be hand packaged, sealed and labeled, and the products stored in closed containers that are labeled. All medical cannabis in a usable form for medicinal use must be packaged and stored in closed containers that are labeled.
12. Each container used to transport or deliver cannabis must be labeled as regulated by State law. The label shall be shown to any law enforcement officer who requests to see the label.

Community Relations

13. Each Cannabis Business shall designate a Community Relations Liaison, who shall be at least twenty-one (21) years of age; and shall provide the Liaison's name to the City Manager. The Liaison shall receive all complaints received by the City Manager regarding the Medical/Adult Use Cannabis Dispensary, and make good faith attempts to promptly resolve all complaints.

Inspections

14. State and Local representatives (Health, Fire and Building inspectors) may enter and inspect the Property of each Cannabis Business between the hours of nine (9) am and eight (8) pm or during normal business hours.
15. Licensing authorities and State and Local agencies may, at any time, inspect shipments and request documentation for current inventory.
16. Every Cannabis Business shall implement sufficient security measures, as approved by the Seaside Police Department to both deter and prevent unauthorized entrance into areas containing cannabis or cannabis products and theft of cannabis or cannabis products. These security measures, as appropriate, shall include, but not be limited to, the following: (a) Preventing individuals from remaining on the premises if they are not engaging in activity expressly related to the operations of the business; (b) Establishing limited access areas accessible only to authorized personnel; (c) Storing all finished cannabis and cannabis products in a secured and locked room, safe, or vault, and in a manner as to prevent diversion, theft, and loss.
17. Each Cannabis Business shall install and maintain a fully operational digital video surveillance and camera recording system that monitors no less than the front and rear of the Property, all points of ingress and egress at the business, all points of sale within the business, all areas within the business where medical cannabis products are displayed for sale, and all limited access areas within the facility as approved by the Seaside Police Department.
18. The video and surveillance system shall, at a minimum, meet the following requirements: (a) Capture a full view of the public right-of-ways and any parking lot under the control of the medical cannabis business; (b) Record and maintain video 24/7 for a minimum of ninety (90) days, or as otherwise determined by the Seaside Police Department.

19. The cannabis business shall install and use a safe for storage of any processed cannabis and cash on the property when the business is closed to the public. The safe shall be incorporated into the building as a secure receptacle.
20. The cannabis business shall install and discretionary use a fire and burglar alarm system that is monitored by a company that is staffed twenty-four hours (24) a day, seven (7) days a week. The security plan submitted to the City shall identify the company monitoring the alarm, including contact information. Changes in the security plan shall be approved by the Seaside Police Department prior to implementation.
21. A cannabis business engaged in retail sales shall retain and maintain a security guard or patrol, licensed by the State of California, generally located at an indoor guard station, to an extent sufficient to ensure safety and approved by the Seaside Police Department.
22. No dried cannabis shall be stored at the property in structures that are not completely enclosed, in an unlocked vault or safe, or in any other unsecured storage structure.
23. Windows and roof hatches at the Cannabis Business shall be secured so as to prevent unauthorized entry.

Accounting/Record Keeping

24. The Cannabis Business shall maintain an inventory management system. The point of sale software shall be, upon regulatory implementation of the MMRSA, compliant with the State Unique Identifier and Track and Trace Program.
25. The records of the business shall clearly track cannabis product inventory purchased and/or grown and sales and disposal thereof to clearly track revenue from sales of any medical cannabis from other paraphernalia or services offered by the Cannabis Business.
26. The records shall clearly show the source, amount, price and dates of all cannabis received or purchased, and the amount, price, dates and business, patient or caregiver for all cannabis sold.
27. Each Cannabis Business shall keep a complete set of books of account, invoices, copies of orders and sales, shipping instructions, bills of lading, weigh bills, bank statements including cancelled checks and deposit slips and all other records necessary to show fully the business transactions of such licensee.
28. Each business shall maintain an inventory record documenting the dates and amounts of cannabis sold at the Property, and the daily amounts of cannabis stored on the Property.
29. Receipts shall be maintained via a computer program or by pre-numbered receipts and discretionary used for each sale.
30. Each business shall maintain on-site proof of a valid Business License Permit issued by the City of Seaside.

31. All records kept and maintained by the licensee shall at all times protect the confidential information of the patient or caregiver. All records must be identified as confidential and any disclosure shall be limited in a manner that maintains the confidentiality of the information contained therein.
32. A Cannabis Dispensary holding a Business License Permit shall report to the City Manager each of the following within the time specified; provided that if no time is specified, such a report shall be provided within fifteen (15) days of the triggering event: (1) The transfer or change of ownership interest, business manager, or in the permit application at least thirty days before the transfer or change; (2) Sales and taxable transactions and file sales and discretionary use tax reports to the City quarterly; (3) A conviction of any disqualifying crime by any applicant of a Cannabis Business.

City Standards

33. Discretionary Use Permit approval is subject to revocation procedures contained in S.M.C.S. 17.80.060 in the event any of the conditions of this approval are violated, this discretionary permit was granted on the basis of false or misleading information, written or oral, given willingly or negligently by the applicant or property owner, and/or there has been a discontinuance of the discretionary use, or purposed for which the permit was issued, for a period of 180 days or more.
34. This Discretionary Use Permit is subject to procedures and requirements of Chapter 17.64 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Article 6 (Zoning Ordinance Administration) of Title 17 of the Municipal Code.
35. 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.
36. Any proposed future development shall comply with the requirements of the applicable City and County agencies and must be in compliance with State Law.
37. The project shall comply with the requirements and the applicable ordinances of the Monterey Peninsula Water Management District (MPWMD) and Monterey Regional Water Pollution Control Agency (MRWPCA).
38. 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.

39. Applicant must execute and maintain a valid Development/Operating Agreement setting forth the terms and conditions under which the facility will operate which will be reviewed periodically for compliance including, but not limited to, timely payment of all fees and taxes.

40. For purposes of assuring compliance, the applicant, agents, representatives or their assignees agree not to deny or impede access to the subject property by City employees in the performance of their duties.

PASSED AND ADOPTED at the special meeting of the City Council of the City of Seaside, State of California, on the 15th of March, 2018, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Ralph Rubio, Honorable Mayor

ATTEST:

Lesley Milton-Rerig, City Clerk

Resolution No. 19-XX

These permits are hereby accepted upon the express terms and conditions hereof, and shall have no force or effect unless and until agreed to, in writing, by the applicant and property owner(s).

The undersigned hereby acknowledge the approved terms and conditions and agree to fully conform to, and comply with, said terms and conditions within the time frames approved by the City of Seaside City Council.

Applicant's Signature

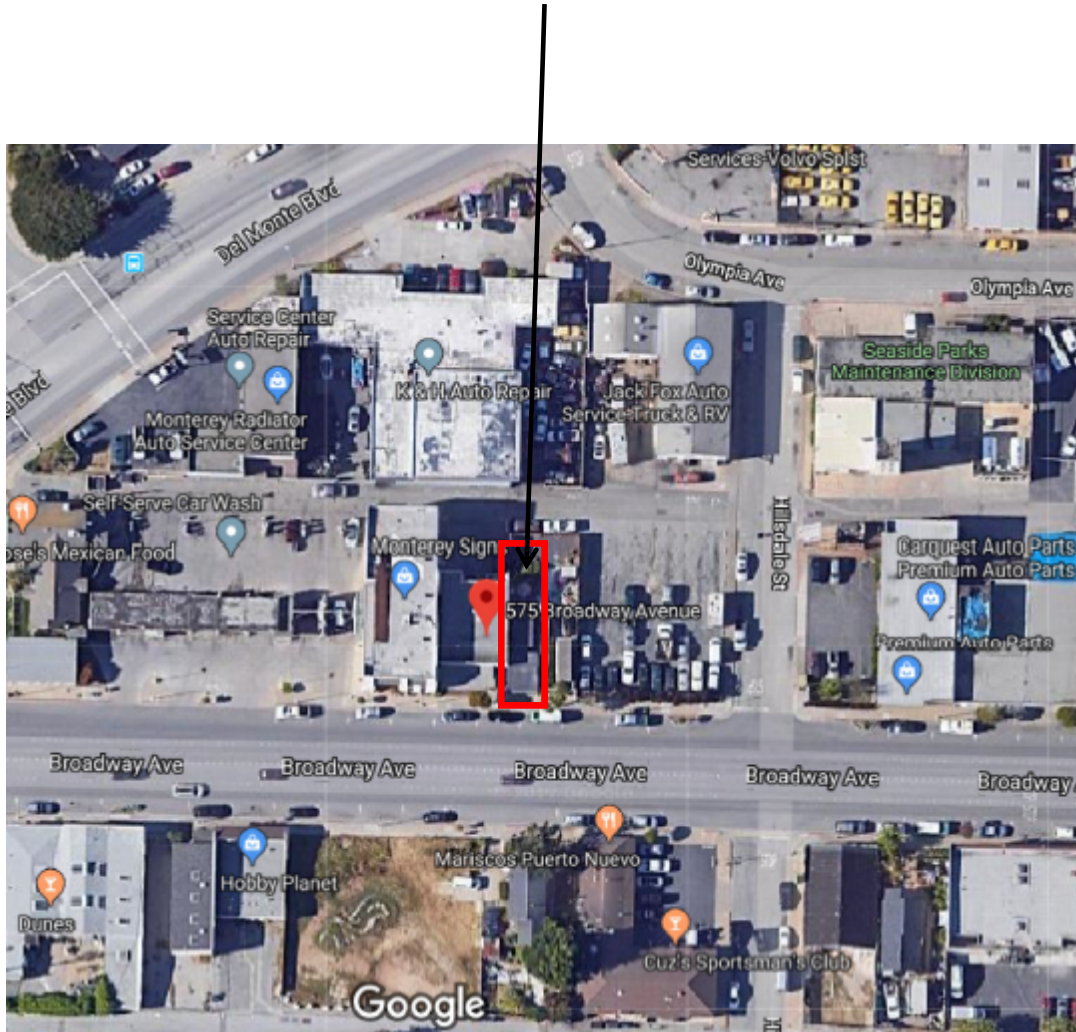
Date

Property Owner's Signature (if different from above)

Date

Project Location

Project Site: 575 Broadway Avenue





**CITY OF SEASIDE
STAFF REPORT**

Item No.: 8.G.

TO: City Council

FROM: Craig Malin, City Manager

BY: Kurt Overmeyer, Economic Development Manager

DATE: March 15, 2018

**SUBJECT: ADOPT RESOLUTIONS APPROVING THE
DEVELOPMENT/OPERATING AGREEMENT FOR RARE EARTH,
LLC., A CANNABIS DISPENSARY, LOCATED AT 575 W.
BROADWAY AVENUE.**

PURPOSE & RECOMMENDATION

To adopt resolutions approving a Development/Operating Agreement between the City of Seaside and Rare Earth, LLC., governing the operations and community benefit requirements for a Adult Use and Medical Cannabis Dispensary located at 575 W. Broadway Ave.

BACKGROUND

Cannabis dispensaries that have a valid Use Permit must also enter into a Development/Operating agreement with the City of Seaside. The agreement governs the operations of the dispensary and also requires the dispensary to maintain their promises for community benefit. This agreement will provide the City with a vital enforcement tool should a dispensary fail to live up to their community benefits promises and to quickly close a dispensary that violates the terms of this agreement or of their Use Permit.

By approving this agreement, this dispensary will have all of its approvals and will be allowed to open for operation as soon as any tenant improvements to their buildings are complete, and as soon as all inspections are complete. Inspections will include an inspection of the security plan by the Police Chief or designee, and of the safety plan by the Fire Chief or designee.

The Community Benefit, Security and Safety plans are all attachments to the agreement which is attached to this staff report.

FISCAL IMPACT

Meeting Date: March 15, 2018

Adopting this agreement will allow the dispensary to open, which should result in revenues of at least \$150,000 to the City of Seaside, plus additional support for local non-profit organizations.

ATTACHMENTS

1. Draft Resolution
 2. Rare Earth Development Operating Agreement
 3. Rare Earth Community Benefit
-

Reviewed for Submission to the
City Council by:

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke extending to the right.

Craig Malin, City Manager

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE

**APPROVING A DEVELOPMENT/OPERATING AGREEMENT BETWEEN
THE CITY OF SEASIDE AND RARE EARTH, LLC. TO GOVERN
OPERATIONS AND COMMUNITY BENEFITS FOR A CANNABIS
DISPENSARY**

WHEREAS, the City of Seaside has taken steps to establish regulated cannabis activities in the City subject to an application process that includes a lengthy selection process; and

WHEREAS, at the December 28, 2017 meeting, the City Council approved the issuance of a total of 6 permits for Medical Cannabis Dispensaries and 6 permits for Adult Cannabis Dispensaries; and

WHEREAS, the City Council directed staff to issue a use permit the operations of the Rare Earth LLC., at 575 Broadway Avenue Suite 3B; and

WHEREAS, the ordinance governing Cannabis Related Uses requires that all operators of dispensaries must enter into a Development/Operating Agreement with the City of Seaside which governs the operations and community benefit requirements associated with the approval of the dispensary.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Seaside authorizes the City Manager to execute the attached Development/Operating Agreement, including any non-substantive changes that may be required.

PASSED AND ADOPTED at a meeting of the City Council of the City of Seaside held on March 15, 2018 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

**DEVELOPMENT/OPERATING AGREEMENT
BY AND BETWEEN
THE CITY OF SEASIDE
AND
RARE EARTH LLC.**

ARTICLE 1. PARTIES AND DATE.

This Development/Operating Agreement (“Agreement”) is dated March 15, 2018, for execution purposes only and is entered into between (i) the City of Seaside (“City”), a California municipal corporation, and Rare Earth LLC.(“Owner”), a California Limited Liability Company. This Agreement shall become effective on the Effective date defined in section 3.1.6.

ARTICLE 2. RECITALS.

2.1 WHEREAS, City is authorized to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property; and

2.2 WHEREAS, this Agreement and the Project are consistent with the City’s General Plan and Zoning Code and applicable provisions of the City’s Zoning Map as of the Effective Date; and

2.3 WHEREAS, all actions taken and approvals given by the City have been duly taken or approved in accordance with all applicable legal requirements for notice, public hearings, findings, votes, and other procedural matters; and

2.4 WHEREAS, Owner intends to develop a Cannabis Dispensary or Facility, with Commercial Cannabis Activities at the Dispensary or Facility , to the extent contemplated by the Seaside Municipal Code Chapter 19 and all applicable state laws, rules, and regulations.

2.5 WHEREAS, this Agreement, in the future, shall be read consistent with any statewide regulation passed by voter initiative or the state legislature, which decriminalizes or legalizes marijuana for medical or recreational use, also known as Adult Cannabis. This Agreement shall govern the conduct of this business to cultivate and distribute marijuana under such statewide regulation, consistent with any City regulations not preempted by any such statewide regulations.

2.6 WHEREAS, The Owner and City agree for mutual consideration

this agreement.

ARTICLE 3. GENERAL TERMS.

3.1 Definitions and Exhibits. The following terms when used in this Agreement shall be defined as follows:

3.1.1 “Agreement” means this Development/Operating Agreement. [This is not a development agreement as defined in Government Code Section 65864 et seq.]

3.1.2 “City” means the City of Seaside, a California municipal corporation.

3.1.3 “Days” mean calendar days unless otherwise specified.

3.1.4 “Development” includes the right to maintain, repair or reconstruct any private building, structure, improvement or facility after the construction and completion thereof; provided, however, that such maintenance, repair, or reconstruction take place within the term of this Agreement on parcels subject to it.

3.1.5 “SMC” means the City of Seaside Municipal Code.

3.1.6 “Effective Date” means the date on which all of the following are true: (i) the City Council adopted a resolution adopting and approving the Development/Operating Agreement and (ii) all Exhibits to this Agreement are finalized, executed by all affected parties (if applicable) and attached hereto; provided, however, that if these conditions have not been fully satisfied by the Owner the Effective Date may not thereafter occur and this Agreement may not thereafter become effective.

3.1.7 “Existing Land Use Regulations” means all Land Use Regulations in effect on the date of execution. Existing Land Use Regulations include all provisions in the SMC Chapter 17, Zoning, and other regulations that are a matter of public record on the date of execution as they may be modified from time to time. Notwithstanding by the Existing Development Approvals. Notwithstanding the foregoing, Existing Land Use Regulations include the regulations set forth in AB 266 and AB 243.

3.1.8 “Owner” means the Business or Dispensary Owner (s).

3.1.9 “Processing Fees” means the normal and customary application, filing, plan check, permit fees for Cannabis activity approvals, design review, building permits, demolition permits, grading permits, and other

similar permits and entitlements, and inspection fees, which fees are charged to reimburse the City's expenses attributable to such applications, processing, permitting, review and inspection and which are in force and effect on a general basis at such time as said approvals, permits, review, inspection or entitlements are granted or conducted by the City.

3.1.10 "Project" means the Commercial Cannabis Activity as set forth in SMC Chapter 19, located on Assessor Parcel Number (APN) _____ that will be state licensed and issued a Dispensary Permit in full accordance with SMC Chapter 19.02.010 as may be amended, as well as in full compliance with all state laws, including but not limited to the Medical Marijuana Regulation and Safety Act adopted by the State of California (also known as AB 266 and AB 243). This Project shall include the cultivation, manufacturing, testing, and distribution, of Cannabis as approved by state and local law. The Project will include construction and development of a [type of facility] Dispensary that will be issued a Dispensary Permit in full accordance with SMC Chapter 19.02.010 as amended as well as in full compliance with all state laws, including but not limited to the Medical Marijuana Regulation and Safety Act and the Adult Use of Marijuana Act.

3.1.11 "Property" means the real property where the Cannabis Dispensary or Facility is to be located as described on Exhibit A and shown on Exhibit B, as set forth in 3.2 below, both attached hereto and incorporated herein by this reference.

3.2 Exhibits. The following documents are attached to and, by this reference, made part of this Agreement:

Exhibit A – Map showing Property and its location.

Exhibit B—Resolution of City Granting a Dispensary Permit With Conditions at [location].

Exhibit C--Owner Commitment to Community Benefit Program.

3.3 Binding Effect of Agreement. The Property and Project are hereby made subject to this Agreement. Subject to the Owner's receipt of all Development/Operating Approvals relative thereto, the Development of the Property is hereby authorized and shall, except as otherwise provided in this Agreement, be carried out only in accordance with the terms of this Agreement, the Development/Operating Plan, and the Dispensary Permit. In the event of conflict or uncertainty between this Agreement, the Dispensary Permit, and the Development Plan, the provisions of the Development/Operating Plan shall control.

3.4 Notices.

3.4.1 Notice Defined. As used in this Agreement, notice includes,

without limitation, the communication of notice, request, demand, approval, statement, report, acceptance, consent, waiver, appointment or other communication required or permitted hereunder.

3.4.2 Written Notice and Delivery. All notices shall be in writing and shall be considered given:

- (i) when delivered in person to the recipient named below; or
- (ii) three days after deposit in the United States mail, postage prepaid, addressed to the recipient named below; or
- (iii) on the date of delivery shown in the records of the delivery company after delivery to the recipient named below; or
- (iv) on the date of delivery by facsimile transmission to the recipient named below if a hard copy of the notice is deposited in the United States mail, postage prepaid, addressed to the recipient named below. All notices shall be addressed as follows:

If to the City:

City Manager
440 Harcourt Avenue
Seaside, CA 93955

If to the Owner:

Rare Earth, LLC
575 Broadway Avenue
Seaside, CA 93955

With Copies to:

City Attorney
440 Harcourt Avenue
Seaside, CA 93955

3.4.3 Address Changes. Either party may, by notice given at any time, require subsequent notices to be given to another person or entity, whether a party or an officer or representative of a party or to a different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change.

3.5 Validity of this Agreement. The Owner and the City each acknowledge that neither party has made any representations to the other

concerning the enforceability or validity of any one or more provisions of this Agreement, and that this Agreement has been drafted jointly and not by one party alone.

ARTICLE 4. PUBLIC BENEFITS

4.1 Intent. The parties acknowledge and agree that development of the Project on the Property will result in substantial public needs which will not be fully met by the Development/Operating Plan and further acknowledge and agree that this Agreement confers substantial private benefits on Owner which should be balanced by commensurate public benefits. Accordingly, the parties intend to provide consideration to the public to balance the private benefits conferred on Owner by providing more fully for the satisfaction of the public needs resulting from the Project

4.2 Developer Fee. Applicant agrees to pay all established fees, charges, City costs, taxes, or other similar forms of expenses applicable to all Commercial Cannabis establishments and Dispensary Permits.

4.3 Jobs and Wage Creation.

4.3.1 Local Hiring. Owner agrees to use its reasonable efforts to hire qualified City residents for jobs at the Project. Owner shall abide by all local hiring commitments provided in the Owner Commitment to Community Benefit Program in Exhibit C

4.3.2 Mandatory Payment of Wage. Owner agrees to pay all employees wages in accordance with the wage rate provided in the Owner's Community Benefit Plan and the Owner Commitment to Community Benefit Program in Exhibit D.

4.5 Payment of Marijuana Business Operation Tax.

4.5.1 Amount of Tax. Pursuant to Chapter SMC Chapter 5.04.320, Owner shall pay City the annual business operations tax based on a percentage of gross receipts as set by the City Council by Ordinance in accordance with prior voter approval of up to ten percent (10%) annually. Such taxes shall be remitted in accordance with regulations adopted by City.

4.5.2 All other taxes established by Ordinance shall be paid in accordance with the SMC and State law, as both may be amended from time to time.

ARTICLE 5. REVIEW FOR COMPLIANCE.

5.1 Periodic Review. The City Manager or designee may review

this Agreement annually, on or before each anniversary of the Effective Date or upon receipt of a request by Owner to extend the term, in order to ascertain Owner's good faith compliance with this Agreement including the Dispensary Permit. During the periodic review Owner shall be required to demonstrate good faith compliance with the terms of the Agreement, through submitting an annual monitoring report, records, or equivalent written materials to the City Manager or designee. The City may elect to extend the permits without review. Owner shall be entitled to a review hearing pursuant to 6.3 below in the event the City Manager or designee determines Owner is not in compliance with this Agreement, Use Permit or Dispensary Permit.

5.2 Special Review. The City Council may order a special review of compliance with this Agreement at any time. The City Manager or his or her designee shall conduct such special review. During a special review, the Owner shall be required to demonstrate good faith compliance with the terms of the Agreement. The burden of proof on this issue shall be on the Owner.

5.3 Review Hearing. At the time and place set for the review hearing, the Owner shall be given an opportunity to be heard. If the City Manager finds, based upon substantial evidence, that the Owner has not complied in good faith with the terms or conditions of this Agreement, the City Manager may recommend that the City Council terminate this Agreement notwithstanding any other provision of this Agreement to the contrary, or modify this Agreement and impose such conditions as are reasonably necessary to protect the interests of the City. The decision of the City Council shall be final, subject only to judicial review pursuant to Code of Civil Procedure Section 1094.5.

5.4 Failure to Conduct Review. The City's failure to conduct a periodic review of this Agreement shall not constitute a breach of this Agreement or a waiver of future periodic reviews.

5.5 Cost of Review. The costs incurred by City in connection with the periodic reviews shall be borne by Owner.

ARTICLE 6. ANNEXATION INTO DISTRICTS

6.1 Owner agrees to the Subject Property being annexed into any current or future Community Facilities District, Community Services District, or any other tax district which would pertain to the Property.

ARTICLE 7. DEFAULTS AND REMEDIES.

7.1 Remedies in General. It is acknowledged by the parties that the City would not have entered into this Agreement if it were to be liable in damages under this Agreement, or with respect to this Agreement or the application thereof, except as hereinafter expressly provided. Subject to extensions of time by mutual consent in writing, failure or delay by either party to

perform any term or provision of this Agreement shall constitute a default. In the event of alleged default or breach of any terms or conditions of this Agreement, the party alleging such default or breach shall give the other party not less than thirty (30) days' notice in writing specifying the nature of the alleged default and the manner in which said default may be satisfactorily cured during any such thirty (30) day period, the party charged shall not be considered in default for purposes of termination or institution of legal proceedings. Notwithstanding the foregoing to the contrary, if the alleged default is of such a nature that it cannot be cured within thirty (30) days, the alleged defaulting party shall not be deemed in default as long as such party commences to cure such default within such thirty (30) day period and thereafter diligently prosecutes such cure to completion.

7. 2 After notice and expiration of the thirty (30) day period, the other party to this Agreement, at its option, may institute legal proceedings pursuant to this Agreement.

7.3 In general, each of the parties hereto may pursue any remedy at law or equity available for the breach of any provision of this Agreement, except that the City shall not be liable in monetary damages, unless expressly provided for in this Agreement, to the Owner or to any successors in interest of the Owner, or to any other person, and the Owner covenants on behalf of itself and all successors in interest to the Property or any portion thereof, not to sue for damages or claim any damages:

(i) For any breach of this Agreement or for any cause of action which arises out of this Agreement: or

(ii) For the impairment or restriction of any right or interest conveyed or provided under, with, or pursuant to this Agreement, including, without limitation, any impairment or restriction which the Owner characterizes as a regulatory taking or inverse condemnation; or

(iii) Arising out of or connected with any dispute, controversy or issue regarding the application or interpretation or effect of the provisions of this Agreement.

7.4 Nothing contained herein shall modify or abridge the Owner's rights or remedies (including its rights for damages, if any) resulting from the exercise by the City of its power of eminent domain. Nothing contained herein shall modify or abridge the Owner's rights or remedies (including its rights for damages, if any) resulting from the grossly negligent or malicious acts of the City and its officials, officers, agents and employees. Nothing herein shall modify or abridge any defenses or immunities available to the City and its employees pursuant to the Government Claims Act and all other applicable statutes and decisional law.

7.5 Release. Except for those remedies set forth in Sections 8.1 and 8.4, the Owner, for itself, its successors and assignees, hereby releases the City, its officers, agents and employees from any and all claims, demands, actions, or suits of any kind or nature arising out of any liability, known or unknown, present or future, based or asserted, pursuant to Article 1, Section 19 of the California Constitution, the Fifth Amendment of the United States Constitution, or any other law or ordinance which seeks to impose any other liability or damage, whatsoever, upon the City because it entered into this Agreement or because of the terms of this Agreement.

The Owner acknowledges that it may have suffered, or may suffer, damages and other injuries that are unknown to it, or unknowable to it, at the time of execution of this Agreement. Such fact notwithstanding, the Owner agrees that the release provided in this Section 7.2 shall apply to such unknown or unknowable claims or damages. Without limiting the generality of the foregoing, the owner acknowledges the provisions of California Civil Code Section 1542, which provide:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release which if known by him or her must have materially affected his or her settlement with the debtor.”

The owner hereby waves, to the maximum legal extent, the provisions of California Civil Code Section 1542 and all other statutes and judicial decisions of similar effect.

Initial_____

7.6 Attorneys' Fees and Costs. In any action or proceeding between the City and the Owner brought to interpret or enforce this Agreement, or which in any way arises out of the existence of this Agreement or is based upon any term or provision contained herein, the “prevailing party” in such action or proceeding shall be entitled to recover from the non-prevailing party, in addition to all other relief to which the prevailing party may be entitled pursuant to this Agreement, the prevailing party's reasonable attorneys' fees and litigation costs, in an amount to be determined by the court. The prevailing party shall be determined by the court in accordance with California Code of Civil Procedure Section 1032. Fees and costs recoverable pursuant to this Section 8.5 include those incurred during any appeal from an underlying judgment and in the enforcement of any judgment rendered in any such action or proceeding. The

parties agree that each contributed to the drafting of this Agreement, and that neither party is responsible for its drafting in determining whether any ambiguities exist as a result of drafting. Ambiguities shall not automatically be ruled against either party.

ARTICLE 8. THIRD PARTY LITIGATION.

8.1 General Plan Litigation. The City has determined that this Agreement is consistent with its General Plan. The Owner has reviewed the General Plan and concurs with the City's determination.

8.1 Hold Harmless Agreement. Owner hereby agrees to, and shall hold City, its elective and appointive boards, commissions, officers, agents, and employees harmless from any liability for damage or claims for damage for personal injury, including death, as well as from claims for property damage which may arise from Owner or Owner's contractors, subcontractors, agents, or employees operations under this Agreement, whether such operations be by Owner, or by any of Owner's contractors, subcontractors, agents, or employees operations under this Agreement, whether such operations be by Owner, or by any of Owner's contractors, subcontractors, or by any one or more persons directly or indirectly employed by, or acting as agent for Owner or any of Owner's contractors or subcontractors. Owner agrees to and shall defend City and its elective and appointive boards, commissions, officers, agents and employees from any suits or actions at law or in equity for damage caused, or alleged to have been caused, by reason of any of the aforesaid operations.

8.2 Indemnification. Owner shall defend, indemnify and hold harmless City and its agents, officers and employees against and from any and all liabilities, demands, claims, actions or proceedings and costs and expenses incidental thereto (including costs of defense, settlement and reasonable attorneys' fees), which any or all of them may suffer, incur, be responsible for or pay out as a result of or in connection with any challenge to the legality, validity or adequacy of any of the following: (i) this Agreement and the concurrent and subsequent permits, licenses and entitlements approved for the Project or Property; (ii) the environmental impact report, mitigated negative declaration or negative declaration, as the case may be, prepared in connection with the development of the Property; and (iii) the proceedings undertaken in connection with the adoption or approval of any of the above. In the event of any legal or equitable action or other proceeding instituted by any third party (including a governmental entity or official) challenging the validity of any provision of this Agreement or any portion thereof as set forth herein, the parties shall mutually cooperate with each other in defense of said action or proceeding. Notwithstanding the above, the City, at its sole option, may tender the complete defense of any third party challenge as described herein. In the event the City elects to contract with special counsel to provide for such a defense, the City

shall meet and confer with Owner regarding the selection of counsel, and Owner shall pay all costs related to retention of such counsel.

8.3 Accept Reasonable Good Faith Settlement. With respect to Article 10, the City shall not reject any reasonable good faith settlement. If the City does reject a reasonable, good faith settlement that is acceptable to the Owner, the Owner may enter into a settlement of the action, as it relates to the Owner, and the City shall thereafter defend such action (including appeals) at its own cost and be solely responsible for any judgments rendered in connection with such action. This Section 9.3 applies exclusively to settlements pertaining to monetary damages or damages which are remedial by the payment of monetary compensation. The Owner and the City expressly agree that this Section 10.6 does not apply to any settlement that requires an exercise of the City's police powers, limits the City's exercise of its police powers, or affects the conduct of the City's municipal operations.

ARTICLE 9. MISCELLANEOUS PROVISIONS.

9.1 Entire Agreement. This Agreement sets forth and contains the entire understanding and agreement of the parties, and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements that are not contained or expressly referred to herein. No testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement, provided, however, City at its option may rely on statements by Owner's agents at the public hearings leading to the City's approval of the project or on written documents by Owner or Owner's agents that are a part of the public record.

9.2 Severability. If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement. The foregoing notwithstanding, the provision of the public benefits set forth in Article 4, including the payment of the fees set forth therein, are essential elements of this Agreement and the City would not have entered into this Agreement but for such provisions, and therefore in the event that any portion of such provisions are determined to be invalid, void or unenforceable, at the City's option this entire Agreement shall terminate and from that point on be null and void and of no force and effect whatsoever.

9.3 Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives

and purposes of the parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.

9.4 Section Headings. All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

9.5 Singular and Plural; Gender, and Person. Except where the context requires otherwise, the singular of any word shall include the plural and vice versa, and pronouns inferring the masculine gender shall include the feminine gender and neuter, and vice versa, and a reference to "person" shall include, in addition to a natural person, any governmental entity and any partnership, corporation, joint venture or any other form of business entity.

9.6 Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

9.7 Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

9.8 No Third Party Beneficiaries. The only parties to this Agreement are Owner and the City. This Agreement is made and entered into for the sole protection and benefit of the parties and their successors and assigns. There are no third party beneficiaries and this Agreement is not intended, and shall not be construed, to benefit, or be enforceable by any other person whatsoever.

9.9 Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed hereunder by such benefited party.

9.10 Successors in Interest. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties to this Agreement. All provisions of this Agreement shall be enforceable as equitable servitudes.

The burdens of the Agreement shall be binding upon, and the benefits of the Agreement shall inure to all successors in interest to the parties to this Agreement.

9.11 Counterparts. This Agreement may be executed by the

parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.

9.12 Jurisdiction and Venue. Any action at law or in equity arising under this Agreement or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed and prosecuted in the Superior Court of the County of Monterey, State of California, and the parties hereto waive all provisions of federal or state law or judicial decision providing for the filing, removal or change of venue to any other state or federal court, including, without limitation, Code of Civil Procedure Section 394.

9.13 Agent for Service of Process. In the event the Owner is not a resident of the State of California or it is an association, partnership or joint venture without a member, partner or joint venturer, resident of the State of California, or if it is a foreign corporation, then the Owner shall file, upon its execution of this Agreement, with the City Manager the name of a natural person acting as the agent of owner residing in the State of California, giving his or her name, residence and business addresses, as its agent for the purpose of service of process in any court action arising out of or based upon this Agreement, and the delivery to such agent of a copy of any process in any such action shall constitute valid service upon the Owner. If for any reason service of such process upon such agent is not feasible, then in such event the Owner may be personally served with such process out of this County and such service shall constitute valid service upon the Owner. The Owner is amenable to the process so described, submits to the jurisdiction of the Court so obtained, and waives any and all objections and protests thereto.

9.14 Authority to Execute. The person or persons executing this Agreement on behalf of the Owner warrants and represents that he/she/they have the authority to execute this Agreement on behalf of his/her/their corporation, partnership or business entity and warrants and represents that he/she/they has/have the authority to bind the Owner to the performance of its obligations hereunder.

Each individual executing this Agreement on behalf of his or her respective company or entity shall represent and warrant that:

9.14.1 The individual is authorized to execute and deliver this Agreement on behalf of that company or entity in accordance with a duly adopted resolution of the company's board of directors or appropriate governing body and in accordance with that company's or entity's articles of incorporation or charter and bylaws or applicable formation documents; and

9.14.2 This Agreement is binding on that company or entity in

accordance with its terms; and

9.14.3 The company or entity is a duly organized and legally existing company or entity in good standing; and

9.14.4 The execution and delivery of this Agreement by that company or entity shall not result in any breach of or constitute a default under any mortgage, deed of trust, loan agreement, credit agreement, partnership agreement, or other contract or instrument to which that company or entity is party or by which that company or entity may be bound.

9.15 Nexus/Reasonable Relationship Challenges. Owner consents to, and waives any rights it may have now or in the future to challenge the legal validity of, the conditions, requirements, payment of any kind of fee whatsoever, policies or programs set forth in this Agreement including, without limitation, any claim that they constitute an abuse of the police power, violate substantive due process, deny equal protection of the laws, effect a taking of property without payment of just compensation, or impose an unlawful tax.

9.16 Owner Compliance with Laws. Owner hereby agrees to comply with all applicable state, federal and local laws, regulations, rules and policies.

9.17 No Damages Relief Against City. The parties acknowledge that the City would not have entered into this Agreement had it been exposed to damage claims from Owner, or Owners successors in interest, assigns, partners, or anyone acting on behalf of the Owner for any breach thereof. As such, the parties agree that in no event shall Owner, or Owners successors in interest, assigns, partners, or anyone acting on behalf of the Owner be entitled to recover damages against City for breach of this Agreement.

9.18 Laws. Owner agrees to comply with all applicable state, regional, and local laws, regulations, polices and rules.

9.19 Compliance with Conditions of Approval. Owner agrees to comply with and fulfill all conditions of approval for any and all entitlement, permits, and/or licenses it receives from the City. All conditions of approval for all entitlements, permits and/or licenses are hereto incorporated.

9.20 Owner agrees to comply with all applicable provisions of any current or future applicable federal, state, or local marijuana/Cannabis laws, including AB 266 and AB 243, as duly adopted, including any and all development standards, license and revocation procedures, and the like. Should there be anything in federal or state law, including but not limited to AB 266 or AB 243 which contradicts any provision in this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the dates written above.

CITY OF SEASIDE

OWNER

By: _____
Ralph Rubio, Mayor

ATTEST:

By: _____
Leslie E. Milton-Rerig, City Clerk

APPROVED AS TO FORM:

By: _____
Don Freeman, City Attorney

COMMUNITY BENEFIT PLAN

Our team firmly believes that a business' success is not solely measured by the revenue it generates—rather, a successful business is one that recognizes its role as a vital member of the community, and continually strives to make a positive impact on its constituents. Therefore, we are committed to taking several measures to abide by this core principle.

First, we intend to positively impact our local economy by placing preference on hiring qualified Seaside applicants. We are also committed to placing preference on Seaside vendors when acquiring goods and services for our operation.

Additional efforts to help bolster our local economy will consist of coordination and assistance in the marketing and promotion of the West Broadway Urban Village. Once rejuvenation work is complete on Broadway, we envision an annual music festival that we would plan, coordinate, and market modeled similarly to Sand City's West End Celebration.

We also intend to contribute both financially as well as through volunteer efforts to events and organizations benefiting the community including the annual Seaside Blues In The Park, as well as the Seaside Boys and Girls Club and Community Partnership For Youth. As stated in our business plan, Darryl Choates has a long history of contributing to these and other community organizations and we intend to contribute no less than 5% of gross revenues from the dispensary to worthy organizations.

Finally, we intend to address the opiate epidemic that has ravaged the country. Many of us have been affected by this tragedy, including members of our team who have lost loved ones to opiate addiction. There is research from Harvard University that suggests cannabis could be used as an effective means to wean an addict from opiates. This is a phenomenon that members of our team have witnessed. That is why we propose to offer a deep discount to opiate addicts whom are able to provide proof of rehab participation or a note from a physician. The veteran community is deeply impacted by the opiate crisis as well, in addition to PTSD effects obtained from serving in battle. Therefore, veterans will receive the same unprecedented discount offered to opiate addicts. The same compassion will be extended to terminally ill patients who stand to benefit from the medicinal properties of cannabis.



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 8.H.

TO: City Council

FROM: Craig Malin, City Manager

BY: Kurt Overmeyer, Economic Development Manager

DATE: March 15, 2018

**SUBJECT: ADOPT RESOLUTIONS APPROVING THE
DEVELOPMENT/OPERATING AGREEMENT FOR CANOPY, LLC.,
A CANNABIS DISPENSARY, LOCATED AT 1900 FREMONT BLVD.**

PURPOSE & RECOMMENDATION

To adopt resolutions approving a Development/Operating Agreement between the City of Seaside and Canopy, LLC., governing the operations and community benefit requirements for a Adult Use and Medical Cannabis Dispensary located at 1900 Fremont Blvd.

BACKGROUND

Cannabis dispensaries that have a valid Use Permit must also enter into a Development/Operating agreement with the City of Seaside. The agreement governs the operations of the dispensary and also requires the dispensary to maintain their promises for community benefit. This agreement will provide the City with a vital enforcement tool should a dispensary fail to live up to their community benefits promises and to quickly close a dispensary that violates the terms of this agreement or of their Use Permit.

By approving this agreement, this dispensary will have all of its approvals and will be allowed to open for operation as soon as any tenant improvements to their buildings are complete, and as soon as all inspections are complete. Inspections will include an inspection of the security plan by the Police Chief or designee, and of the safety plan by the Fire Chief or designee.

The Community Benefit, Security and Safety plans are all attachments to the agreement which is attached to this staff report.

FISCAL IMPACT

Adopting this agreement will allow the dispensary to open, which should result in revenues of at

least \$150,000 to the City of Seaside, plus additional support for local non-profit organizations.

ATTACHMENTS

1. Draft Resolution
 2. CanopyDevelopmentOperating Agreement
 3. Canopy-Reef Community Benefit
-

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE

**APPROVING A DEVELOPMENT/OPERATING AGREEMENT BETWEEN
THE CITY OF SEASIDE AND RARE EARTH, LLC. TO GOVERN
OPERATIONS AND COMMUNITY BENEFITS FOR A CANNABIS
DISPENSARY**

WHEREAS, the City of Seaside has taken steps to establish regulated cannabis activities in the City subject to an application process that includes a lengthy selection process; and

WHEREAS, at the December 28, 2017 meeting, the City Council approved the issuance of a total of 6 permits for Medical Cannabis Dispensaries and 6 permits for Adult Cannabis Dispensaries; and

WHEREAS, the City Council directed staff to issue a use permit the operations of the Canopy LLC., at 1900 Fremont Blvd.; and

WHEREAS, the ordinance governing Cannabis Related Uses requires that all operators of dispensaries must enter into a Development/Operating Agreement with the City of Seaside which governs the operations and community benefit requirements associated with the approval of the dispensary.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Seaside authorizes the City Manager to execute the attached Development/Operating Agreement, including any non-substantive changes that may be required.

PASSED AND ADOPTED at a meeting of the City Council of the City of Seaside held on March 15, 2018 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

**DEVELOPMENT/OPERATING AGREEMENT
BY AND BETWEEN
THE CITY OF SEASIDE
AND
CANOPY LLC.**

ARTICLE 1. PARTIES AND DATE.

This Development/Operating Agreement (“Agreement”) is dated March 15, 2018, for execution purposes only and is entered into between (i) the City of Seaside (“City”), a California municipal corporation, and Canopy LLC.(“Owner”), a California Limited Liability Company. This Agreement shall become effective on the Effective date defined in section 3.1.6.

ARTICLE 2. RECITALS.

2.1 WHEREAS, City is authorized to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property; and

2.2 WHEREAS, this Agreement and the Project are consistent with the City’s General Plan and Zoning Code and applicable provisions of the City’s Zoning Map as of the Effective Date; and

2.3 WHEREAS, all actions taken and approvals given by the City have been duly taken or approved in accordance with all applicable legal requirements for notice, public hearings, findings, votes, and other procedural matters; and

2.4 WHEREAS, Owner intends to develop a Cannabis Dispensary or Facility, with Commercial Cannabis Activities at the Dispensary or Facility , to the extent contemplated by the Seaside Municipal Code Chapter 19 and all applicable state laws, rules, and regulations.

2.5 WHEREAS, this Agreement, in the future, shall be read consistent with any statewide regulation passed by voter initiative or the state legislature, which decriminalizes or legalizes marijuana for medical or recreational use, also known as Adult Cannabis. This Agreement shall govern the conduct of this business to cultivate and distribute marijuana under such statewide regulation, consistent with any City regulations not preempted by any such statewide regulations.

2.6 WHEREAS, The Owner and City agree for mutual consideration

this agreement.

ARTICLE 3. GENERAL TERMS.

3.1 Definitions and Exhibits. The following terms when used in this Agreement shall be defined as follows:

3.1.1 "Agreement" means this Development/Operating Agreement. [This is not a development agreement as defined in Government Code Section 65864 et seq.]

3.1.2 "City" means the City of Seaside, a California municipal corporation.

3.1.3 "Days" mean calendar days unless otherwise specified.

3.1.4 "Development" includes the right to maintain, repair or reconstruct any private building, structure, improvement or facility after the construction and completion thereof; provided, however, that such maintenance, repair, or reconstruction take place within the term of this Agreement on parcels subject to it.

3.1.5 "SMC" means the City of Seaside Municipal Code.

3.1.6 "Effective Date" means the date on which all of the following are true: (i) the City Council adopted a resolution adopting and approving the Development/Operating Agreement and (ii) all Exhibits to this Agreement are finalized, executed by all affected parties (if applicable) and attached hereto; provided, however, that if these conditions have not been fully satisfied by the Owner the Effective Date may not thereafter occur and this Agreement may not thereafter become effective.

3.1.7 "Existing Land Use Regulations" means all Land Use Regulations in effect on the date of execution. Existing Land Use Regulations include all provisions in the SMC Chapter 17, Zoning, and other regulations that are a matter of public record on the date of execution as they may be modified from time to time. Notwithstanding by the Existing Development Approvals. Notwithstanding the foregoing, Existing Land Use Regulations include the regulations set forth in AB 266 and AB 243.

3.1.8 "Owner" means the Business or Dispensary Owner (s).

3.1.9 "Processing Fees" means the normal and customary application, filing, plan check, permit fees for Cannabis activity approvals, design review, building permits, demolition permits, grading permits, and other

similar permits and entitlements, and inspection fees, which fees are charged to reimburse the City's expenses attributable to such applications, processing, permitting, review and inspection and which are in force and effect on a general basis at such time as said approvals, permits, review, inspection or entitlements are granted or conducted by the City.

3.1.10 "Project" means the Commercial Cannabis Activity as set forth in SMC Chapter 19, located on Assessor Parcel Number (APN) _____ that will be state licensed and issued a Dispensary Permit in full accordance with SMC Chapter 19.02.010 as may be amended, as well as in full compliance with all state laws, including but not limited to the Medical Marijuana Regulation and Safety Act adopted by the State of California (also known as AB 266 and AB 243). This Project shall include the cultivation, manufacturing, testing, and distribution, of Cannabis as approved by state and local law. The Project will include construction and development of a [type of facility] Dispensary that will be issued a Dispensary Permit in full accordance with SMC Chapter 19.02.010 as amended as well as in full compliance with all state laws, including but not limited to the Medical Marijuana Regulation and Safety Act and the Adult Use of Marijuana Act.

3.1.11 "Property" means the real property where the Cannabis Dispensary or Facility is to be located as described on Exhibit A and shown on Exhibit B, as set forth in 3.2 below, both attached hereto and incorporated herein by this reference.

3.2 Exhibits. The following documents are attached to and, by this reference, made part of this Agreement:

Exhibit A – Map showing Property and its location.

Exhibit B—Resolution of City Granting a Dispensary Permit With Conditions at [location].

Exhibit C--Owner Commitment to Community Benefit Program.

3.3 Binding Effect of Agreement. The Property and Project are hereby made subject to this Agreement. Subject to the Owner's receipt of all Development/Operating Approvals relative thereto, the Development of the Property is hereby authorized and shall, except as otherwise provided in this Agreement, be carried out only in accordance with the terms of this Agreement, the Development/Operating Plan, and the Dispensary Permit. In the event of conflict or uncertainty between this Agreement, the Dispensary Permit, and the Development Plan, the provisions of the Development/Operating Plan shall control.

3.4 Notices.

3.4.1 Notice Defined. As used in this Agreement, notice includes,

without limitation, the communication of notice, request, demand, approval, statement, report, acceptance, consent, waiver, appointment or other communication required or permitted hereunder.

3.4.2 Written Notice and Delivery. All notices shall be in writing and shall be considered given:

- (i) when delivered in person to the recipient named below; or
- (ii) three days after deposit in the United States mail, postage prepaid, addressed to the recipient named below; or
- (iii) on the date of delivery shown in the records of the delivery company after delivery to the recipient named below; or
- (iv) on the date of delivery by facsimile transmission to the recipient named below if a hard copy of the notice is deposited in the United States mail, postage prepaid, addressed to the recipient named below. All notices shall be addressed as follows:

If to the City:

City Manager
440 Harcourt Avenue
Seaside, CA 93955

If to the Owner:

Canopy
1900 Fremont Avenue
Seaside, CA 93955

With Copies to:

City Attorney
440 Harcourt Avenue
Seaside, CA 93955

3.4.3 Address Changes. Either party may, by notice given at any time, require subsequent notices to be given to another person or entity, whether a party or an officer or representative of a party or to a different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change.

3.5 Validity of this Agreement. The Owner and the City each acknowledge that neither party has made any representations to the other

concerning the enforceability or validity of any one or more provisions of this Agreement, and that this Agreement has been drafted jointly and not by one party alone.

ARTICLE 4. PUBLIC BENEFITS

4.1 Intent. The parties acknowledge and agree that development of the Project on the Property will result in substantial public needs which will not be fully met by the Development/Operating Plan and further acknowledge and agree that this Agreement confers substantial private benefits on Owner which should be balanced by commensurate public benefits. Accordingly, the parties intend to provide consideration to the public to balance the private benefits conferred on Owner by providing more fully for the satisfaction of the public needs resulting from the Project

4.2 Developer Fee. Applicant agrees to pay all established fees, charges, City costs, taxes, or other similar forms of expenses applicable to all Commercial Cannabis establishments and Dispensary Permits.

4.3 Jobs and Wage Creation.

4.3.1 Local Hiring. Owner agrees to use its reasonable efforts to hire qualified City residents for jobs at the Project. Owner shall abide by all local hiring commitments provided in the Owner Commitment to Community Benefit Program in Exhibit C

4.3.2 Mandatory Payment of Wage. Owner agrees to pay all employees wages in accordance with the wage rate provided in the Owner's Community Benefit Plan and the Owner Commitment to Community Benefit Program in Exhibit D.

4.5 Payment of Marijuana Business Operation Tax.

4.5.1 Amount of Tax. Pursuant to Chapter SMC Chapter 5.04.320, Owner shall pay City the annual business operations tax based on a percentage of gross receipts as set by the City Council by Ordinance in accordance with prior voter approval of up to ten percent (10%) annually. Such taxes shall be remitted in accordance with regulations adopted by City.

4.5.2 All other taxes established by Ordinance shall be paid in accordance with the SMC and State law, as both may be amended from time to time.

ARTICLE 5. REVIEW FOR COMPLIANCE.

5.1 Periodic Review. The City Manager or designee may review

this Agreement annually, on or before each anniversary of the Effective Date or upon receipt of a request by Owner to extend the term, in order to ascertain Owner's good faith compliance with this Agreement including the Dispensary Permit. During the periodic review Owner shall be required to demonstrate good faith compliance with the terms of the Agreement, through submitting an annual monitoring report, records, or equivalent written materials to the City Manager or designee. The City may elect to extend the permits without review. Owner shall be entitled to a review hearing pursuant to 6.3 below in the event the City Manager or designee determines Owner is not in compliance with this Agreement, Use Permit or Dispensary Permit.

5.2 Special Review. The City Council may order a special review of compliance with this Agreement at any time. The City Manager or his or her designee shall conduct such special review. During a special review, the Owner shall be required to demonstrate good faith compliance with the terms of the Agreement. The burden of proof on this issue shall be on the Owner.

5.3 Review Hearing. At the time and place set for the review hearing, the Owner shall be given an opportunity to be heard. If the City Manager finds, based upon substantial evidence, that the Owner has not complied in good faith with the terms or conditions of this Agreement, the City Manager may recommend that the City Council terminate this Agreement notwithstanding any other provision of this Agreement to the contrary, or modify this Agreement and impose such conditions as are reasonably necessary to protect the interests of the City. The decision of the City Council shall be final, subject only to judicial review pursuant to Code of Civil Procedure Section 1094.5.

5.4 Failure to Conduct Review. The City's failure to conduct a periodic review of this Agreement shall not constitute a breach of this Agreement or a waiver of future periodic reviews.

5.5 Cost of Review. The costs incurred by City in connection with the periodic reviews shall be borne by Owner.

ARTICLE 6. ANNEXATION INTO DISTRICTS

6.1 Owner agrees to the Subject Property being annexed into any current or future Community Facilities District, Community Services District, or any other tax district which would pertain to the Property.

ARTICLE 7. DEFAULTS AND REMEDIES.

7.1 Remedies in General. It is acknowledged by the parties that the City would not have entered into this Agreement if it were to be liable in damages under this Agreement, or with respect to this Agreement or the application thereof, except as hereinafter expressly provided. Subject to extensions of time by mutual consent in writing, failure or delay by either party to

perform any term or provision of this Agreement shall constitute a default. In the event of alleged default or breach of any terms or conditions of this Agreement, the party alleging such default or breach shall give the other party not less than thirty (30) days' notice in writing specifying the nature of the alleged default and the manner in which said default may be satisfactorily cured during any such thirty (30) day period, the party charged shall not be considered in default for purposes of termination or institution of legal proceedings. Notwithstanding the foregoing to the contrary, if the alleged default is of such a nature that it cannot be cured within thirty (30) days, the alleged defaulting party shall not be deemed in default as long as such party commences to cure such default within such thirty (30) day period and thereafter diligently prosecutes such cure to completion.

7. 2 After notice and expiration of the thirty (30) day period, the other party to this Agreement, at its option, may institute legal proceedings pursuant to this Agreement.

7.3 In general, each of the parties hereto may pursue any remedy at law or equity available for the breach of any provision of this Agreement, except that the City shall not be liable in monetary damages, unless expressly provided for in this Agreement, to the Owner or to any successors in interest of the Owner, or to any other person, and the Owner covenants on behalf of itself and all successors in interest to the Property or any portion thereof, not to sue for damages or claim any damages:

(i) For any breach of this Agreement or for any cause of action which arises out of this Agreement: or

(ii) For the impairment or restriction of any right or interest conveyed or provided under, with, or pursuant to this Agreement, including, without limitation, any impairment or restriction which the Owner characterizes as a regulatory taking or inverse condemnation; or

(iii) Arising out of or connected with any dispute, controversy or issue regarding the application or interpretation or effect of the provisions of this Agreement.

7.4 Nothing contained herein shall modify or abridge the Owner's rights or remedies (including its rights for damages, if any) resulting from the exercise by the City of its power of eminent domain. Nothing contained herein shall modify or abridge the Owner's rights or remedies (including its rights for damages, if any) resulting from the grossly negligent or malicious acts of the City and its officials, officers, agents and employees. Nothing herein shall modify or abridge any defenses or immunities available to the City and its employees pursuant to the Government Claims Act and all other applicable statutes and decisional law.

7.5 Release. Except for those remedies set forth in Sections 8.1 and 8.4, the Owner, for itself, its successors and assignees, hereby releases the City, its officers, agents and employees from any and all claims, demands, actions, or suits of any kind or nature arising out of any liability, known or unknown, present or future, based or asserted, pursuant to Article 1, Section 19 of the California Constitution, the Fifth Amendment of the United States Constitution, or any other law or ordinance which seeks to impose any other liability or damage, whatsoever, upon the City because it entered into this Agreement or because of the terms of this Agreement.

The Owner acknowledges that it may have suffered, or may suffer, damages and other injuries that are unknown to it, or unknowable to it, at the time of execution of this Agreement. Such fact notwithstanding, the Owner agrees that the release provided in this Section 7.2 shall apply to such unknown or unknowable claims or damages. Without limiting the generality of the foregoing, the owner acknowledges the provisions of California Civil Code Section 1542, which provide:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release which if known by him or her must have materially affected his or her settlement with the debtor.”

The owner hereby waves, to the maximum legal extent, the provisions of California Civil Code Section 1542 and all other statutes and judicial decisions of similar effect.

Initial_____

7.6 Attorneys' Fees and Costs. In any action or proceeding between the City and the Owner brought to interpret or enforce this Agreement, or which in any way arises out of the existence of this Agreement or is based upon any term or provision contained herein, the “prevailing party” in such action or proceeding shall be entitled to recover from the non-prevailing party, in addition to all other relief to which the prevailing party may be entitled pursuant to this Agreement, the prevailing party's reasonable attorneys' fees and litigation costs, in an amount to be determined by the court. The prevailing party shall be determined by the court in accordance with California Code of Civil Procedure Section 1032. Fees and costs recoverable pursuant to this Section 8.5 include those incurred during any appeal from an underlying judgment and in the enforcement of any judgment rendered in any such action or proceeding. The

parties agree that each contributed to the drafting of this Agreement, and that neither party is responsible for its drafting in determining whether any ambiguities exist as a result of drafting. Ambiguities shall not automatically be ruled against either party.

ARTICLE 8. THIRD PARTY LITIGATION.

8.1 General Plan Litigation. The City has determined that this Agreement is consistent with its General Plan. The Owner has reviewed the General Plan and concurs with the City's determination.

8.1 Hold Harmless Agreement. Owner hereby agrees to, and shall hold City, its elective and appointive boards, commissions, officers, agents, and employees harmless from any liability for damage or claims for damage for personal injury, including death, as well as from claims for property damage which may arise from Owner or Owner's contractors, subcontractors, agents, or employees operations under this Agreement, whether such operations be by Owner, or by any of Owner's contractors, subcontractors, agents, or employees operations under this Agreement, whether such operations be by Owner, or by any of Owner's contractors, subcontractors, or by any one or more persons directly or indirectly employed by, or acting as agent for Owner or any of Owner's contractors or subcontractors. Owner agrees to and shall defend City and its elective and appointive boards, commissions, officers, agents and employees from any suits or actions at law or in equity for damage caused, or alleged to have been caused, by reason of any of the aforesaid operations.

8.2 Indemnification. Owner shall defend, indemnify and hold harmless City and its agents, officers and employees against and from any and all liabilities, demands, claims, actions or proceedings and costs and expenses incidental thereto (including costs of defense, settlement and reasonable attorneys' fees), which any or all of them may suffer, incur, be responsible for or pay out as a result of or in connection with any challenge to the legality, validity or adequacy of any of the following: (i) this Agreement and the concurrent and subsequent permits, licenses and entitlements approved for the Project or Property; (ii) the environmental impact report, mitigated negative declaration or negative declaration, as the case may be, prepared in connection with the development of the Property; and (iii) the proceedings undertaken in connection with the adoption or approval of any of the above. In the event of any legal or equitable action or other proceeding instituted by any third party (including a governmental entity or official) challenging the validity of any provision of this Agreement or any portion thereof as set forth herein, the parties shall mutually cooperate with each other in defense of said action or proceeding. Notwithstanding the above, the City, at its sole option, may tender the complete defense of any third party challenge as described herein. In the event the City elects to contract with special counsel to provide for such a defense, the City

shall meet and confer with Owner regarding the selection of counsel, and Owner shall pay all costs related to retention of such counsel.

8.3 Accept Reasonable Good Faith Settlement. With respect to Article 10, the City shall not reject any reasonable good faith settlement. If the City does reject a reasonable, good faith settlement that is acceptable to the Owner, the Owner may enter into a settlement of the action, as it relates to the Owner, and the City shall thereafter defend such action (including appeals) at its own cost and be solely responsible for any judgments rendered in connection with such action. This Section 9.3 applies exclusively to settlements pertaining to monetary damages or damages which are remedial by the payment of monetary compensation. The Owner and the City expressly agree that this Section 10.6 does not apply to any settlement that requires an exercise of the City's police powers, limits the City's exercise of its police powers, or affects the conduct of the City's municipal operations.

ARTICLE 9. MISCELLANEOUS PROVISIONS.

9.1 Entire Agreement. This Agreement sets forth and contains the entire understanding and agreement of the parties, and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements that are not contained or expressly referred to herein. No testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement, provided, however, City at its option may rely on statements by Owner's agents at the public hearings leading to the City's approval of the project or on written documents by Owner or Owner's agents that are a part of the public record.

9.2 Severability. If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement. The foregoing notwithstanding, the provision of the public benefits set forth in Article 4, including the payment of the fees set forth therein, are essential elements of this Agreement and the City would not have entered into this Agreement but for such provisions, and therefore in the event that any portion of such provisions are determined to be invalid, void or unenforceable, at the City's option this entire Agreement shall terminate and from that point on be null and void and of no force and effect whatsoever.

9.3 Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives

and purposes of the parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.

9.4 Section Headings. All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

9.5 Singular and Plural; Gender, and Person. Except where the context requires otherwise, the singular of any word shall include the plural and vice versa, and pronouns inferring the masculine gender shall include the feminine gender and neuter, and vice versa, and a reference to "person" shall include, in addition to a natural person, any governmental entity and any partnership, corporation, joint venture or any other form of business entity.

9.6 Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

9.7 Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

9.8 No Third Party Beneficiaries. The only parties to this Agreement are Owner and the City. This Agreement is made and entered into for the sole protection and benefit of the parties and their successors and assigns. There are no third party beneficiaries and this Agreement is not intended, and shall not be construed, to benefit, or be enforceable by any other person whatsoever.

9.9 Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed hereunder by such benefited party.

9.10 Successors in Interest. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties to this Agreement. All provisions of this Agreement shall be enforceable as equitable servitudes.

The burdens of the Agreement shall be binding upon, and the benefits of the Agreement shall inure to all successors in interest to the parties to this Agreement.

9.11 Counterparts. This Agreement may be executed by the

parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.

9.12 Jurisdiction and Venue. Any action at law or in equity arising under this Agreement or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed and prosecuted in the Superior Court of the County of Monterey, State of California, and the parties hereto waive all provisions of federal or state law or judicial decision providing for the filing, removal or change of venue to any other state or federal court, including, without limitation, Code of Civil Procedure Section 394.

9.13 Agent for Service of Process. In the event the Owner is not a resident of the State of California or it is an association, partnership or joint venture without a member, partner or joint venturer, resident of the State of California, or if it is a foreign corporation, then the Owner shall file, upon its execution of this Agreement, with the City Manager the name of a natural person acting as the agent of owner residing in the State of California, giving his or her name, residence and business addresses, as its agent for the purpose of service of process in any court action arising out of or based upon this Agreement, and the delivery to such agent of a copy of any process in any such action shall constitute valid service upon the Owner. If for any reason service of such process upon such agent is not feasible, then in such event the Owner may be personally served with such process out of this County and such service shall constitute valid service upon the Owner. The Owner is amenable to the process so described, submits to the jurisdiction of the Court so obtained, and waives any and all objections and protests thereto.

9.14 Authority to Execute. The person or persons executing this Agreement on behalf of the Owner warrants and represents that he/she/they have the authority to execute this Agreement on behalf of his/her/their corporation, partnership or business entity and warrants and represents that he/she/they has/have the authority to bind the Owner to the performance of its obligations hereunder.

Each individual executing this Agreement on behalf of his or her respective company or entity shall represent and warrant that:

9.14.1 The individual is authorized to execute and deliver this Agreement on behalf of that company or entity in accordance with a duly adopted resolution of the company's board of directors or appropriate governing body and in accordance with that company's or entity's articles of incorporation or charter and bylaws or applicable formation documents; and

9.14.2 This Agreement is binding on that company or entity in

accordance with its terms; and

9.14.3 The company or entity is a duly organized and legally existing company or entity in good standing; and

9.14.4 The execution and delivery of this Agreement by that company or entity shall not result in any breach of or constitute a default under any mortgage, deed of trust, loan agreement, credit agreement, partnership agreement, or other contract or instrument to which that company or entity is party or by which that company or entity may be bound.

9.15 Nexus/Reasonable Relationship Challenges. Owner consents to, and waives any rights it may have now or in the future to challenge the legal validity of, the conditions, requirements, payment of any kind of fee whatsoever, policies or programs set forth in this Agreement including, without limitation, any claim that they constitute an abuse of the police power, violate substantive due process, deny equal protection of the laws, effect a taking of property without payment of just compensation, or impose an unlawful tax.

9.16 Owner Compliance with Laws. Owner hereby agrees to comply with all applicable state, federal and local laws, regulations, rules and policies.

9.17 No Damages Relief Against City. The parties acknowledge that the City would not have entered into this Agreement had it been exposed to damage claims from Owner, or Owners successors in interest, assigns, partners, or anyone acting on behalf of the Owner for any breach thereof. As such, the parties agree that in no event shall Owner, or Owners successors in interest, assigns, partners, or anyone acting on behalf of the Owner be entitled to recover damages against City for breach of this Agreement.

9.18 Laws. Owner agrees to comply with all applicable state, regional, and local laws, regulations, polices and rules.

9.19 Compliance with Conditions of Approval. Owner agrees to comply with and fulfill all conditions of approval for any and all entitlement, permits, and/or licenses it receives from the City. All conditions of approval for all entitlements, permits and/or licenses are hereto incorporated.

9.20 Owner agrees to comply with all applicable provisions of any current or future applicable federal, state, or local marijuana/Cannabis laws, including AB 266 and AB 243, as duly adopted, including any and all development standards, license and revocation procedures, and the like. Should there be anything in federal or state law, including but not limited to AB 266 or AB 243 which contradicts any provision in this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the dates written above.

CITY OF SEASIDE

OWNER

By: _____
Ralph Rubio, Mayor

ATTEST:

By: _____
Leslie E. Milton-Rerig, City Clerk

APPROVED AS TO FORM:

By: _____
Don Freeman, City Attorney

8. Community Benefit/Local Enterprise Plan

We strive to be a positive force for the City of Seaside generally and the neighborhood specifically. The benefits we intend to bring are:

- Provide medicinal cannabis to ill patients. There is already some supply in the medical cannabis market, but more competition means better prices for consumers, better customer service, and a wider variety of product availability.
- Provide jobs. We commit to hiring Seaside residents for our medical and adult-use dispensaries. We expect to hire 18 people initially and have a staff of 32 by the end of our first year of operation. We also commit to diversity in our hiring practices. We have forecast first year wages to be \$911,000. **We commit to hire at least eight of our employees from the City of Seaside** in order to ensure that the City of Seaside and its residents benefit most by allowing us to operate in their city. We have already had discussions with the following Seaside residents regarding employment at the dispensary:
 - o Jill Parkinson – [REDACTED]
 - o Mitchell Takata – [REDACTED]
 - o Richard Kostkas – [REDACTED]
 - o Holly James – [REDACTED]
 - o Megan Von Urff [REDACTED]
 - o Devone Thibodeaux [REDACTED]
 - o Ashley Bright [REDACTED]
 - o Omar Jimenez [REDACTED]
 - o Daniel Niland [REDACTED]
- **Support local businesses.** We commit to using Monterey Signs for our signage. We will use Seaside carpenters and tradesmen in the retrofit of the building. We will use Seaside attorneys and accountants where feasible.
- **Support Seaside artists.** We commit to decorating our facility with art from local artists.
- **Support local charities and non-profits.** We commit to donating \$20,000 per year to local charities and non-profits. We have chosen to support the Boys and Girls Club because it is a positive influence for young people, and helps educate youth on the dangers of underage drug use. We will also support Community Human Services, an organization to provide care for those suffering from addiction and homelessness.
 - o \$10,000 per year - **Boys and Girls Club of Monterey County** – Seaside Clubhouse, 1332 La Salle, Seaside.
 - o \$10,000 per year - **Community Human Services.** – 1178 Broadway, Seaside
- Providing a safe outlet for cannabis and cannabis products. Without a legal market, purchasers are forced to buy on the black market where there are no testing and labeling requirements. Consumers often don't know what they are getting, or where it came from. We will have a well-lit, secure environment where people can buy products that have been tested, labeled and packaged securely.

- Tax benefits. We anticipate raising over \$410,000 (between city sales tax and business license) for the City of Seaside in our first year and over \$450,000 the next year.
- Good Neighbor Policy. We have a good neighbor policy in our operations manual. The policy includes proactive communication with our neighbors, education of our customers, and training of our employees.
- As part of our Good Neighbor Policy, we commit to using a charcoal air filtration system to remove any odors from our operation.
- We have the support of the neighbors as evidenced by a petition signed by 53% of those within 250 feet of our building.
- Other businesses we have used or plan to use:

• Business Name	• Service Provided
• Professional Women's Network	• Logo Design
• Bob the Printer	• Business Cards; Future Needs
• BuildingWise	• LEED Consultation and Design
• deSola and Barnes	• Site Plan and Design
• Monterey Signs, Inc.	• Sign Design and Production, <i>planned</i>
• The Press Club	• Educational Events, <i>planned</i>
• Superior Electric	• Electrical work during build-out, <i>planned</i>
• Ramirez Plumbing	• Plumbing work during build-out, <i>planned</i>



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 8.I.

TO: City Council

FROM: Craig Malin, City Manager

BY: Kurt Overmeyer, Economic Development Manager

DATE: March 15, 2018

**SUBJECT: ADOPT RESOLUTIONS APPROVING THE
DEVELOPMENT/OPERATING AGREEMENT FOR HIGHER LEVEL
OF CARE, LLC., A CANNABIS DISPENSARY, LOCATED AT 310 W.
AMADOR AVENUE.**

PURPOSE & RECOMMENDATION

To adopt resolutions approving a Development/Operating Agreement between the City of Seaside and Higher Level of Care, LLC., governing the operations and community benefit requirements for a Adult Use and Medical Cannabis Dispensary located at 310 Amador Ave.

BACKGROUND

Cannabis dispensaries that have a valid Use Permit must also enter into a Development/Operating agreement with the City of Seaside. The agreement governs the operations of the dispensary and also requires the dispensary to maintain their promises for community benefit. This agreement will provide the City with a vital enforcement tool should a dispensary fail to live up to their community benefits promises and to quickly close a dispensary that violates the terms of this agreement or of their Use Permit.

By approving this agreement, this dispensary will have all of its approvals and will be allowed to open for operation as soon as any tenant improvements to their buildings are complete, and as soon as all inspections are complete. Inspections will include an inspection of the security plan by the Police Chief or designee, and of the safety plan by the Fire Chief or designee.

The Community Benefit, Security and Safety plans are all attachments to the agreement which is attached to this staff report.

FISCAL IMPACT

Adopting this agreement will allow the dispensary to open, which should result in revenues of at least \$150,000 to the City of Seaside, plus additional support for local non-profit organizations.

ATTACHMENTS

1. Draft Resolution
 2. HLC Development Operating Agreement
 3. Higher Level of Care Community Benefits
-

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE

**APPROVING A DEVELOPMENT/OPERATING AGREEMENT BETWEEN
THE CITY OF SEASIDE AND HIGHER LEVEL OF CARE, LLC. TO GOVERN
OPERATIONS AND COMMUNITY BENEFITS FOR A CANNABIS
DISPENSARY**

WHEREAS, the City of Seaside has taken steps to establish regulated cannabis activities in the City subject to an application process that includes a lengthy selection process; and

WHEREAS, at the December 28, 2017 meeting, the City Council approved the issuance of a total of 6 permits for Medical Cannabis Dispensaries and 6 permits for Adult Cannabis Dispensaries; and

WHEREAS, the City Council directed staff to issue a use permit the operations of the Higher Level of Care LLC., at 310 Amador Ave; and

WHEREAS, the ordinance governing Cannabis Related Uses requires that all operators of dispensaries must enter into a Development/Operating Agreement with the City of Seaside which governs the operations and community benefit requirements associated with the approval of the dispensary.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Seaside authorizes the City Manager to execute the attached Development/Operating Agreement, including any non-substantive changes that may be required.

PASSED AND ADOPTED at a meeting of the City Council of the City of Seaside held on March 15, 2018 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

**DEVELOPMENT/OPERATING AGREEMENT
BY AND BETWEEN
THE CITY OF SEASIDE
AND
HIGHER LEVEL OF CARE LLC.**

ARTICLE 1. PARTIES AND DATE.

This Development/Operating Agreement (“Agreement”) is dated March 15, 2018, for execution purposes only and is entered into between (i) the City of Seaside (“City”), a California municipal corporation, and Higher Level of Care LLC.(“Owner”), a California Limited Liability Company. This Agreement shall become effective on the Effective date defined in section 3.1.6.

ARTICLE 2. RECITALS.

2.1 WHEREAS, City is authorized to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property; and

2.2 WHEREAS, this Agreement and the Project are consistent with the City’s General Plan and Zoning Code and applicable provisions of the City’s Zoning Map as of the Effective Date; and

2.3 WHEREAS, all actions taken and approvals given by the City have been duly taken or approved in accordance with all applicable legal requirements for notice, public hearings, findings, votes, and other procedural matters; and

2.4 WHEREAS, Owner intends to develop a Cannabis Dispensary or Facility, with Commercial Cannabis Activities at the Dispensary or Facility , to the extent contemplated by the Seaside Municipal Code Chapter 19 and all applicable state laws, rules, and regulations.

2.5 WHEREAS, this Agreement, in the future, shall be read consistent with any statewide regulation passed by voter initiative or the state legislature, which decriminalizes or legalizes marijuana for medical or recreational use, also known as Adult Cannabis. This Agreement shall govern the conduct of this business to cultivate and distribute marijuana under such statewide regulation, consistent with any City regulations not preempted by any such statewide regulations.

2.6 WHEREAS, The Owner and City agree for mutual consideration

this agreement.

ARTICLE 3. GENERAL TERMS.

3.1 Definitions and Exhibits. The following terms when used in this Agreement shall be defined as follows:

3.1.1 "Agreement" means this Development/Operating Agreement. [This is not a development agreement as defined in Government Code Section 65864 et seq.]

3.1.2 "City" means the City of Seaside, a California municipal corporation.

3.1.3 "Days" mean calendar days unless otherwise specified.

3.1.4 "Development" includes the right to maintain, repair or reconstruct any private building, structure, improvement or facility after the construction and completion thereof; provided, however, that such maintenance, repair, or reconstruction take place within the term of this Agreement on parcels subject to it.

3.1.5 "SMC" means the City of Seaside Municipal Code.

3.1.6 "Effective Date" means the date on which all of the following are true: (i) the City Council adopted a resolution adopting and approving the Development/Operating Agreement and (ii) all Exhibits to this Agreement are finalized, executed by all affected parties (if applicable) and attached hereto; provided, however, that if these conditions have not been fully satisfied by the Owner the Effective Date may not thereafter occur and this Agreement may not thereafter become effective.

3.1.7 "Existing Land Use Regulations" means all Land Use Regulations in effect on the date of execution. Existing Land Use Regulations include all provisions in the SMC Chapter 17, Zoning, and other regulations that are a matter of public record on the date of execution as they may be modified from time to time. Notwithstanding by the Existing Development Approvals. Notwithstanding the foregoing, Existing Land Use Regulations include the regulations set forth in AB 266 and AB 243.

3.1.8 "Owner" means the Business or Dispensary Owner (s).

3.1.9 "Processing Fees" means the normal and customary application, filing, plan check, permit fees for Cannabis activity approvals, design review, building permits, demolition permits, grading permits, and other

similar permits and entitlements, and inspection fees, which fees are charged to reimburse the City's expenses attributable to such applications, processing, permitting, review and inspection and which are in force and effect on a general basis at such time as said approvals, permits, review, inspection or entitlements are granted or conducted by the City.

3.1.10 "Project" means the Commercial Cannabis Activity as set forth in SMC Chapter 19, located on Assessor Parcel Number (APN) _____ that will be state licensed and issued a Dispensary Permit in full accordance with SMC Chapter 19.02.010 as may be amended, as well as in full compliance with all state laws, including but not limited to the Medical Marijuana Regulation and Safety Act adopted by the State of California (also known as AB 266 and AB 243). This Project shall include the cultivation, manufacturing, testing, and distribution, of Cannabis as approved by state and local law. The Project will include construction and development of a [type of facility] Dispensary that will be issued a Dispensary Permit in full accordance with SMC Chapter 19.02.010 as amended as well as in full compliance with all state laws, including but not limited to the Medical Marijuana Regulation and Safety Act and the Adult Use of Marijuana Act.

3.1.11 "Property" means the real property where the Cannabis Dispensary or Facility is to be located as described on Exhibit A and shown on Exhibit B, as set forth in 3.2 below, both attached hereto and incorporated herein by this reference.

3.2 Exhibits. The following documents are attached to and, by this reference, made part of this Agreement:

Exhibit A – Map showing Property and its location.

Exhibit B—Resolution of City Granting a Dispensary Permit With Conditions at [location].

Exhibit C--Owner Commitment to Community Benefit Program.

3.3 Binding Effect of Agreement. The Property and Project are hereby made subject to this Agreement. Subject to the Owner's receipt of all Development/Operating Approvals relative thereto, the Development of the Property is hereby authorized and shall, except as otherwise provided in this Agreement, be carried out only in accordance with the terms of this Agreement, the Development/Operating Plan, and the Dispensary Permit. In the event of conflict or uncertainty between this Agreement, the Dispensary Permit, and the Development Plan, the provisions of the Development/Operating Plan shall control.

3.4 Notices.

3.4.1 Notice Defined. As used in this Agreement, notice includes,

without limitation, the communication of notice, request, demand, approval, statement, report, acceptance, consent, waiver, appointment or other communication required or permitted hereunder.

3.4.2 Written Notice and Delivery. All notices shall be in writing and shall be considered given:

- (i) when delivered in person to the recipient named below; or
- (ii) three days after deposit in the United States mail, postage prepaid, addressed to the recipient named below; or
- (iii) on the date of delivery shown in the records of the delivery company after delivery to the recipient named below; or
- (iv) on the date of delivery by facsimile transmission to the recipient named below if a hard copy of the notice is deposited in the United States mail, postage prepaid, addressed to the recipient named below. All notices shall be addressed as follows:

If to the City:

City Manager
440 Harcourt Avenue
Seaside, CA 93955

If to the Owner:

Higher Level of Care
310 Amador Avenue
Seaside, CA 93955

With Copies to:

City Attorney
440 Harcourt Avenue
Seaside, CA 93955

3.4.3 Address Changes. Either party may, by notice given at any time, require subsequent notices to be given to another person or entity, whether a party or an officer or representative of a party or to a different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change.

3.5 Validity of this Agreement. The Owner and the City each acknowledge that neither party has made any representations to the other

concerning the enforceability or validity of any one or more provisions of this Agreement, and that this Agreement has been drafted jointly and not by one party alone.

ARTICLE 4. PUBLIC BENEFITS

4.1 Intent. The parties acknowledge and agree that development of the Project on the Property will result in substantial public needs which will not be fully met by the Development/Operating Plan and further acknowledge and agree that this Agreement confers substantial private benefits on Owner which should be balanced by commensurate public benefits. Accordingly, the parties intend to provide consideration to the public to balance the private benefits conferred on Owner by providing more fully for the satisfaction of the public needs resulting from the Project

4.2 Developer Fee. Applicant agrees to pay all established fees, charges, City costs, taxes, or other similar forms of expenses applicable to all Commercial Cannabis establishments and Dispensary Permits.

4.3 Jobs and Wage Creation.

4.3.1 Local Hiring. Owner agrees to use its reasonable efforts to hire qualified City residents for jobs at the Project. Owner shall abide by all local hiring commitments provided in the Owner Commitment to Community Benefit Program in Exhibit C

4.3.2 Mandatory Payment of Wage. Owner agrees to pay all employees wages in accordance with the wage rate provided in the Owner's Community Benefit Plan and the Owner Commitment to Community Benefit Program in Exhibit D.

4.5 Payment of Marijuana Business Operation Tax.

4.5.1 Amount of Tax. Pursuant to Chapter SMC Chapter 5.04.320, Owner shall pay City the annual business operations tax based on a percentage of gross receipts as set by the City Council by Ordinance in accordance with prior voter approval of up to ten percent (10%) annually. Such taxes shall be remitted in accordance with regulations adopted by City.

4.5.2 All other taxes established by Ordinance shall be paid in accordance with the SMC and State law, as both may be amended from time to time.

ARTICLE 5. REVIEW FOR COMPLIANCE.

5.1 Periodic Review. The City Manager or designee may review

this Agreement annually, on or before each anniversary of the Effective Date or upon receipt of a request by Owner to extend the term, in order to ascertain Owner's good faith compliance with this Agreement including the Dispensary Permit. During the periodic review Owner shall be required to demonstrate good faith compliance with the terms of the Agreement, through submitting an annual monitoring report, records, or equivalent written materials to the City Manager or designee. The City may elect to extend the permits without review. Owner shall be entitled to a review hearing pursuant to 6.3 below in the event the City Manager or designee determines Owner is not in compliance with this Agreement, Use Permit or Dispensary Permit.

5.2 Special Review. The City Council may order a special review of compliance with this Agreement at any time. The City Manager or his or her designee shall conduct such special review. During a special review, the Owner shall be required to demonstrate good faith compliance with the terms of the Agreement. The burden of proof on this issue shall be on the Owner.

5.3 Review Hearing. At the time and place set for the review hearing, the Owner shall be given an opportunity to be heard. If the City Manager finds, based upon substantial evidence, that the Owner has not complied in good faith with the terms or conditions of this Agreement, the City Manager may recommend that the City Council terminate this Agreement notwithstanding any other provision of this Agreement to the contrary, or modify this Agreement and impose such conditions as are reasonably necessary to protect the interests of the City. The decision of the City Council shall be final, subject only to judicial review pursuant to Code of Civil Procedure Section 1094.5.

5.4 Failure to Conduct Review. The City's failure to conduct a periodic review of this Agreement shall not constitute a breach of this Agreement or a waiver of future periodic reviews.

5.5 Cost of Review. The costs incurred by City in connection with the periodic reviews shall be borne by Owner.

ARTICLE 6. ANNEXATION INTO DISTRICTS

6.1 Owner agrees to the Subject Property being annexed into any current or future Community Facilities District, Community Services District, or any other tax district which would pertain to the Property.

ARTICLE 7. DEFAULTS AND REMEDIES.

7.1 Remedies in General. It is acknowledged by the parties that the City would not have entered into this Agreement if it were to be liable in damages under this Agreement, or with respect to this Agreement or the application thereof, except as hereinafter expressly provided. Subject to extensions of time by mutual consent in writing, failure or delay by either party to

perform any term or provision of this Agreement shall constitute a default. In the event of alleged default or breach of any terms or conditions of this Agreement, the party alleging such default or breach shall give the other party not less than thirty (30) days' notice in writing specifying the nature of the alleged default and the manner in which said default may be satisfactorily cured during any such thirty (30) day period, the party charged shall not be considered in default for purposes of termination or institution of legal proceedings. Notwithstanding the foregoing to the contrary, if the alleged default is of such a nature that it cannot be cured within thirty (30) days, the alleged defaulting party shall not be deemed in default as long as such party commences to cure such default within such thirty (30) day period and thereafter diligently prosecutes such cure to completion.

7. 2 After notice and expiration of the thirty (30) day period, the other party to this Agreement, at its option, may institute legal proceedings pursuant to this Agreement.

7.3 In general, each of the parties hereto may pursue any remedy at law or equity available for the breach of any provision of this Agreement, except that the City shall not be liable in monetary damages, unless expressly provided for in this Agreement, to the Owner or to any successors in interest of the Owner, or to any other person, and the Owner covenants on behalf of itself and all successors in interest to the Property or any portion thereof, not to sue for damages or claim any damages:

(i) For any breach of this Agreement or for any cause of action which arises out of this Agreement: or

(ii) For the impairment or restriction of any right or interest conveyed or provided under, with, or pursuant to this Agreement, including, without limitation, any impairment or restriction which the Owner characterizes as a regulatory taking or inverse condemnation; or

(iii) Arising out of or connected with any dispute, controversy or issue regarding the application or interpretation or effect of the provisions of this Agreement.

7.4 Nothing contained herein shall modify or abridge the Owner's rights or remedies (including its rights for damages, if any) resulting from the exercise by the City of its power of eminent domain. Nothing contained herein shall modify or abridge the Owner's rights or remedies (including its rights for damages, if any) resulting from the grossly negligent or malicious acts of the City and its officials, officers, agents and employees. Nothing herein shall modify or abridge any defenses or immunities available to the City and its employees pursuant to the Government Claims Act and all other applicable statutes and decisional law.

7.5 Release. Except for those remedies set forth in Sections 8.1 and 8.4, the Owner, for itself, its successors and assignees, hereby releases the City, its officers, agents and employees from any and all claims, demands, actions, or suits of any kind or nature arising out of any liability, known or unknown, present or future, based or asserted, pursuant to Article 1, Section 19 of the California Constitution, the Fifth Amendment of the United States Constitution, or any other law or ordinance which seeks to impose any other liability or damage, whatsoever, upon the City because it entered into this Agreement or because of the terms of this Agreement.

The Owner acknowledges that it may have suffered, or may suffer, damages and other injuries that are unknown to it, or unknowable to it, at the time of execution of this Agreement. Such fact notwithstanding, the Owner agrees that the release provided in this Section 7.2 shall apply to such unknown or unknowable claims or damages. Without limiting the generality of the foregoing, the owner acknowledges the provisions of California Civil Code Section 1542, which provide:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release which if known by him or her must have materially affected his or her settlement with the debtor.”

The owner hereby waves, to the maximum legal extent, the provisions of California Civil Code Section 1542 and all other statutes and judicial decisions of similar effect.

Initial_____

7.6 Attorneys' Fees and Costs. In any action or proceeding between the City and the Owner brought to interpret or enforce this Agreement, or which in any way arises out of the existence of this Agreement or is based upon any term or provision contained herein, the “prevailing party” in such action or proceeding shall be entitled to recover from the non-prevailing party, in addition to all other relief to which the prevailing party may be entitled pursuant to this Agreement, the prevailing party's reasonable attorneys' fees and litigation costs, in an amount to be determined by the court. The prevailing party shall be determined by the court in accordance with California Code of Civil Procedure Section 1032. Fees and costs recoverable pursuant to this Section 8.5 include those incurred during any appeal from an underlying judgment and in the enforcement of any judgment rendered in any such action or proceeding. The

parties agree that each contributed to the drafting of this Agreement, and that neither party is responsible for its drafting in determining whether any ambiguities exist as a result of drafting. Ambiguities shall not automatically be ruled against either party.

ARTICLE 8. THIRD PARTY LITIGATION.

8.1 General Plan Litigation. The City has determined that this Agreement is consistent with its General Plan. The Owner has reviewed the General Plan and concurs with the City's determination.

8.1 Hold Harmless Agreement. Owner hereby agrees to, and shall hold City, its elective and appointive boards, commissions, officers, agents, and employees harmless from any liability for damage or claims for damage for personal injury, including death, as well as from claims for property damage which may arise from Owner or Owner's contractors, subcontractors, agents, or employees operations under this Agreement, whether such operations be by Owner, or by any of Owner's contractors, subcontractors, agents, or employees operations under this Agreement, whether such operations be by Owner, or by any of Owner's contractors, subcontractors, or by any one or more persons directly or indirectly employed by, or acting as agent for Owner or any of Owner's contractors or subcontractors. Owner agrees to and shall defend City and its elective and appointive boards, commissions, officers, agents and employees from any suits or actions at law or in equity for damage caused, or alleged to have been caused, by reason of any of the aforesaid operations.

8.2 Indemnification. Owner shall defend, indemnify and hold harmless City and its agents, officers and employees against and from any and all liabilities, demands, claims, actions or proceedings and costs and expenses incidental thereto (including costs of defense, settlement and reasonable attorneys' fees), which any or all of them may suffer, incur, be responsible for or pay out as a result of or in connection with any challenge to the legality, validity or adequacy of any of the following: (i) this Agreement and the concurrent and subsequent permits, licenses and entitlements approved for the Project or Property; (ii) the environmental impact report, mitigated negative declaration or negative declaration, as the case may be, prepared in connection with the development of the Property; and (iii) the proceedings undertaken in connection with the adoption or approval of any of the above. In the event of any legal or equitable action or other proceeding instituted by any third party (including a governmental entity or official) challenging the validity of any provision of this Agreement or any portion thereof as set forth herein, the parties shall mutually cooperate with each other in defense of said action or proceeding. Notwithstanding the above, the City, at its sole option, may tender the complete defense of any third party challenge as described herein. In the event the City elects to contract with special counsel to provide for such a defense, the City

shall meet and confer with Owner regarding the selection of counsel, and Owner shall pay all costs related to retention of such counsel.

8.3 Accept Reasonable Good Faith Settlement. With respect to Article 10, the City shall not reject any reasonable good faith settlement. If the City does reject a reasonable, good faith settlement that is acceptable to the Owner, the Owner may enter into a settlement of the action, as it relates to the Owner, and the City shall thereafter defend such action (including appeals) at its own cost and be solely responsible for any judgments rendered in connection with such action. This Section 9.3 applies exclusively to settlements pertaining to monetary damages or damages which are remedial by the payment of monetary compensation. The Owner and the City expressly agree that this Section 10.6 does not apply to any settlement that requires an exercise of the City's police powers, limits the City's exercise of its police powers, or affects the conduct of the City's municipal operations.

ARTICLE 9. MISCELLANEOUS PROVISIONS.

9.1 Entire Agreement. This Agreement sets forth and contains the entire understanding and agreement of the parties, and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements that are not contained or expressly referred to herein. No testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement, provided, however, City at its option may rely on statements by Owner's agents at the public hearings leading to the City's approval of the project or on written documents by Owner or Owner's agents that are a part of the public record.

9.2 Severability. If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement. The foregoing notwithstanding, the provision of the public benefits set forth in Article 4, including the payment of the fees set forth therein, are essential elements of this Agreement and the City would not have entered into this Agreement but for such provisions, and therefore in the event that any portion of such provisions are determined to be invalid, void or unenforceable, at the City's option this entire Agreement shall terminate and from that point on be null and void and of no force and effect whatsoever.

9.3 Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives

and purposes of the parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.

9.4 Section Headings. All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

9.5 Singular and Plural; Gender, and Person. Except where the context requires otherwise, the singular of any word shall include the plural and vice versa, and pronouns inferring the masculine gender shall include the feminine gender and neuter, and vice versa, and a reference to "person" shall include, in addition to a natural person, any governmental entity and any partnership, corporation, joint venture or any other form of business entity.

9.6 Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

9.7 Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

9.8 No Third Party Beneficiaries. The only parties to this Agreement are Owner and the City. This Agreement is made and entered into for the sole protection and benefit of the parties and their successors and assigns. There are no third party beneficiaries and this Agreement is not intended, and shall not be construed, to benefit, or be enforceable by any other person whatsoever.

9.9 Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed hereunder by such benefited party.

9.10 Successors in Interest. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties to this Agreement. All provisions of this Agreement shall be enforceable as equitable servitudes.

The burdens of the Agreement shall be binding upon, and the benefits of the Agreement shall inure to all successors in interest to the parties to this Agreement.

9.11 Counterparts. This Agreement may be executed by the

parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.

9.12 Jurisdiction and Venue. Any action at law or in equity arising under this Agreement or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed and prosecuted in the Superior Court of the County of Monterey, State of California, and the parties hereto waive all provisions of federal or state law or judicial decision providing for the filing, removal or change of venue to any other state or federal court, including, without limitation, Code of Civil Procedure Section 394.

9.13 Agent for Service of Process. In the event the Owner is not a resident of the State of California or it is an association, partnership or joint venture without a member, partner or joint venturer, resident of the State of California, or if it is a foreign corporation, then the Owner shall file, upon its execution of this Agreement, with the City Manager the name of a natural person acting as the agent of owner residing in the State of California, giving his or her name, residence and business addresses, as its agent for the purpose of service of process in any court action arising out of or based upon this Agreement, and the delivery to such agent of a copy of any process in any such action shall constitute valid service upon the Owner. If for any reason service of such process upon such agent is not feasible, then in such event the Owner may be personally served with such process out of this County and such service shall constitute valid service upon the Owner. The Owner is amenable to the process so described, submits to the jurisdiction of the Court so obtained, and waives any and all objections and protests thereto.

9.14 Authority to Execute. The person or persons executing this Agreement on behalf of the Owner warrants and represents that he/she/they have the authority to execute this Agreement on behalf of his/her/their corporation, partnership or business entity and warrants and represents that he/she/they has/have the authority to bind the Owner to the performance of its obligations hereunder.

Each individual executing this Agreement on behalf of his or her respective company or entity shall represent and warrant that:

9.14.1 The individual is authorized to execute and deliver this Agreement on behalf of that company or entity in accordance with a duly adopted resolution of the company's board of directors or appropriate governing body and in accordance with that company's or entity's articles of incorporation or charter and bylaws or applicable formation documents; and

9.14.2 This Agreement is binding on that company or entity in

accordance with its terms; and

9.14.3 The company or entity is a duly organized and legally existing company or entity in good standing; and

9.14.4 The execution and delivery of this Agreement by that company or entity shall not result in any breach of or constitute a default under any mortgage, deed of trust, loan agreement, credit agreement, partnership agreement, or other contract or instrument to which that company or entity is party or by which that company or entity may be bound.

9.15 Nexus/Reasonable Relationship Challenges. Owner consents to, and waives any rights it may have now or in the future to challenge the legal validity of, the conditions, requirements, payment of any kind of fee whatsoever, policies or programs set forth in this Agreement including, without limitation, any claim that they constitute an abuse of the police power, violate substantive due process, deny equal protection of the laws, effect a taking of property without payment of just compensation, or impose an unlawful tax.

9.16 Owner Compliance with Laws. Owner hereby agrees to comply with all applicable state, federal and local laws, regulations, rules and policies.

9.17 No Damages Relief Against City. The parties acknowledge that the City would not have entered into this Agreement had it been exposed to damage claims from Owner, or Owners successors in interest, assigns, partners, or anyone acting on behalf of the Owner for any breach thereof. As such, the parties agree that in no event shall Owner, or Owners successors in interest, assigns, partners, or anyone acting on behalf of the Owner be entitled to recover damages against City for breach of this Agreement.

9.18 Laws. Owner agrees to comply with all applicable state, regional, and local laws, regulations, polices and rules.

9.19 Compliance with Conditions of Approval. Owner agrees to comply with and fulfill all conditions of approval for any and all entitlement, permits, and/or licenses it receives from the City. All conditions of approval for all entitlements, permits and/or licenses are hereto incorporated.

9.20 Owner agrees to comply with all applicable provisions of any current or future applicable federal, state, or local marijuana/Cannabis laws, including AB 266 and AB 243, as duly adopted, including any and all development standards, license and revocation procedures, and the like. Should there be anything in federal or state law, including but not limited to AB 266 or AB 243 which contradicts any provision in this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the dates written above.

CITY OF SEASIDE

OWNER

By: _____
Ralph Rubio, Mayor

ATTEST:

By: _____
Leslie E. Milton-Rerig, City Clerk

APPROVED AS TO FORM:

By: _____
Don Freeman, City Attorney

Section E

Community Benefits

The project site is an ideal location for development of the proposed uses as there is adequate infrastructure to serve the property, an existing building to serve the use and the surrounding uses are compatible. Minimal improvements to the project site will be required, which will minimize construction noise and construction related dust and emissions.

The facility will encourage use of alternative means of transportation. The facility design includes bicycle parking and accessible public transportation is located on Canyon Del Rey Boulevard directly in front of the facilities, with a bus stop near the corner of Canyon Del Rey Boulevard and Del Monte Boulevard. Accessible alternative transportation will encourage fewer vehicle trips, thereby reducing the potential for greenhouse gas emissions.

Higher Level of Care will work with the CalVet Meds program, which supplies free medical Cannabis to veterans. Their website is www.CalVetMeds.org.

Local Enterprise

Higher Level of Care will provide new job opportunities within the City of Seaside. All principal employees are either residents of the City of Seaside or have residency within one (1) mile of the proposed Facility, in adjacent Monterey. Management will choose employees best suited for the positions in question, and will, to the extent of the law, give preference in hiring to residents of the City of Seaside. Higher Level of Care intends to hire a minimum of twenty (20) employees for the proposed Facility and has identified six (6) individuals that are residents of the City of Seaside to fill a portion of those roles should permits be awarded:

Cassidy Keister

[REDACTED]

Tyler Michaels

[REDACTED]

Dominic Armstrong

[REDACTED]

Julius Robinson

[REDACTED]

Adam Shepherd

[REDACTED]

Kelly Lyon

[REDACTED]

Higher Level of Care is committed to providing all of its employees a fair living wage, Paid Sick Leave, Paid Vacation and offer Medical and Dental Benefits to all fulltime staff.

Philanthropy

Higher Level of Care prides itself on donating to worthy causes and giving back to the communities it serves. To name a few, Higher Level of Care has made recent donations to:

- Retired & Disabled Police of America
- International Association of Retired Firefighters
- Community Foundation for Monterey County
- Marina Police Activities League
- North County Recreation & Park District
- North Monterey County Middle School Parent/Teacher Group
- Central Coast Quality of Life Programs
- Monterey County Free Libraries
- Breast Cancer Assistance Group of Monterey County
- Alzheimer's Association of Northern California
- Greenfield Memorial Hall
- Greenfield High School Sober Graduation
- Greenfield City Partnership
- Realm of Caring Foundation

As such, should Higher Level of Care be awarded permits for a dispensary in the City of Seaside, the following donations are committed to be made to local, Seaside charities/foundations on an annual basis:

- The Village Project - \$2,500
- Boys & Girls Clubs of Monterey County (Seaside Clubhouse) - \$2,500
- RotaCare Seaside Family Health Center - \$2,500
- The Salvation Army; Monterey Peninsula Corps (Seaside) - \$2,500
- Seaside Police Activities League - \$2,500
- Sun Street Centers (Seaside) - \$2,500

In addition to monetary donations, Higher Level of Care's principal employees and staff are committed to volunteering their time to the aforementioned foundations and events such as SeaStars Community Cleanup.

Customer Service & Product Quality

Perhaps the most important Community Benefits that an entity can provide are the products and services that the business offers to the public. Given the community will have at most three (3) options within the City of Seaside to patronize for their Cannabis needs, the City has an obligation to its constituents to select those operators that have a track record of providing the best products available by way of knowledgeable staff that is hyper-focused on providing top-quality customer service. Higher Level of Care employs staff positions with the sole duty of researching and procuring the newest, highest quality and best valued products available. In addition, all staff undergoes extensive and ongoing customer service training including, but not limited to, communication, product education, conflict resolution and general awareness.

Higher Level of Care prides itself on its current operation (Castroville, CA) providing customers the best products, prices and customer service in Monterey County and beyond. This can be seen by exploring its ratings on popular online review sites:

- WeedMaps.com – 5.0 (out of 5.0) rating; 4,410 Reviews (as of 11/8/17)
- Yelp.com – 4.6 (out of 5.0) rating; 11 Reviews (as of 11/8/17)
- Google.com – 4.7 (out of 5.0) rating; 83 Reviews (as of 11/8/17)
- Facebook.com – 5.0 (out of 5.0) rating; 37 Reviews (as of 11/8/17)
- iHeartJane.com – 5.0 (out of 5.0) rating; 734 Reviews (as of 11/8/17)

Higher Level of Care (Castroville, CA) currently has 582 active customers that are residents of the City of Seaside.

Community Outreach

Salvatore Palma and Higher Level of Care will spearhead the formation of an association of Cannabis permittees operating within the City of Seaside. As a cohesive group, operators will be able to host job fairs, Cannabis focused educational seminars, fundraisers and collectively volunteer their time and resources for the betterment of the City of Seaside and its residents.

Utilization/Patronization of Local Trades & Businesses

Higher Level of Care is committed to the utilization/patronization of businesses located in the City of Seaside for its initial build out, startup and ongoing operations. These local businesses include:

- Runnoe Construction – 689 Francis Ave., Seaside
- Monterey Signs – 555 Broadway Ave., Seaside

- American Lock & Key – 1573 Del Monte Blvd., Seaside
- Graniterock – 1755 Del Monte Blvd., Seaside
- Potter’s Electronics – 1612 Fremont Blvd., Seaside
- A Strouse & Son Glass, Inc. – 1333 Fremont Blvd., Seaside
- Ferguson Bath, Kitchen & Lighting Gallery – 1144 Fremont Blvd., Seaside
- Norman Naylor’s Kitchen & Cabinet – 815 Broadway Ave., Seaside
- Del Rey Fine Plumbing & Hardware – 575 Charles Ave., Seaside
- The Tile Studio – 1100 Canyon Del Rey Blvd., Seaside
- Monterey County Weekly – 668 Williams Ave., Seaside
- Embassy Suites – 1441 Canyon Del Rey Blvd., Seaside
- Chili’s Grill & Bar – 1349 Canyon Del Rey Blvd., Seaside
- The Home Depot – 1590 Canyon Del Rey Blvd., Seaside
- Staples – 1550 Canyon Del Rey Blvd., Seaside
- Smart & Final – 1560 Canyon Del Rey Blvd., Seaside

Tax Payments

Higher Level of Care will pay a business operations tax equal to six (6) percent of its quarterly gross receipts. Higher Level of Care will pay an initial tax for the first quarterly payment based upon six (6) percent of \$2,000 of annual sales per square foot of the dispensary's floor area. Payments will be paid quarterly on July 1, October 1, January 1, and April 1 of each year per section 5.04.401 of the SMC. Based upon its projections, Higher Level of Care will generate more than \$2.8 Million in tax revenue to be paid to the City of Seaside in its first five (5) years of operations.

Higher Level of Care acknowledges that the City Council may, at any time, increase (up to ten [10] percent) or decrease the tax rate on Cannabis businesses. The City Council may make other minor technical changes to the ordinance to respond to changes in applicable state law.

Community Liaison

Salvatore Palma will be the designated community liaison to whom the City can provide notice or refer members of the public who may have any concerns or complaints regarding the operations of the Facility. The community liaison will provide his name, address and e-mail to all businesses and residences located within a 250-foot radius of the facility.



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 8.J.

TO: City Council

FROM: Craig Malin, City Manager

BY: Kurt Overmeyer, Economic Development Manager

DATE: March 15, 2018

**SUBJECT: ADOPT RESOLUTIONS APPROVING THE
DEVELOPMENT/OPERATING AGREEMENT FOR CANNATOPIA,
LLC., A CANNABIS DISPENSARY, LOCATED AT 680 W.
BROADWAY AVENUE.**

PURPOSE & RECOMMENDATION

To adopt resolutions approving a Development/Operating Agreement between the City of Seaside and Cannatopia, LLC., governing the operations and community benefit requirements for a Adult Use and Medical Cannabis Dispensary located at 680 W. Broadway Ave.

BACKGROUND

Cannabis dispensaries that have a valid Use Permit must also enter into a Development/Operating agreement with the City of Seaside. The agreement governs the operations of the dispensary and also requires the dispensary to maintain their promises for community benefit. This agreement will provide the City with a vital enforcement tool should a dispensary fail to live up to their community benefits promises and to quickly close a dispensary that violates the terms of this agreement or of their Use Permit.

By approving this agreement, this dispensary will have all of its approvals and will be allowed to open for operation as soon as any tenant improvements to their buildings are complete, and as soon as all inspections are complete. Inspections will include an inspection of the security plan by the Police Chief or designee, and of the safety plan by the Fire Chief or designee.

The Community Benefit, Security and Safety plans are all attachments to the agreement which is attached to this staff report.

FISCAL IMPACT

Adopting this agreement will allow the dispensary to open, which should result in revenues of at least \$150,000 to the City of Seaside, plus additional support for local non-profit organizations.

ATTACHMENTS

1. Draft Resolution
 2. Cannatopia Development Operating Agreement
 3. Cannatopia synopsis of S-S and Comm Benefit
-

Reviewed for Submission to the
City Council by:

A handwritten signature in blue ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

Craig Malin, City Manager

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE

**APPROVING A DEVELOPMENT/OPERATING AGREEMENT BETWEEN
THE CITY OF SEASIDE AND CANNATOPIA, LLC. TO GOVERN
OPERATIONS AND COMMUNITY BENEFITS FOR A CANNABIS
DISPENSARY**

WHEREAS, the City of Seaside has taken steps to establish regulated cannabis activities in the City subject to an application process that includes a lengthy selection process; and

WHEREAS, at the December 28, 2017 meeting, the City Council approved the issuance of a total of 6 permits for Medical Cannabis Dispensaries and 6 permits for Adult Cannabis Dispensaries; and

WHEREAS, the City Council directed staff to issue a use permit the operations of the Cannatopia LLC., at 680 Broadway Ave; and

WHEREAS, the ordinance governing Cannabis Related Uses requires that all operators of dispensaries must enter into a Development/Operating Agreement with the City of Seaside which governs the operations and community benefit requirements associated with the approval of the dispensary.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Seaside authorizes the City Manager to execute the attached Development/Operating Agreement, including any non-substantive changes that may be required.

PASSED AND ADOPTED at a meeting of the City Council of the City of Seaside held on March 15, 2018 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

**DEVELOPMENT/OPERATING AGREEMENT
BY AND BETWEEN
THE CITY OF SEASIDE
AND
CANNATOPIA LLC.**

ARTICLE 1. PARTIES AND DATE.

This Development/Operating Agreement (“Agreement”) is dated March 15, 2018, for execution purposes only and is entered into between (i) the City of Seaside (“City”), a California municipal corporation, and Higher Level of Care LLC.(“Owner”), a California Limited Liability Company. This Agreement shall become effective on the Effective date defined in section 3.1.6.

ARTICLE 2. RECITALS.

2.1 WHEREAS, City is authorized to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property; and

2.2 WHEREAS, this Agreement and the Project are consistent with the City’s General Plan and Zoning Code and applicable provisions of the City’s Zoning Map as of the Effective Date; and

2.3 WHEREAS, all actions taken and approvals given by the City have been duly taken or approved in accordance with all applicable legal requirements for notice, public hearings, findings, votes, and other procedural matters; and

2.4 WHEREAS, Owner intends to develop a Cannabis Dispensary or Facility, with Commercial Cannabis Activities at the Dispensary or Facility , to the extent contemplated by the Seaside Municipal Code Chapter 19 and all applicable state laws, rules, and regulations.

2.5 WHEREAS, this Agreement, in the future, shall be read consistent with any statewide regulation passed by voter initiative or the state legislature, which decriminalizes or legalizes marijuana for medical or recreational use, also known as Adult Cannabis. This Agreement shall govern the conduct of this business to cultivate and distribute marijuana under such statewide regulation, consistent with any City regulations not preempted by any such statewide regulations.

2.6 WHEREAS, The Owner and City agree for mutual consideration as

set forth in this agreement.

ARTICLE 3. GENERAL TERMS.

3.1 Definitions and Exhibits. The following terms when used in this Agreement shall be defined as follows:

3.1.1 "Agreement" means this Development/Operating Agreement. [This is not a development agreement as defined in Government Code Section 65864 et seq.]

3.1.2 "City" means the City of Seaside, a California municipal corporation.

3.1.3 "Days" mean calendar days unless otherwise specified.

3.1.4 "Development" includes the right to maintain, repair or reconstruct any private building, structure, improvement or facility after the construction and completion thereof; provided, however, that such maintenance, repair, or reconstruction take place within the term of this Agreement on parcels subject to it.

3.1.5 "SMC" means the City of Seaside Municipal Code.

3.1.6 "Effective Date" means the date on which all of the following are true: (i) the City Council adopted a resolution adopting and approving the Development/Operating Agreement and (ii) all Exhibits to this Agreement are finalized, executed by all affected parties (if applicable) and attached hereto; provided, however, that if these conditions have not been fully satisfied by the Owner the Effective Date may not thereafter occur and this Agreement may not thereafter become effective.

3.1.7 "Existing Land Use Regulations" means all Land Use Regulations in effect on the date of execution. Existing Land Use Regulations include all provisions in the SMC Chapter 17, Zoning, and other regulations that are a matter of public record on the date of execution as they may be modified from time to time. Notwithstanding by the Existing Development Approvals. Notwithstanding the foregoing, Existing Land Use Regulations include the regulations set forth in AB 266 and AB 243.

3.1.8 "Owner" means the Business or Dispensary Owner (s).

3.1.9 "Processing Fees" means the normal and customary application, filing, plan check, permit fees for Cannabis activity approvals, design review, building permits, demolition permits, grading permits, and other

similar permits and entitlements, and inspection fees, which fees are charged to reimburse the City's expenses attributable to such applications, processing, permitting, review and inspection and which are in force and effect on a general basis at such time as said approvals, permits, review, inspection or entitlements are granted or conducted by the City.

3.1.10 "Project" means the Commercial Cannabis Activity as set forth in SMC Chapter 19, located on Assessor Parcel Number (APN) _____ that will be state licensed and issued a Dispensary Permit in full accordance with SMC Chapter 19.02.010 as may be amended, as well as in full compliance with all state laws, including but not limited to the Medical Marijuana Regulation and Safety Act adopted by the State of California (also known as AB 266 and AB 243). This Project shall include the cultivation, manufacturing, testing, and distribution, of Cannabis as approved by state and local law. The Project will include construction and development of a [type of facility] Dispensary that will be issued a Dispensary Permit in full accordance with SMC Chapter 19.02.010 as amended as well as in full compliance with all state laws, including but not limited to the Medical Marijuana Regulation and Safety Act and the Adult Use of Marijuana Act.

3.1.11 "Property" means the real property where the Cannabis Dispensary or Facility is to be located as described on Exhibit A and shown on Exhibit B, as set forth in 3.2 below, both attached hereto and incorporated herein by this reference.

3.2 Exhibits. The following documents are attached to and, by this reference, made part of this Agreement:

Exhibit A – Map showing Property and its location.

Exhibit B—Resolution of City Granting a Dispensary Permit With Conditions at [location].

Exhibit C--Owner Commitment to Community Benefit Program.

3.3 Binding Effect of Agreement. The Property and Project are hereby made subject to this Agreement. Subject to the Owner's receipt of all Development/Operating Approvals relative thereto, the Development of the Property is hereby authorized and shall, except as otherwise provided in this Agreement, be carried out only in accordance with the terms of this Agreement, the Development/Operating Plan, and the Dispensary Permit. In the event of conflict or uncertainty between this Agreement, the Dispensary Permit, and the Development Plan, the provisions of the Development/Operating Plan shall control.

3.4 Notices.

3.4.1 Notice Defined. As used in this Agreement, notice includes,

without limitation, the communication of notice, request, demand, approval, statement, report, acceptance, consent, waiver, appointment or other communication required or permitted hereunder.

3.4.2 Written Notice and Delivery. All notices shall be in writing and shall be considered given:

- (i) when delivered in person to the recipient named below; or
- (ii) three days after deposit in the United States mail, postage prepaid, addressed to the recipient named below; or
- (iii) on the date of delivery shown in the records of the delivery company after delivery to the recipient named below; or
- (iv) on the date of delivery by facsimile transmission to the recipient named below if a hard copy of the notice is deposited in the United States mail, postage prepaid, addressed to the recipient named below. All notices shall be addressed as follows:

If to the City:

City Manager
440 Harcourt Avenue
Seaside, CA 93955

If to the Owner:

Cannatopia LLC
680 Broadway Avenue
Seaside, CA 93955

With Copies to:

City Attorney
440 Harcourt Avenue
Seaside, CA 93955

3.4.3 Address Changes. Either party may, by notice given at any time, require subsequent notices to be given to another person or entity, whether a party or an officer or representative of a party or to a different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change.

3.5 Validity of this Agreement. The Owner and the City each acknowledge that neither party has made any representations to the other

concerning the enforceability or validity of any one or more provisions of this Agreement, and that this Agreement has been drafted jointly and not by one party alone.

ARTICLE 4. PUBLIC BENEFITS

4.1 Intent. The parties acknowledge and agree that development of the Project on the Property will result in substantial public needs which will not be fully met by the Development/Operating Plan and further acknowledge and agree that this Agreement confers substantial private benefits on Owner which should be balanced by commensurate public benefits. Accordingly, the parties intend to provide consideration to the public to balance the private benefits conferred on Owner by providing more fully for the satisfaction of the public needs resulting from the Project

4.2 Developer Fee. Applicant agrees to pay all established fees, charges, City costs, taxes, or other similar forms of expenses applicable to all Commercial Cannabis establishments and Dispensary Permits.

4.3 Jobs and Wage Creation.

4.3.1 Local Hiring. Owner agrees to use its reasonable efforts to hire qualified City residents for jobs at the Project. Owner shall abide by all local hiring commitments provided in the Owner Commitment to Community Benefit Program in Exhibit C

4.3.2 Mandatory Payment of Wage. Owner agrees to pay all employees wages in accordance with the wage rate provided in the Owner's Community Benefit Plan and the Owner Commitment to Community Benefit Program in Exhibit D.

4.5 Payment of Marijuana Business Operation Tax.

4.5.1 Amount of Tax. Pursuant to Chapter SMC Chapter 5.04.320, Owner shall pay City the annual business operations tax based on a percentage of gross receipts as set by the City Council by Ordinance in accordance with prior voter approval of up to ten percent (10%) annually. Such taxes shall be remitted in accordance with regulations adopted by City.

4.5.2 All other taxes established by Ordinance shall be paid in accordance with the SMC and State law, as both may be amended from time to time.

ARTICLE 5. REVIEW FOR COMPLIANCE.

5.1 Periodic Review. The City Manager or designee may review

this Agreement annually, on or before each anniversary of the Effective Date or upon receipt of a request by Owner to extend the term, in order to ascertain Owner's good faith compliance with this Agreement including the Dispensary Permit. During the periodic review Owner shall be required to demonstrate good faith compliance with the terms of the Agreement, through submitting an annual monitoring report, records, or equivalent written materials to the City Manager or designee. The City may elect to extend the permits without review. Owner shall be entitled to a review hearing pursuant to 6.3 below in the event the City Manager or designee determines Owner is not in compliance with this Agreement, Use Permit or Dispensary Permit.

5.2 Special Review. The City Council may order a special review of compliance with this Agreement at any time. The City Manager or his or her designee shall conduct such special review. During a special review, the Owner shall be required to demonstrate good faith compliance with the terms of the Agreement. The burden of proof on this issue shall be on the Owner.

5.3 Review Hearing. At the time and place set for the review hearing, the Owner shall be given an opportunity to be heard. If the City Manager finds, based upon substantial evidence, that the Owner has not complied in good faith with the terms or conditions of this Agreement, the City Manager may recommend that the City Council terminate this Agreement notwithstanding any other provision of this Agreement to the contrary, or modify this Agreement and impose such conditions as are reasonably necessary to protect the interests of the City. The decision of the City Council shall be final, subject only to judicial review pursuant to Code of Civil Procedure Section 1094.5.

5.4 Failure to Conduct Review. The City's failure to conduct a periodic review of this Agreement shall not constitute a breach of this Agreement or a waiver of future periodic reviews.

5.5 Cost of Review. The costs incurred by City in connection with the periodic reviews shall be borne by Owner.

ARTICLE 6. ANNEXATION INTO DISTRICTS

6.1 Owner agrees to the Subject Property being annexed into any current or future Community Facilities District, Community Services District, or any other tax district which would pertain to the Property.

ARTICLE 7. DEFAULTS AND REMEDIES.

7.1 Remedies in General. It is acknowledged by the parties that the City would not have entered into this Agreement if it were to be liable in damages under this Agreement, or with respect to this Agreement or the application thereof, except as hereinafter expressly provided. Subject to extensions of time by mutual consent in writing, failure or delay by either party to

perform any term or provision of this Agreement shall constitute a default. In the event of alleged default or breach of any terms or conditions of this Agreement, the party alleging such default or breach shall give the other party not less than thirty (30) days' notice in writing specifying the nature of the alleged default and the manner in which said default may be satisfactorily cured during any such thirty (30) day period, the party charged shall not be considered in default for purposes of termination or institution of legal proceedings. Notwithstanding the foregoing to the contrary, if the alleged default is of such a nature that it cannot be cured within thirty (30) days, the alleged defaulting party shall not be deemed in default as long as such party commences to cure such default within such thirty (30) day period and thereafter diligently prosecutes such cure to completion.

7. 2 After notice and expiration of the thirty (30) day period, the other party to this Agreement, at its option, may institute legal proceedings pursuant to this Agreement.

7.3 In general, each of the parties hereto may pursue any remedy at law or equity available for the breach of any provision of this Agreement, except that the City shall not be liable in monetary damages, unless expressly provided for in this Agreement, to the Owner or to any successors in interest of the Owner, or to any other person, and the Owner covenants on behalf of itself and all successors in interest to the Property or any portion thereof, not to sue for damages or claim any damages:

(i) For any breach of this Agreement or for any cause of action which arises out of this Agreement: or

(ii) For the impairment or restriction of any right or interest conveyed or provided under, with, or pursuant to this Agreement, including, without limitation, any impairment or restriction which the Owner characterizes as a regulatory taking or inverse condemnation; or

(iii) Arising out of or connected with any dispute, controversy or issue regarding the application or interpretation or effect of the provisions of this Agreement.

7.4 Nothing contained herein shall modify or abridge the Owner's rights or remedies (including its rights for damages, if any) resulting from the exercise by the City of its power of eminent domain. Nothing contained herein shall modify or abridge the Owner's rights or remedies (including its rights for damages, if any) resulting from the grossly negligent or malicious acts of the City and its officials, officers, agents and employees. Nothing herein shall modify or abridge any defenses or immunities available to the City and its employees pursuant to the Government Claims Act and all other applicable statutes and decisional law.

7.5 Release. Except for those remedies set forth in Sections 8.1 and 8.4, the Owner, for itself, its successors and assignees, hereby releases the City, its officers, agents and employees from any and all claims, demands, actions, or suits of any kind or nature arising out of any liability, known or unknown, present or future, based or asserted, pursuant to Article 1, Section 19 of the California Constitution, the Fifth Amendment of the United States Constitution, or any other law or ordinance which seeks to impose any other liability or damage, whatsoever, upon the City because it entered into this Agreement or because of the terms of this Agreement.

The Owner acknowledges that it may have suffered, or may suffer, damages and other injuries that are unknown to it, or unknowable to it, at the time of execution of this Agreement. Such fact notwithstanding, the Owner agrees that the release provided in this Section 7.2 shall apply to such unknown or unknowable claims or damages. Without limiting the generality of the foregoing, the owner acknowledges the provisions of California Civil Code Section 1542, which provide:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release which if known by him or her must have materially affected his or her settlement with the debtor.”

The owner hereby waves, to the maximum legal extent, the provisions of California Civil Code Section 1542 and all other statutes and judicial decisions of similar effect.

Initial_____

7.6 Attorneys' Fees and Costs. In any action or proceeding between the City and the Owner brought to interpret or enforce this Agreement, or which in any way arises out of the existence of this Agreement or is based upon any term or provision contained herein, the “prevailing party” in such action or proceeding shall be entitled to recover from the non-prevailing party, in addition to all other relief to which the prevailing party may be entitled pursuant to this Agreement, the prevailing party's reasonable attorneys' fees and litigation costs, in an amount to be determined by the court. The prevailing party shall be determined by the court in accordance with California Code of Civil Procedure Section 1032. Fees and costs recoverable pursuant to this Section 8.5 include those incurred during any appeal from an underlying judgment and in the enforcement of any judgment rendered in any such action or proceeding. The

parties agree that each contributed to the drafting of this Agreement, and that neither party is responsible for its drafting in determining whether any ambiguities exist as a result of drafting. Ambiguities shall not automatically be ruled against either party.

ARTICLE 8. THIRD PARTY LITIGATION.

8.1 General Plan Litigation. The City has determined that this Agreement is consistent with its General Plan. The Owner has reviewed the General Plan and concurs with the City's determination.

8.1 Hold Harmless Agreement. Owner hereby agrees to, and shall hold City, its elective and appointive boards, commissions, officers, agents, and employees harmless from any liability for damage or claims for damage for personal injury, including death, as well as from claims for property damage which may arise from Owner or Owner's contractors, subcontractors, agents, or employees operations under this Agreement, whether such operations be by Owner, or by any of Owner's contractors, subcontractors, agents, or employees operations under this Agreement, whether such operations be by Owner, or by any of Owner's contractors, subcontractors, or by any one or more persons directly or indirectly employed by, or acting as agent for Owner or any of Owner's contractors or subcontractors. Owner agrees to and shall defend City and its elective and appointive boards, commissions, officers, agents and employees from any suits or actions at law or in equity for damage caused, or alleged to have been caused, by reason of any of the aforesaid operations.

8.2 Indemnification. Owner shall defend, indemnify and hold harmless City and its agents, officers and employees against and from any and all liabilities, demands, claims, actions or proceedings and costs and expenses incidental thereto (including costs of defense, settlement and reasonable attorneys' fees), which any or all of them may suffer, incur, be responsible for or pay out as a result of or in connection with any challenge to the legality, validity or adequacy of any of the following: (i) this Agreement and the concurrent and subsequent permits, licenses and entitlements approved for the Project or Property; (ii) the environmental impact report, mitigated negative declaration or negative declaration, as the case may be, prepared in connection with the development of the Property; and (iii) the proceedings undertaken in connection with the adoption or approval of any of the above. In the event of any legal or equitable action or other proceeding instituted by any third party (including a governmental entity or official) challenging the validity of any provision of this Agreement or any portion thereof as set forth herein, the parties shall mutually cooperate with each other in defense of said action or proceeding. Notwithstanding the above, the City, at its sole option, may tender the complete defense of any third party challenge as described herein. In the event the City elects to contract with special counsel to provide for such a defense, the City

shall meet and confer with Owner regarding the selection of counsel, and Owner shall pay all costs related to retention of such counsel.

8.3 Accept Reasonable Good Faith Settlement. With respect to Article 10, the City shall not reject any reasonable good faith settlement. If the City does reject a reasonable, good faith settlement that is acceptable to the Owner, the Owner may enter into a settlement of the action, as it relates to the Owner, and the City shall thereafter defend such action (including appeals) at its own cost and be solely responsible for any judgments rendered in connection with such action. This Section 9.3 applies exclusively to settlements pertaining to monetary damages or damages which are remedial by the payment of monetary compensation. The Owner and the City expressly agree that this Section 10.6 does not apply to any settlement that requires an exercise of the City's police powers, limits the City's exercise of its police powers, or affects the conduct of the City's municipal operations.

ARTICLE 9. MISCELLANEOUS PROVISIONS.

9.1 Entire Agreement. This Agreement sets forth and contains the entire understanding and agreement of the parties, and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements that are not contained or expressly referred to herein. No testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement, provided, however, City at its option may rely on statements by Owner's agents at the public hearings leading to the City's approval of the project or on written documents by Owner or Owner's agents that are a part of the public record.

9.2 Severability. If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement. The foregoing notwithstanding, the provision of the public benefits set forth in Article 4, including the payment of the fees set forth therein, are essential elements of this Agreement and the City would not have entered into this Agreement but for such provisions, and therefore in the event that any portion of such provisions are determined to be invalid, void or unenforceable, at the City's option this entire Agreement shall terminate and from that point on be null and void and of no force and effect whatsoever.

9.3 Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives

and purposes of the parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.

9.4 Section Headings. All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

9.5 Singular and Plural; Gender, and Person. Except where the context requires otherwise, the singular of any word shall include the plural and vice versa, and pronouns inferring the masculine gender shall include the feminine gender and neuter, and vice versa, and a reference to "person" shall include, in addition to a natural person, any governmental entity and any partnership, corporation, joint venture or any other form of business entity.

9.6 Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

9.7 Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

9.8 No Third Party Beneficiaries. The only parties to this Agreement are Owner and the City. This Agreement is made and entered into for the sole protection and benefit of the parties and their successors and assigns. There are no third party beneficiaries and this Agreement is not intended, and shall not be construed, to benefit, or be enforceable by any other person whatsoever.

9.9 Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed hereunder by such benefited party.

9.10 Successors in Interest. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties to this Agreement. All provisions of this Agreement shall be enforceable as equitable servitudes.

The burdens of the Agreement shall be binding upon, and the benefits of the Agreement shall inure to all successors in interest to the parties to this Agreement.

9.11 Counterparts. This Agreement may be executed by the

parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.

9.12 Jurisdiction and Venue. Any action at law or in equity arising under this Agreement or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed and prosecuted in the Superior Court of the County of Monterey, State of California, and the parties hereto waive all provisions of federal or state law or judicial decision providing for the filing, removal or change of venue to any other state or federal court, including, without limitation, Code of Civil Procedure Section 394.

9.13 Agent for Service of Process. In the event the Owner is not a resident of the State of California or it is an association, partnership or joint venture without a member, partner or joint venturer, resident of the State of California, or if it is a foreign corporation, then the Owner shall file, upon its execution of this Agreement, with the City Manager the name of a natural person acting as the agent of owner residing in the State of California, giving his or her name, residence and business addresses, as its agent for the purpose of service of process in any court action arising out of or based upon this Agreement, and the delivery to such agent of a copy of any process in any such action shall constitute valid service upon the Owner. If for any reason service of such process upon such agent is not feasible, then in such event the Owner may be personally served with such process out of this County and such service shall constitute valid service upon the Owner. The Owner is amenable to the process so described, submits to the jurisdiction of the Court so obtained, and waives any and all objections and protests thereto.

9.14 Authority to Execute. The person or persons executing this Agreement on behalf of the Owner warrants and represents that he/she/they have the authority to execute this Agreement on behalf of his/her/their corporation, partnership or business entity and warrants and represents that he/she/they has/have the authority to bind the Owner to the performance of its obligations hereunder.

Each individual executing this Agreement on behalf of his or her respective company or entity shall represent and warrant that:

9.14.1 The individual is authorized to execute and deliver this Agreement on behalf of that company or entity in accordance with a duly adopted resolution of the company's board of directors or appropriate governing body and in accordance with that company's or entity's articles of incorporation or charter and bylaws or applicable formation documents; and

9.14.2 This Agreement is binding on that company or entity in

accordance with its terms; and

9.14.3 The company or entity is a duly organized and legally existing company or entity in good standing; and

9.14.4 The execution and delivery of this Agreement by that company or entity shall not result in any breach of or constitute a default under any mortgage, deed of trust, loan agreement, credit agreement, partnership agreement, or other contract or instrument to which that company or entity is party or by which that company or entity may be bound.

9.15 Nexus/Reasonable Relationship Challenges. Owner consents to, and waives any rights it may have now or in the future to challenge the legal validity of, the conditions, requirements, payment of any kind of fee whatsoever, policies or programs set forth in this Agreement including, without limitation, any claim that they constitute an abuse of the police power, violate substantive due process, deny equal protection of the laws, effect a taking of property without payment of just compensation, or impose an unlawful tax.

9.16 Owner Compliance with Laws. Owner hereby agrees to comply with all applicable state, federal and local laws, regulations, rules and policies.

9.17 No Damages Relief Against City. The parties acknowledge that the City would not have entered into this Agreement had it been exposed to damage claims from Owner, or Owners successors in interest, assigns, partners, or anyone acting on behalf of the Owner for any breach thereof. As such, the parties agree that in no event shall Owner, or Owners successors in interest, assigns, partners, or anyone acting on behalf of the Owner be entitled to recover damages against City for breach of this Agreement.

9.18 Laws. Owner agrees to comply with all applicable state, regional, and local laws, regulations, polices and rules.

9.19 Compliance with Conditions of Approval. Owner agrees to comply with and fulfill all conditions of approval for any and all entitlement, permits, and/or licenses it receives from the City. All conditions of approval for all entitlements, permits and/or licenses are hereto incorporated.

9.20 Owner agrees to comply with all applicable provisions of any current or future applicable federal, state, or local marijuana/Cannabis laws, including AB 266 and AB 243, as duly adopted, including any and all development standards, license and revocation procedures, and the like. Should there be anything in federal or state law, including but not limited to AB 266 or AB 243 which contradicts any provision in this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the dates written above.

CITY OF SEASIDE

OWNER

By: _____
Ralph Rubio, Mayor

ATTEST:

By: _____
Leslie E. Milton-Rerig, City Clerk

APPROVED AS TO FORM:

By: _____
Don Freeman, City Attorney

3. Safety and Security Plan

The Dispensary presents an exemplary security plan in compliance with SMC section 19.02.070 and state law, including two onsite guards during operating hours and one onsite guard for nonoperating hours, and use of “smart safes” pursuant to the Cannabis Banking Working Group’s best-practices recommendations for cash deposits and cash tax payments.

4. Local Enterprise and Community Benefit Plan

The Dispensary’s local enterprise and community benefit plan includes:

- Commitment to employing at least 15 Seaside residents
- Commitment to working with 4 Seaside-located businesses, including safe company American Lock and Key; printing company Andrews Printing; signage company Monterey Signs; and general contractor Kelly Howell, CEO of KelCon, Corp.
- Commitment to sponsoring 2 Seaside non-profits, including the Boys and Girls Club of Monterey County and the Seaside Police Officers Association, with specific donations of \$1,000 annually per organization, in addition to periodic fundraising events.
- Demonstration of how the Dispensary contributes to the City’s Economic Opportunity Plan

5. Plan to Avoid Underage Use

The Dispensary presents a plan including best practices and procedures to maintain supply chain security, prevent diversion of products from lawful users, and promote healthy non-cannabis activities for Seaside youth.

6. Property Owner Approval

The property owner approves of dispensary use at the property, will lease to the Dispensary and understands that license is for one year only.

7. Live Scan Results

Results show no criminal convictions that would result in eligibility as defined in Section 19.02.020.

8. Photocopies of all Principal Employees Driver’s Licenses

9. List of all Employees

10. Indemnification Agreement



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 8.K.

TO: City Council

FROM: Craig Malin, City Manager

BY: Kurt Overmeyer, Economic Development Manager

DATE: March 15, 2018

**SUBJECT: ADOPT RESOLUTIONS APPROVING THE
DEVELOPMENT/OPERATING AGREEMENT FOR PLANTACEA,
LLC., A CANNABIS DISPENSARY, LOCATED AT 1717 FREMONT
BLVD.**

PURPOSE & RECOMMENDATION

To adopt resolutions approving a Development/Operating Agreement between the City of Seaside and Plantacea, LLC., governing the operations and community benefit requirements for a Adult Use and Medical Cannabis Dispensary located at 1717 Fremont Blvd.

BACKGROUND

Cannabis dispensaries that have a valid Use Permit must also enter into a Development/Operating agreement with the City of Seaside. The agreement governs the operations of the dispensary and also requires the dispensary to maintain their promises for community benefit. This agreement will provide the City with a vital enforcement tool should a dispensary fail to live up to their community benefits promises and to quickly close a dispensary that violates the terms of this agreement or of their Use Permit.

By approving this agreement, this dispensary will have all of its approvals and will be allowed to open for operation as soon as any tenant improvements to their buildings are complete, and as soon as all inspections are complete. Inspections will include an inspection of the security plan by the Police Chief or designee, and of the safety plan by the Fire Chief or designee.

The Community Benefit, Security and Safety plans are all attachments to the agreement which is attached to this staff report.

FISCAL IMPACT

Meeting Date: March 15, 2018

Adopting this agreement will allow the dispensary to open, which should result in revenues of at least \$150,000 to the City of Seaside, plus additional support for local non-profit organizations.

ATTACHMENTS

1. Draft Resolution
 2. Plantacea Development Operating Agreement
 3. Plantacea Community Benefit
-

Reviewed for Submission to the
City Council by:

A handwritten signature in blue ink, consisting of several loops and a long horizontal stroke.

Craig Malin, City Manager

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE

**APPROVING A DEVELOPMENT/OPERATING AGREEMENT BETWEEN
THE CITY OF SEASIDE AND PLANTACEA, LLC. TO GOVERN OPERATIONS
AND COMMUNITY BENEFITS FOR A CANNABIS DISPENSARY**

WHEREAS, the City of Seaside has taken steps to establish regulated cannabis activities in the City subject to an application process that includes a lengthy selection process; and

WHEREAS, at the December 28, 2017 meeting, the City Council approved the issuance of a total of 6 permits for Medical Cannabis Dispensaries and 6 permits for Adult Cannabis Dispensaries; and

WHEREAS, the City Council directed staff to issue a use permit the operations of Plantacea LLC., at 1717 Fremont Blvd.; and

WHEREAS, the ordinance governing Cannabis Related Uses requires that all operators of dispensaries must enter into a Development/Operating Agreement with the City of Seaside which governs the operations and community benefit requirements associated with the approval of the dispensary.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Seaside authorizes the City Manager to execute the attached Development/Operating Agreement, including any non-substantive changes that may be required.

PASSED AND ADOPTED at a meeting of the City Council of the City of Seaside held on March 15, 2018 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

**DEVELOPMENT/OPERATING AGREEMENT
BY AND BETWEEN
THE CITY OF SEASIDE
AND
PLANTACEA LLC.**

ARTICLE 1. PARTIES AND DATE.

This Development/Operating Agreement (“Agreement”) is dated March 15, 2018, for execution purposes only and is entered into between (i) the City of Seaside (“City”), a California municipal corporation, and Higher Level of Care LLC.(“Owner”), a California Limited Liability Company. This Agreement shall become effective on the Effective date defined in section 3.1.6.

ARTICLE 2. RECITALS.

2.1 WHEREAS, City is authorized to enter into binding development agreements with persons having legal or equitable interests in real property for the development of such property; and

2.2 WHEREAS, this Agreement and the Project are consistent with the City’s General Plan and Zoning Code and applicable provisions of the City’s Zoning Map as of the Effective Date; and

2.3 WHEREAS, all actions taken and approvals given by the City have been duly taken or approved in accordance with all applicable legal requirements for notice, public hearings, findings, votes, and other procedural matters; and

2.4 WHEREAS, Owner intends to develop a Cannabis Dispensary or Facility, with Commercial Cannabis Activities at the Dispensary or Facility , to the extent contemplated by the Seaside Municipal Code Chapter 19 and all applicable state laws, rules, and regulations.

2.5 WHEREAS, this Agreement, in the future, shall be read consistent with any statewide regulation passed by voter initiative or the state legislature, which decriminalizes or legalizes marijuana for medical or recreational use, also known as Adult Cannabis. This Agreement shall govern the conduct of this business to cultivate and distribute marijuana under such statewide regulation, consistent with any City regulations not preempted by any such statewide regulations.

2.6 WHEREAS, The Owner and City agree for mutual consideration as

set forth in this agreement.

ARTICLE 3. GENERAL TERMS.

3.1 Definitions and Exhibits. The following terms when used in this Agreement shall be defined as follows:

3.1.1 "Agreement" means this Development/Operating Agreement. [This is not a development agreement as defined in Government Code Section 65864 et seq.]

3.1.2 "City" means the City of Seaside, a California municipal corporation.

3.1.3 "Days" mean calendar days unless otherwise specified.

3.1.4 "Development" includes the right to maintain, repair or reconstruct any private building, structure, improvement or facility after the construction and completion thereof; provided, however, that such maintenance, repair, or reconstruction take place within the term of this Agreement on parcels subject to it.

3.1.5 "SMC" means the City of Seaside Municipal Code.

3.1.6 "Effective Date" means the date on which all of the following are true: (i) the City Council adopted a resolution adopting and approving the Development/Operating Agreement and (ii) all Exhibits to this Agreement are finalized, executed by all affected parties (if applicable) and attached hereto; provided, however, that if these conditions have not been fully satisfied by the Owner the Effective Date may not thereafter occur and this Agreement may not thereafter become effective.

3.1.7 "Existing Land Use Regulations" means all Land Use Regulations in effect on the date of execution. Existing Land Use Regulations include all provisions in the SMC Chapter 17, Zoning, and other regulations that are a matter of public record on the date of execution as they may be modified from time to time. Notwithstanding by the Existing Development Approvals. Notwithstanding the foregoing, Existing Land Use Regulations include the regulations set forth in AB 266 and AB 243.

3.1.8 "Owner" means the Business or Dispensary Owner (s).

3.1.9 "Processing Fees" means the normal and customary application, filing, plan check, permit fees for Cannabis activity approvals, design review, building permits, demolition permits, grading permits, and other

similar permits and entitlements, and inspection fees, which fees are charged to reimburse the City's expenses attributable to such applications, processing, permitting, review and inspection and which are in force and effect on a general basis at such time as said approvals, permits, review, inspection or entitlements are granted or conducted by the City.

3.1.10 "Project" means the Commercial Cannabis Activity as set forth in SMC Chapter 19, located on Assessor Parcel Number (APN) _____ that will be state licensed and issued a Dispensary Permit in full accordance with SMC Chapter 19.02.010 as may be amended, as well as in full compliance with all state laws, including but not limited to the Medical Marijuana Regulation and Safety Act adopted by the State of California (also known as AB 266 and AB 243). This Project shall include the cultivation, manufacturing, testing, and distribution, of Cannabis as approved by state and local law. The Project will include construction and development of a [type of facility] Dispensary that will be issued a Dispensary Permit in full accordance with SMC Chapter 19.02.010 as amended as well as in full compliance with all state laws, including but not limited to the Medical Marijuana Regulation and Safety Act and the Adult Use of Marijuana Act.

3.1.11 "Property" means the real property where the Cannabis Dispensary or Facility is to be located as described on Exhibit A and shown on Exhibit B, as set forth in 3.2 below, both attached hereto and incorporated herein by this reference.

3.2 Exhibits. The following documents are attached to and, by this reference, made part of this Agreement:

Exhibit A – Map showing Property and its location.

Exhibit B—Resolution of City Granting a Dispensary Permit With Conditions at [location].

Exhibit C--Owner Commitment to Community Benefit Program.

3.3 Binding Effect of Agreement. The Property and Project are hereby made subject to this Agreement. Subject to the Owner's receipt of all Development/Operating Approvals relative thereto, the Development of the Property is hereby authorized and shall, except as otherwise provided in this Agreement, be carried out only in accordance with the terms of this Agreement, the Development/Operating Plan, and the Dispensary Permit. In the event of conflict or uncertainty between this Agreement, the Dispensary Permit, and the Development Plan, the provisions of the Development/Operating Plan shall control.

3.4 Notices.

3.4.1 Notice Defined. As used in this Agreement, notice includes,

without limitation, the communication of notice, request, demand, approval, statement, report, acceptance, consent, waiver, appointment or other communication required or permitted hereunder.

3.4.2 Written Notice and Delivery. All notices shall be in writing and shall be considered given:

- (i) when delivered in person to the recipient named below; or
- (ii) three days after deposit in the United States mail, postage prepaid, addressed to the recipient named below; or
- (iii) on the date of delivery shown in the records of the delivery company after delivery to the recipient named below; or
- (iv) on the date of delivery by facsimile transmission to the recipient named below if a hard copy of the notice is deposited in the United States mail, postage prepaid, addressed to the recipient named below. All notices shall be addressed as follows:

If to the City:

City Manager
440 Harcourt Avenue
Seaside, CA 93955

If to the Owner:

Plantacea LLC
680 Broadway Avenue
Seaside, CA 93955

With Copies to:

City Attorney
440 Harcourt Avenue
Seaside, CA 93955

3.4.3 Address Changes. Either party may, by notice given at any time, require subsequent notices to be given to another person or entity, whether a party or an officer or representative of a party or to a different address, or both. Notices given before actual receipt of notice of change shall not be invalidated by the change.

3.5 Validity of this Agreement. The Owner and the City each acknowledge that neither party has made any representations to the other

concerning the enforceability or validity of any one or more provisions of this Agreement, and that this Agreement has been drafted jointly and not by one party alone.

ARTICLE 4. PUBLIC BENEFITS

4.1 Intent. The parties acknowledge and agree that development of the Project on the Property will result in substantial public needs which will not be fully met by the Development/Operating Plan and further acknowledge and agree that this Agreement confers substantial private benefits on Owner which should be balanced by commensurate public benefits. Accordingly, the parties intend to provide consideration to the public to balance the private benefits conferred on Owner by providing more fully for the satisfaction of the public needs resulting from the Project

4.2 Developer Fee. Applicant agrees to pay all established fees, charges, City costs, taxes, or other similar forms of expenses applicable to all Commercial Cannabis establishments and Dispensary Permits.

4.3 Jobs and Wage Creation.

4.3.1 Local Hiring. Owner agrees to use its reasonable efforts to hire qualified City residents for jobs at the Project. Owner shall abide by all local hiring commitments provided in the Owner Commitment to Community Benefit Program in Exhibit C

4.3.2 Mandatory Payment of Wage. Owner agrees to pay all employees wages in accordance with the wage rate provided in the Owner's Community Benefit Plan and the Owner Commitment to Community Benefit Program in Exhibit D.

4.5 Payment of Marijuana Business Operation Tax.

4.5.1 Amount of Tax. Pursuant to Chapter SMC Chapter 5.04.320, Owner shall pay City the annual business operations tax based on a percentage of gross receipts as set by the City Council by Ordinance in accordance with prior voter approval of up to ten percent (10%) annually. Such taxes shall be remitted in accordance with regulations adopted by City.

4.5.2 All other taxes established by Ordinance shall be paid in accordance with the SMC and State law, as both may be amended from time to time.

ARTICLE 5. REVIEW FOR COMPLIANCE.

5.1 Periodic Review. The City Manager or designee may review

this Agreement annually, on or before each anniversary of the Effective Date or upon receipt of a request by Owner to extend the term, in order to ascertain Owner's good faith compliance with this Agreement including the Dispensary Permit. During the periodic review Owner shall be required to demonstrate good faith compliance with the terms of the Agreement, through submitting an annual monitoring report, records, or equivalent written materials to the City Manager or designee. The City may elect to extend the permits without review. Owner shall be entitled to a review hearing pursuant to 6.3 below in the event the City Manager or designee determines Owner is not in compliance with this Agreement, Use Permit or Dispensary Permit.

5.2 Special Review. The City Council may order a special review of compliance with this Agreement at any time. The City Manager or his or her designee shall conduct such special review. During a special review, the Owner shall be required to demonstrate good faith compliance with the terms of the Agreement. The burden of proof on this issue shall be on the Owner.

5.3 Review Hearing. At the time and place set for the review hearing, the Owner shall be given an opportunity to be heard. If the City Manager finds, based upon substantial evidence, that the Owner has not complied in good faith with the terms or conditions of this Agreement, the City Manager may recommend that the City Council terminate this Agreement notwithstanding any other provision of this Agreement to the contrary, or modify this Agreement and impose such conditions as are reasonably necessary to protect the interests of the City. The decision of the City Council shall be final, subject only to judicial review pursuant to Code of Civil Procedure Section 1094.5.

5.4 Failure to Conduct Review. The City's failure to conduct a periodic review of this Agreement shall not constitute a breach of this Agreement or a waiver of future periodic reviews.

5.5 Cost of Review. The costs incurred by City in connection with the periodic reviews shall be borne by Owner.

ARTICLE 6. ANNEXATION INTO DISTRICTS

6.1 Owner agrees to the Subject Property being annexed into any current or future Community Facilities District, Community Services District, or any other tax district which would pertain to the Property.

ARTICLE 7. DEFAULTS AND REMEDIES.

7.1 Remedies in General. It is acknowledged by the parties that the City would not have entered into this Agreement if it were to be liable in damages under this Agreement, or with respect to this Agreement or the application thereof, except as hereinafter expressly provided. Subject to extensions of time by mutual consent in writing, failure or delay by either party to

perform any term or provision of this Agreement shall constitute a default. In the event of alleged default or breach of any terms or conditions of this Agreement, the party alleging such default or breach shall give the other party not less than thirty (30) days' notice in writing specifying the nature of the alleged default and the manner in which said default may be satisfactorily cured during any such thirty (30) day period, the party charged shall not be considered in default for purposes of termination or institution of legal proceedings. Notwithstanding the foregoing to the contrary, if the alleged default is of such a nature that it cannot be cured within thirty (30) days, the alleged defaulting party shall not be deemed in default as long as such party commences to cure such default within such thirty (30) day period and thereafter diligently prosecutes such cure to completion.

7. 2 After notice and expiration of the thirty (30) day period, the other party to this Agreement, at its option, may institute legal proceedings pursuant to this Agreement.

7.3 In general, each of the parties hereto may pursue any remedy at law or equity available for the breach of any provision of this Agreement, except that the City shall not be liable in monetary damages, unless expressly provided for in this Agreement, to the Owner or to any successors in interest of the Owner, or to any other person, and the Owner covenants on behalf of itself and all successors in interest to the Property or any portion thereof, not to sue for damages or claim any damages:

(i) For any breach of this Agreement or for any cause of action which arises out of this Agreement: or

(ii) For the impairment or restriction of any right or interest conveyed or provided under, with, or pursuant to this Agreement, including, without limitation, any impairment or restriction which the Owner characterizes as a regulatory taking or inverse condemnation; or

(iii) Arising out of or connected with any dispute, controversy or issue regarding the application or interpretation or effect of the provisions of this Agreement.

7.4 Nothing contained herein shall modify or abridge the Owner's rights or remedies (including its rights for damages, if any) resulting from the exercise by the City of its power of eminent domain. Nothing contained herein shall modify or abridge the Owner's rights or remedies (including its rights for damages, if any) resulting from the grossly negligent or malicious acts of the City and its officials, officers, agents and employees. Nothing herein shall modify or abridge any defenses or immunities available to the City and its employees pursuant to the Government Claims Act and all other applicable statutes and decisional law.

7.5 Release. Except for those remedies set forth in Sections 8.1 and 8.4, the Owner, for itself, its successors and assignees, hereby releases the City, its officers, agents and employees from any and all claims, demands, actions, or suits of any kind or nature arising out of any liability, known or unknown, present or future, based or asserted, pursuant to Article 1, Section 19 of the California Constitution, the Fifth Amendment of the United States Constitution, or any other law or ordinance which seeks to impose any other liability or damage, whatsoever, upon the City because it entered into this Agreement or because of the terms of this Agreement.

The Owner acknowledges that it may have suffered, or may suffer, damages and other injuries that are unknown to it, or unknowable to it, at the time of execution of this Agreement. Such fact notwithstanding, the Owner agrees that the release provided in this Section 7.2 shall apply to such unknown or unknowable claims or damages. Without limiting the generality of the foregoing, the owner acknowledges the provisions of California Civil Code Section 1542, which provide:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release which if known by him or her must have materially affected his or her settlement with the debtor.”

The owner hereby waves, to the maximum legal extent, the provisions of California Civil Code Section 1542 and all other statutes and judicial decisions of similar effect.

Initial_____

7.6 Attorneys' Fees and Costs. In any action or proceeding between the City and the Owner brought to interpret or enforce this Agreement, or which in any way arises out of the existence of this Agreement or is based upon any term or provision contained herein, the “prevailing party” in such action or proceeding shall be entitled to recover from the non-prevailing party, in addition to all other relief to which the prevailing party may be entitled pursuant to this Agreement, the prevailing party's reasonable attorneys' fees and litigation costs, in an amount to be determined by the court. The prevailing party shall be determined by the court in accordance with California Code of Civil Procedure Section 1032. Fees and costs recoverable pursuant to this Section 8.5 include those incurred during any appeal from an underlying judgment and in the enforcement of any judgment rendered in any such action or proceeding. The

parties agree that each contributed to the drafting of this Agreement, and that neither party is responsible for its drafting in determining whether any ambiguities exist as a result of drafting. Ambiguities shall not automatically be ruled against either party.

ARTICLE 8. THIRD PARTY LITIGATION.

8.1 General Plan Litigation. The City has determined that this Agreement is consistent with its General Plan. The Owner has reviewed the General Plan and concurs with the City's determination.

8.1 Hold Harmless Agreement. Owner hereby agrees to, and shall hold City, its elective and appointive boards, commissions, officers, agents, and employees harmless from any liability for damage or claims for damage for personal injury, including death, as well as from claims for property damage which may arise from Owner or Owner's contractors, subcontractors, agents, or employees operations under this Agreement, whether such operations be by Owner, or by any of Owner's contractors, subcontractors, agents, or employees operations under this Agreement, whether such operations be by Owner, or by any of Owner's contractors, subcontractors, or by any one or more persons directly or indirectly employed by, or acting as agent for Owner or any of Owner's contractors or subcontractors. Owner agrees to and shall defend City and its elective and appointive boards, commissions, officers, agents and employees from any suits or actions at law or in equity for damage caused, or alleged to have been caused, by reason of any of the aforesaid operations.

8.2 Indemnification. Owner shall defend, indemnify and hold harmless City and its agents, officers and employees against and from any and all liabilities, demands, claims, actions or proceedings and costs and expenses incidental thereto (including costs of defense, settlement and reasonable attorneys' fees), which any or all of them may suffer, incur, be responsible for or pay out as a result of or in connection with any challenge to the legality, validity or adequacy of any of the following: (i) this Agreement and the concurrent and subsequent permits, licenses and entitlements approved for the Project or Property; (ii) the environmental impact report, mitigated negative declaration or negative declaration, as the case may be, prepared in connection with the development of the Property; and (iii) the proceedings undertaken in connection with the adoption or approval of any of the above. In the event of any legal or equitable action or other proceeding instituted by any third party (including a governmental entity or official) challenging the validity of any provision of this Agreement or any portion thereof as set forth herein, the parties shall mutually cooperate with each other in defense of said action or proceeding. Notwithstanding the above, the City, at its sole option, may tender the complete defense of any third party challenge as described herein. In the event the City elects to contract with special counsel to provide for such a defense, the City

shall meet and confer with Owner regarding the selection of counsel, and Owner shall pay all costs related to retention of such counsel.

8.3 Accept Reasonable Good Faith Settlement. With respect to Article 10, the City shall not reject any reasonable good faith settlement. If the City does reject a reasonable, good faith settlement that is acceptable to the Owner, the Owner may enter into a settlement of the action, as it relates to the Owner, and the City shall thereafter defend such action (including appeals) at its own cost and be solely responsible for any judgments rendered in connection with such action. This Section 9.3 applies exclusively to settlements pertaining to monetary damages or damages which are remedial by the payment of monetary compensation. The Owner and the City expressly agree that this Section 10.6 does not apply to any settlement that requires an exercise of the City's police powers, limits the City's exercise of its police powers, or affects the conduct of the City's municipal operations.

ARTICLE 9. MISCELLANEOUS PROVISIONS.

9.1 Entire Agreement. This Agreement sets forth and contains the entire understanding and agreement of the parties, and there are no oral or written representations, understandings or ancillary covenants, undertakings or agreements that are not contained or expressly referred to herein. No testimony or evidence of any such representations, understandings or covenants shall be admissible in any proceeding of any kind or nature to interpret or determine the terms or conditions of this Agreement, provided, however, City at its option may rely on statements by Owner's agents at the public hearings leading to the City's approval of the project or on written documents by Owner or Owner's agents that are a part of the public record.

9.2 Severability. If any term, provision, covenant or condition of this Agreement shall be determined invalid, void or unenforceable, by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Agreement. The foregoing notwithstanding, the provision of the public benefits set forth in Article 4, including the payment of the fees set forth therein, are essential elements of this Agreement and the City would not have entered into this Agreement but for such provisions, and therefore in the event that any portion of such provisions are determined to be invalid, void or unenforceable, at the City's option this entire Agreement shall terminate and from that point on be null and void and of no force and effect whatsoever.

9.3 Interpretation and Governing Law. This Agreement and any dispute arising hereunder shall be governed and interpreted in accordance with the laws of the State of California. This Agreement shall be construed as a whole according to its fair language and common meaning to achieve the objectives

and purposes of the parties hereto, and the rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be employed in interpreting this Agreement, all parties having been represented by counsel in the negotiation and preparation hereof.

9.4 Section Headings. All section headings and subheadings are inserted for convenience only and shall not affect any construction or interpretation of this Agreement.

9.5 Singular and Plural; Gender, and Person. Except where the context requires otherwise, the singular of any word shall include the plural and vice versa, and pronouns inferring the masculine gender shall include the feminine gender and neuter, and vice versa, and a reference to "person" shall include, in addition to a natural person, any governmental entity and any partnership, corporation, joint venture or any other form of business entity.

9.6 Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

9.7 Waiver. Failure by a party to insist upon the strict performance of any of the provisions of this Agreement by the other party, or the failure by a party to exercise its rights upon the default of the other party, shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Agreement thereafter.

9.8 No Third Party Beneficiaries. The only parties to this Agreement are Owner and the City. This Agreement is made and entered into for the sole protection and benefit of the parties and their successors and assigns. There are no third party beneficiaries and this Agreement is not intended, and shall not be construed, to benefit, or be enforceable by any other person whatsoever.

9.9 Mutual Covenants. The covenants contained herein are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed hereunder by such benefited party.

9.10 Successors in Interest. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the parties to this Agreement. All provisions of this Agreement shall be enforceable as equitable servitudes.

The burdens of the Agreement shall be binding upon, and the benefits of the Agreement shall inure to all successors in interest to the parties to this Agreement.

9.11 Counterparts. This Agreement may be executed by the

parties in counterparts, which counterparts shall be construed together and have the same effect as if all of the parties had executed the same instrument.

9.12 Jurisdiction and Venue. Any action at law or in equity arising under this Agreement or brought by a party hereto for the purpose of enforcing, construing or determining the validity of any provision of this Agreement shall be filed and prosecuted in the Superior Court of the County of Monterey, State of California, and the parties hereto waive all provisions of federal or state law or judicial decision providing for the filing, removal or change of venue to any other state or federal court, including, without limitation, Code of Civil Procedure Section 394.

9.13 Agent for Service of Process. In the event the Owner is not a resident of the State of California or it is an association, partnership or joint venture without a member, partner or joint venturer, resident of the State of California, or if it is a foreign corporation, then the Owner shall file, upon its execution of this Agreement, with the City Manager the name of a natural person acting as the agent of owner residing in the State of California, giving his or her name, residence and business addresses, as its agent for the purpose of service of process in any court action arising out of or based upon this Agreement, and the delivery to such agent of a copy of any process in any such action shall constitute valid service upon the Owner. If for any reason service of such process upon such agent is not feasible, then in such event the Owner may be personally served with such process out of this County and such service shall constitute valid service upon the Owner. The Owner is amenable to the process so described, submits to the jurisdiction of the Court so obtained, and waives any and all objections and protests thereto.

9.14 Authority to Execute. The person or persons executing this Agreement on behalf of the Owner warrants and represents that he/she/they have the authority to execute this Agreement on behalf of his/her/their corporation, partnership or business entity and warrants and represents that he/she/they has/have the authority to bind the Owner to the performance of its obligations hereunder.

Each individual executing this Agreement on behalf of his or her respective company or entity shall represent and warrant that:

9.14.1 The individual is authorized to execute and deliver this Agreement on behalf of that company or entity in accordance with a duly adopted resolution of the company's board of directors or appropriate governing body and in accordance with that company's or entity's articles of incorporation or charter and bylaws or applicable formation documents; and

9.14.2 This Agreement is binding on that company or entity in

accordance with its terms; and

9.14.3 The company or entity is a duly organized and legally existing company or entity in good standing; and

9.14.4 The execution and delivery of this Agreement by that company or entity shall not result in any breach of or constitute a default under any mortgage, deed of trust, loan agreement, credit agreement, partnership agreement, or other contract or instrument to which that company or entity is party or by which that company or entity may be bound.

9.15 Nexus/Reasonable Relationship Challenges. Owner consents to, and waives any rights it may have now or in the future to challenge the legal validity of, the conditions, requirements, payment of any kind of fee whatsoever, policies or programs set forth in this Agreement including, without limitation, any claim that they constitute an abuse of the police power, violate substantive due process, deny equal protection of the laws, effect a taking of property without payment of just compensation, or impose an unlawful tax.

9.16 Owner Compliance with Laws. Owner hereby agrees to comply with all applicable state, federal and local laws, regulations, rules and policies.

9.17 No Damages Relief Against City. The parties acknowledge that the City would not have entered into this Agreement had it been exposed to damage claims from Owner, or Owners successors in interest, assigns, partners, or anyone acting on behalf of the Owner for any breach thereof. As such, the parties agree that in no event shall Owner, or Owners successors in interest, assigns, partners, or anyone acting on behalf of the Owner be entitled to recover damages against City for breach of this Agreement.

9.18 Laws. Owner agrees to comply with all applicable state, regional, and local laws, regulations, polices and rules.

9.19 Compliance with Conditions of Approval. Owner agrees to comply with and fulfill all conditions of approval for any and all entitlement, permits, and/or licenses it receives from the City. All conditions of approval for all entitlements, permits and/or licenses are hereto incorporated.

9.20 Owner agrees to comply with all applicable provisions of any current or future applicable federal, state, or local marijuana/Cannabis laws, including AB 266 and AB 243, as duly adopted, including any and all development standards, license and revocation procedures, and the like. Should there be anything in federal or state law, including but not limited to AB 266 or AB 243 which contradicts any provision in this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the dates written above.

CITY OF SEASIDE

OWNER

By: _____
Ralph Rubio, Mayor

ATTEST:

By: _____
Leslie E. Milton-Rerig, City Clerk

APPROVED AS TO FORM:

By: _____
Don Freeman, City Attorney

ing, implementation of standard cleaning processes, and maintenance of operational sanitation conditions. In addition, management will evaluate inspection reports to ensure optimal sanitation process at Plantacea.

Our objective is to ensure consistency in our sanitary procedures and drive continuous improvement in the sanitation process. On behalf of our community, staff, and patients, we are happy to do whatever is needed to maintain the most rigorous sanitary standards for our facilities and products, whether that means retraining of sanitarians, rewriting sanitation procedures, or redesigning Plantacea protocol for more effective cleaning.

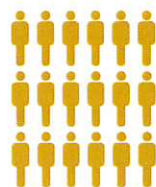
CANNABIS PRODUCTS AND THEIR HANDLING

We provide only the highest-quality products in our Plantacea dispensary. We stock many different varieties and strengths of product, as well as a comprehensive range of forms for ingestion to meet the diverse needs of our patients. No matter what the cost of the product, we take substantial measures to ensure quality by inspecting each batch we receive for visual defects and inconsistencies in taste, smell, and medicinal effects. Once the product has passed Plantacea's visual inspection protocols, it is further tested for microscopic contaminants and strain identification such as pesticides, microbiological contaminants, residual flammable solvents, and terpene profile identification using Gas Chromatography or mass spectrometry.

Our Cannatechs wear aprons, gloves, and use tongs for inspecting and dispensing cannabis medicine. We also have a dress code that upholds the healthy, clean image of Plantacea. We do not allow patients to inspect cannabis products with their hands and encourage our patients to use tongs, which Plantacea provides.

We have one of the most stringent cannabis inspection policies of any dispensary. Our reputation attracts the finest, most upstanding cannabis growers and vendors. By building rapport with reputable vendors, we have established a return policy allowing us to return undesirable medicine back to our vendors, no questions asked. This policy further enhances the trust Plantacea patients have in our commitment to safe, clean cannabis.

OF EMPLOYEES



VALLEJO



SEASIDE



COMMUNITY BENEFIT PLAN

OUR COMMUNITY IS OUR FAMILY

Since our first day in business, Plantacea has worked to be an active participant and upstanding citizen, contributing proudly to our local community. We have the utmost respect for fellow businesses, local government and law enforcement, schools, and residents, and we recognize that mutual respect must be earned. To that end we have upheld a commitment to transparency and proactive. We have nothing to hide, and have invited our neighbors as well as the city and the police department to witness how we are helping community members with progressive services and products for inner healing.

PROVIDING JOBS FOR THE LOCAL COMMUNITY

Our 2,300 square foot Vallejo facility provides jobs for 18 employees. We have calculated that at the same revenue per square foot, our planned 5,000 square foot Seaside facility would provide jobs for 36 employees. In addition to this, we will have a senior delivery service that will provide 4 jobs. **That's 40 jobs total that we'll be bringing to Seaside.** It's very important to us to employ locals, and we will make every effort within the letter of the law to prioritize doing so, and truly integrating with and supporting our local community. More specifics on the revenue projections that make us so confident we can provide 40 jobs are provided below in "Plantacea Business Plan."

PAID INTERNSHIP FOR LOCAL AT-RISK & LOW INCOME COLLEGE STUDENTS

We are absolutely committed to diversity and inclusion. We are therefore developing a paid internship program for local Seaside residents who fit into our requirements of at risk background. The program will give young people at risk and/or from low income families an opportunity to receive emotional intelligence mentorship and on the job training that would prepare them for work at Plantacea. We will be promising at least two paid internships for minority persons from disadvantaged backgrounds, of course only to persons 18+, as mandated by employment law in the medical cannabis industry, aiming to prepare them to be hired full time if that is their wish after the internship.

COMMUNITY OUTREACH AND BENEFITS

Plantacea is committed to building strong and resilient communities. We are active in community partnership and our Vallejo facility has donated over hundreds of thousands of dollars to local and national charities, community organizations, and local families in need each year.



We have worked with and supported local and national organizations such as:

- Vallejo Together
- Faith Food Fridays
- Vallejo Police Department
- Solano Aids Coalition
- Vallejo Chamber of Commerce
- Federal Terrace Elementary School Toy Drive
- Cann-I-Dream Foundation
- Vallejo Pioneers
- Vallejo Peace Project
- Vallejo Homeless Blessing Bags Project
- Sonoma Overnight Services
- Flow Kana Institute
- Solano County Sheriff "Shop with a Cop" program
- Food Empowerment Project
- Suisun City Fire Department
- Reynaissance Homeless Shelter
- Children Soccer with Vallejo Cops
- NORML (National Organization to Reform Marijuana Laws)
- NORML Women's Alliance

- Epilepsy Foundation
- The Humane Society of North Bay
- Hurricane Harvey Relief Mission
- Life After Hate
- Drug Policy Alliance (DPA)
- Napa Deli (Providing free meals to firefighters and first responders when combating the Atlas Fire in Napa, CA)
- California League of Cities
- City of Vallejo Sister Cities
- Multiple Sclerosis Walk
- Mass Movement Mentorship (M3)
- Research Triangle International Institute
- Jesse Bethel High School
- Diaz & Loera Centro Latino
- The Robby Poblete Foundation
- Vallejo Community Arts Foundation
- Community Partnership for Youth (CPY)
- American Red Cross
- Artiszen Cultural Arts Center
- San Francisco Aids Walk
- Team Cannabis
- Glo Run 2017 5K Marathon
- Project Inform
- The Eric Reyes Foundation
- Solano Association of Realtors
- Moving Forward Institute
- Vallejo Pride Prom
- Club Stride, Inc
- City of Vallejo 4th of July Parade
- Florence Douglas Senior Center
- Vallejo Mad Hatter Holiday Festival
- NAACP
- Vallejo Police Activities League (PAL)
- Solano County Deputy Association Show

Working With Local Businesses

Building local relationships and supporting our local community is very important to us, so we prioritize working with local providers to meet our business needs. We regularly partner with local talent for:

- Consulting
- Writing
- Construction
- Graphic design, artwork, and printing
- Photography
- Food and Catering
- Education and Training
- Event Planning and Coordinating
- Maintenance



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 9.A.

TO: City Council

FROM: Craig Malin, City Manager

BY: Rick Medina, Senior Planner

DATE: March 15, 2018

**SUBJECT: REAFFIRMING CONSISTENCY OF THE COMPREHENSIVE
UPDATES TO THE ZONING CODE, AMENDING TITLE 17 OF THE
SEASIDE MUNICIPAL CODE, WITH THE FORT ORD REUSE PLAN.**

PURPOSE & RECOMMENDATION

This item has been scheduled to conduct a public hearing to reaffirm that adoption of text amendments to the Zoning Ordinance, amending Title 17 (Zoning Code) of the Seaside Municipal Code, is consistent with the Base Reuse Plan of the Fort Ord Reuse Agency (FORA). It is recommended that the City Council adopt the draft Resolution provided as Attachment 1.

BACKGROUND

When recently reviewing potential development projects on the City's Fort Ord lands with Fort Ord Reuse Agency (FORA) staff, City staff were advised by FORA that the City's current Zoning Code must be brought before FORA for a final consistency determination. The Zoning Code on file with FORA for the City of Seaside was adopted on December 11, 1998. Until the consistency determination is made, development entitlements on the City's Fort Ord Lands could be delayed.

The most recent comprehensive update of the Zoning Code occurred on February 20, 2014. The 2013 Comprehensive Update represented the first review of the Zoning Code since the Zoning Code was updated on December 6, 2006 to bring the Zoning Code into consistency with the 2004 Seaside General Plan that was adopted by the Seaside City Council on August 5, 2004. The City's 2004 General Plan was found to be consistent with the Base Reuse Plan on December 10, 2004.

Subsequent amendments have been made to the City's Zoning Code since February 20, 2014. Under these amendments, no changes have been made to the Zoning Map for the lands within

the FORA boundaries which currently correspond with the same land use designations as those listed on the 2004 General Plan. The following additions/modifications were made to Table 2-4 (Allowed Land Uses and Permit Requirements for Commercial Zones) of the Seaside Zoning Code:

1. Mechanical and electronic games and game centers added as a use permit within the Commercial Mixed Use (CMX), Community Commercial (CC), and Regional Commercial (CRG) Zoning Districts; and
2. Public dance and entertainment added as a use permit in the CMX, CC, and CRG Zoning Districts; and
3. Caretaker Unit added as a Minor Use Permit in the CMX and Heavy Commercial (CH) Zoning Districts; and
4. Multi-family housing added as use permit in the CMX Zoning District; and
5. Live Work Unit added as a use permit within the CMX and CC Zoning Districts; and
6. Entertainment activities not associated with a night club added as permitted use in the CMX, CC, and CRG Zoning Districts; and
7. Medical marijuana dispensaries added as prohibited use in all commercial zones: and
8. Smoke shop added as a use permit in the CH Zoning District; and
9. Office temporary added as a minor use permit in the CMX, CC, CRG, Automotive Commercial (CA) and CH Zoning Districts; and
10. Office – Temporary Real Estate added as a minor use permit in the CMX, CC, and CRG Zoning Districts; and
11. Veterinary clinic with animal hospital without boarding added as use permit in the CC Zoning District; and
12. Veterinary clinic with animal hospital accommodating boarding added as use permit in the CH Zoning District; and
13. Brewery with restaurant added as use permit in the CMX, CC, CRG and CH Zoning Districts; and
14. Public facility added as use permit in the CMX, CC, CRG, CA, and CH Zoning Districts; and
15. Lodging – Hotel or motel added as use permit in the CMX Zoning District (Hotel or motels currently allowed with use permit in the CC and CRG Zoning Districts); and

16. Therapeutic massage added as use permit in the CMX and CC; and
17. Youth Hostel added as use permit in the CMX Zoning District; and
18. Cemetery added as use permit in the Open Space Recreation (OSR), Public Institutional (PI), and Military (M) Zoning Districts; and
19. Public or quasi-public serving uses added as minor use permit in the OSR, PI, and M Zoning Districts.
20. Chapter 17.24 added to address the property development standards for the Fort Ord Visitor Serving Commercial District.
21. Tobacco or Electronic Cigarette Retailer was added as use permit in the Heavy Commercial (CH) Zoning District.
22. Daycare Center as use permit in the City's CC, CMX and Low Density Single Family (RS) zoning districts.
23. Drive-thru Coffee Shop added as use permit in the CC Zoning District.
24. Emergency Shelters added as permitted use in the CC zoning district and in Census Tract 137.
25. Commercial Cannabis Activities added as Chapter 19 to the Seaside Municipal Code.

The additions/modifications listed above would not result in any type of land use that would be more intense than the uses permitted in the General Plan for the affected territory within the City of Seaside that was not considered as part of the consistency determination adopted by the Fort Ord Reuse Authority for the City of Seaside General Plan Update on December 10, 2004.

FISCAL IMPACT

Enactment of the proposed text amendments would not have a fiscal impact on the City

ATTACHMENTS

1. Attachment 1 - Draft Resolution
-

Reviewed for Submission to the
City Council by:

Meeting Date: March 15, 2018



Craig Malin, City Manager

RESOLUTION NO. 18-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE

REAFFIRMING THAT THE VARIOUS ORDINANCES ADOPTED BY THE CITY COUNCIL AMENDING THE ZONING CODE SINCE DECEMBER 4, 4 2006 ARE CONSISTENT WITH THE FORT ORD BASE REUSE PLAN.

WHEREAS, in accordance with Section 17.74.050 of the Seaside Municipal Code it is the responsibility of the City Council to consider and grant approval of amendments to the Zoning Code in relation to the policies, standards and intent of the Seaside General Plan and Seaside Municipal Code; and

WHEREAS, the City Council has adopted various Ordinances amending the text of the Zoning Code regarding certain permitted and discretionary land uses, and

WHEREAS, the City Council held a duly noticed Public Hearing on March 15, 2018 and considered oral comments and written information concerning the requested action to determine whether the past actions taken by the City Council since December 4, 2006 are consistent with the Fort Ord Base Reuse Plan, and

WHEREAS, each Ordinance has received its own analysis under the California Environmental Quality Act (CEQA) and it has been determined that the past Ordinances had qualified to be considered as either exempt from CEQA Guidelines or have a Negative Declaration adopted; and

NOW, THEREFORE, BE IT RESOLVED, that the City Council adopts the following findings to reaffirm that the past Ordinances adopted by the City Council are consistent with the Base Reuse Plan:

Findings:

1. The proposed Zoning Ordinance is in compliance with the 2004 Seaside General Plan.

Evidence: The Zoning Map dated July 2006 is consistent with the General Plan Land Use Element and Land Use Map that was deemed consistent with the Fort Ord Base Reuse Plan by the Fort Ord Reuse Agency on January 5, 2005.

Evidence: The text, standards, and figures/tables of the Zoning Ordinance implement the goals and policies of the 2004 Seaside General Plan.

2. Based on information in the record, no significant impacts are identified.

Evidence: Analysis included in the Initial Study and proposed amendments to the draft Zoning Code would not individually or cumulatively result in a significant impact to the environment.

PASSED AND ADOPTED at the regular meeting of the City Council of the City of Seaside, State of California, on the 15th day of March 2018, 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



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 9.B.

TO: City Council

FROM: Craig Malin, City Manager

BY: Gloria Stearns, Economic Development Manager

DATE: March 15, 2018

**SUBJECT: CONSIDERATION OF APPLICATION FOR USE PERMIT AND
LICENSE TO DISPENSE ADULT USE AND MEDICAL CANNABIS A
COMMERCIAL ZONED LOCATIONS IN THE CITY OF SEASIDE
AT 1717 FREMONT STREET TO BE OPERATED BY PLANTACEA
LLC.**

PURPOSE & RECOMMENDATION

To adopt a Use Permit allowing the operation of a Cannabis Dispensary at 1717 Fremont Street operated by Plantacea LLC.

BACKGROUND

On December 28, 2017, the City Council considered a total of 17 applications for the issuance of a Medical/Adult Recreation Cannabis Facility. In review of each proposal, the City Council acted to approve a total of six licenses, one of which included the proposal submitted by the business dba "Plantacea". In accordance with Ordinance 1043, a maximum of three medical and three adult facilities were allowed. The City Council directed City staff to amend Ordinance 1043 to increase the maximum number of adult and medical cannabis facilities from three to six. Plantacea was chosen by City Council to be one of the additional three dispensaries based on the application they submitted in November 2017.

On February 15, 2018, the City Council adopted the following amendments to Ordinance 1043:

Increases the number of licenses from three medical and three adult to six each.

Increases the number of allowable locations from three to six.

Reduces the buffer between dispensary locations for properties located in the West Broadway Urban Village (WBUV) Specific Plan and those properly zoned parcels that are immediately adjacent to the WBUV from 1,000 to 500 feet (this accommodates all but one of the applications approved by the City Council for continuing towards a Use Permit at locations proposed in their application).

Maintain a buffer of 1,000 feet at all other locations.

PROJECT DESCRIPTION

Area Characteristics

The property fronts on Fremont Boulevard to the east and contains portions of two private roads to the north and south, Birch Avenue and Alpine Avenue respectively, which provide ingress and egress to the project site. Birch Avenue continues to provide through access between the Auto Mall and Fremont Boulevard, while Alpine only provides access to the project site and adjoining property to the south. The surrounding land uses consist of a dual-tenant commercial building occupied by Auto Zone auto parts store and Santa Fe Supermarket across Fremont Boulevard to the east, a single use commercial building that is currently vacant to the north, and the autocenter to the south and west. Location Map is provided as Attachment 2. Site Photographs are provided as Attachment 3.

The proposed development will occupy the dentist office on the north side of the building. The Round Table Pizza business will not be affected. No changes would be made to the exterior of the building or parking lot to the rear. Improvements will consist only of interior renovations for the cannabis dispensary. Project plans are provided as Exhibit "A" to Attachment 1. The site plan delineates 34 parking spaces, including two disabled spaces in the parking lot. The floor plan will segment the building into the following spaces as shown with color coding on the floor plan:

General Area for Public (Green Coding)

Restricted to Patients, Vendors, and Employees Only (Yellow Coding)

Limited Access Area (Red Coding)

STAFF ANALYSIS

The initial site for the applicant was 680 Broadway Avenue. The applicant has been forced to select a new site based on another Adult/Medical Cannabis Facility having been selected as a top three facility by the City Council.

The new site would be located over 1,000 feet from the nearest facility located at 840 Broadway Avenue in compliance with the amended boundary provisions. The project site also provides for sufficient parking that would be shared with the Round Table Pizza business. The existing dentistry business will not be renewing its lease thus the proposed use would serve to fill vacant commercial space. The substantial investment being put into the building will also serve to bring needed business investment to an underutilized area of Fremont Boulevard. The business plan and revenue projections will remain the same as reviewed by the City Council on December 28, 2017, The application has been examined by the Seaside Police to ensure security.

FISCAL IMPACT

Adopting this agreement will allow the dispensary to open, which should result in revenues of at least \$150,000 to the City of Seaside, plus additional support for local non-profit organizations.

ATTACHMENTS

1. Attachment 1 - Draft Resolution Plantacea
 2. Attachment 1 Exhibit A - 1717 Fremont Blvd
 3. Attachment 2 - 1717 Fremont Blvd
 4. Attachment 3 - Site Photo 1717 Fremont Blvd
-

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager

RESOLUTION NO. 18-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE

GRANTING THE APPROVAL OF A DISCRETIONARY USE PERMIT TO ALLOW A MEDICAL/ADULT RECREATIONAL CANNABIS FACILITY LOCATED AT 1717 FREMONT BOULEVARD (APN#011-535-027) IN THE COMMUNITY COMMERCIAL (CC) ZONING DISTRICT.

WHEREAS, Gary Plummer, property owner and, Plantacea dba, applicant, have applied for a Discretionary Use Permit to allow:

- A. The establishment of a Medical/Adult Recreation Cannabis facility.

WHEREAS, the proposed project requires discretionary use permit approval, and it is the responsibility of the Planning Commission in the Seaside Municipal Code to have considered and weighed the merits of the application and public input in relation to the policies, standards and intent of the Seaside General Plan and Seaside Municipal Code in making a recommendation on the proposed cannabis facility to the City Council; and

WHEREAS, the Seaside Planning Commission considered oral comments and written information concerning the proposed discretionary use permit at three duly noticed special public meetings held on December 4, 2017, December 5, 2017, and December 20, 2017; and

WHEREAS, the Seaside Planning Commission acted to declare the application as being a qualified applicant on December 20, 2017 and made a recommendation that the City Council consider the application for the issuance a cannabis facility; and

WHEREAS, the Seaside Municipal Code requires the approval of a discretionary use permit by the City Council for a Medical/Adult Recreation Cannabis facility, and it is the responsibility of the City Council to have considered and weighed the merits of the application and public input in relation to the policies, standards and intent of the Seaside General Plan and Seaside Municipal Code in review of the application; and

WHEREAS, the Seaside City Council considered oral comments and written information concerning the proposed amendment at a duly noticed special public meeting held on December 28, 2017 and regular meeting held on March 15, 2018; and

WHEREAS, the project is a Categorically Exempt, Class 1, Section 15301 meeting the following conditions:

- a) The proposed development will consist of converting an existing commercial tenant space into an Adult/Medical cannabis facility which will not require any exterior alteration to the site or change in intensity of the project site or the City's infrastructure off-site where it can be seen with certainty that the proposed interior and exterior improvements can be accommodated at the proposed cannabis facility without creating any significant environmental impact on the community and neighboring properties.

NOW, THEREFORE, BE IT RESOLVED, that the City Council adopts the following findings for the Adult Recreation/Medical Cannabis facility Use Permit

- 1) The proposed use is allowed within the applicable zone and complies with all other applicable provisions of this Zoning Ordinance and the Municipal Code.

Evidence: This project is located within the Community Commercial Zoning District that would be designated as Employment in the General Plan Update in which a Medical/Adult Recreation Cannabis facility may be established with use permit approval.

Evidence: The applicant will provide sufficient security measures to both deter and prevent unauthorized entrance into the facility, eliminate any unauthorized loitering inside and outside of the facility, and minimize excessive calls for service by the City's public safety resources.

Evidence: There are no existing retail cannabis facilities operating within 1,000 feet of the project site.

Evidence: The proposed cannabis facility will serve as a catalyst economic development project site within the Fremont Boulevard Corridor.

Evidence: The proposed business plan scored well by demonstrating that the revenue and capitalization outlined in the application will be achievable based on the project location being located within an established retail area of the City and the project location having access from Fremont Boulevard which has direct linkages to Highway 1 to the north and south entrances of the City.

Evidence: Plantacea scored full points for local enterprise and community benefits points, which fosters economic and community development within the City of Seaside and provides financial contributions to local non-profit community organizations within the City of Seaside.

Evidence: Plantacea scored full points for neighborhood compatibility with commitments to exemplary security and façade improvement upgrades, which promotes neighborhood unity and land use compatibility/vitality within the City of Seaside.

Evidence: Plantacea scored full points for safety and security, which helps to provide public safety within the City of Seaside and not create any type of nuisance which would be detrimental to the overall general health, safety and welfare of the community and/or cause a financial burden on public safety resources for unnecessary calls for service.

- 2) The proposed use is consistent with the General Plan and any applicable specific plan.

Seaside General Plan Conformance

Evidence: Per the General Plan Land Use Element, the site is designated as Regional Commercial. The following Goals and Policies would apply:

Land Use Element Goal LU-1: Promote a mixture of land uses and a balance of jobs and housing to support a community in which people can live, work, and play.

Evidence: The project site will be contained within an existing commercial building which has demonstrated that it can contain the necessary capacity to operate a cannabis dispensary without overburdening existing roadways and City infrastructure,

Land Use Element Policy LU-1.1: The proposed use would serve to implement and diversify the land uses within the Regional Commercial Zoning District and improve the City's job housing balance.

Evidence: The project would occupy an existing tenant space which will serve to increase pedestrian activity for the general area around the shopping center; have the potential for increased vehicle pass by trips for adjoining businesses, and employ Seaside residents.

Land Use Element Policy LU-1.2: The proposed use will serve to provide additional jobs to improve the City's job housing balance.

Evidence: The project will employ Seaside residents.

Land Use Element Goal LU-1.3: Encourage regional commercial and visitor-serving commercial development that will enhance the identity of Seaside and attract visitors to the community.

Evidence: The project would occupy a developed shopping center building that will increase pedestrian activity and complete a commercial façade upgrade.

Land Use Element Goal LU-2: Revitalize existing commercial areas.

Evidence: The cannabis facility will serve to establish a regional commodity within the City of Seaside that will provide a substantial investment within the community that will serve to improve the character of the Fremont Boulevard Commercial Corridor and attract customers both from the Monterey Bay area and tourism.

Element Policy –LU-2.1: The proposed project will serve to revitalize an existing commercial area of the community to provide new jobs and services.

Evidence: The proposed use will serve to energize of the retail character of an existing strip commercial shopping center and the value of adjoining properties.

- 3) The design, location, size, and operating characteristics of the proposed activity are compatible with the existing and planned future land uses in the vicinity.

Evidence: The proposed Medical/Adult Recreation Cannabis facility will enhance street frontage on the Fremont Boulevard Commercial Corridor and improve the overall business character with the infusion of new façade treatments and monetary investment in the infrastructure of the site.

- 4) The site is physically suitable for the type, density and intensity of use being proposed, including access, utilities, and the absence of physical constraints.

Evidence: The project site is served by existing water, wastewater, and electrical infrastructure and facilities with adequate capacity to serve the proposed project. The proposed conversion of a of the commercial tenant space to a retail Medical/Adult Recreation Cannabis facility with the inclusion of interior changes and exterior façade changes conforms to Land Use Element of the Seaside General Plan.

- 5) 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.

Evidence: The proposed Medical/Adult Recreation Cannabis facility will provide for a community facility that is safe and attractive for a Cannabis dispensary use.

Evidence: The proposed conversion of a commercial retail building to a retail Medical/Adult Recreation Cannabis facility would not be detrimental to the public health, safety and general welfare of the people of the City and surrounding neighborhood. The proposed use is located on an in-fill site and would help maintain a compact city form consistent with the scale and character of the surrounding commercial neighborhood.

BE IT FURTHER RESOLVED, that the City Council approves the discretionary Use Permit Application for “Plantacea” subject to the following conditions:

Project Specific

Planning:

1. Except as modified by required conditions of approval, the permittee shall have the right to operate a Medical/Adult Recreation Retail Cannabis Facility substantially in accordance with the project material stamped “Received by the City of Seaside December 1, 2017” and subject to the site plan and floor plan to comply with the general Cannabis and conditions listed. The site plan and floor is provided as Exhibit “A”.

Cannabis

1. Cannabis may not be inhaled, smoked, eaten, ingested, or otherwise consumed within the Business, on the Property, in the parking areas of the Property, or in those areas restricted under the provisions of Health and Safety Code §11362.79.

2. All storage, display, sales or other distribution of cannabis shall occur only within an enclosed area of a medical cannabis business and shall not be visible from the exterior of the business. Delivery shall be as approved by the Seaside Police Department.
3. The cannabis facility shall have an odor-absorbing ventilation and exhaust system to ensure that odor generated inside the premises is not detected outside the premises.
4. A sign shall be posted in a conspicuous location inside the property advising that use of cannabis may impair a person's ability to drive a motor vehicle or operate heavy machinery.
5. No person, other than a patient, caregiver, licensee, employee, or a contractor shall be in the medical cannabis dispensary room.
6. Medical/Adult Cannabis Dispensary hours of operation shall be as regulated by State and City law.
7. Adults 21 and over can buy cannabis at retail dispensaries with an "A" adult use license as of Jan 1, 2018 as regulated by State Law.
8. No Cannabis Dispensary, Management Employee or employee shall cause or permit the sale, dispensing, or consumption of alcoholic beverages on the Property or in the parking area of the property.

Testing, Packaging, Labeling

9. All cannabis product labels shall also include the following information, prominently displayed and in a clear and legible font: For packages containing only dried flower, the net weight of medical cannabis in the package; A warning if nuts or other known allergens are discretionary used; List of pharmacologically active ingredients, including, but not limited to, tetrahydrocannabinol (THC), cannabidiol (CBD), and other cannabinoid content, the THC and other cannabinoid amount in milligrams per serving, servings per package, and the THC and other cannabinoid amount in milligrams for the package total; Clear indication, in bold type, that the product contains medical cannabis; Identification of the source and date of cultivation and manufacture.
10. Only generic food names may be used to describe edible medical cannabis products. Businesses should refer to State and local law to determine what activities are permitted or prohibited for licensed dispensaries in the City of Seaside. Failure to comply may result in penalties, suspension or revocation of the dispensary business license.

Transportation

11. All cannabis-infused products must be hand packaged, sealed and labeled, and the products stored in closed containers that are labeled. All medical cannabis in a usable form for medicinal use must be packaged and stored in closed containers that are labeled.

12. Each container used to transport or deliver cannabis must be labeled as regulated by State law. The label shall be shown to any law enforcement officer who requests to see the label.

Community Relations

13. Each Cannabis Business shall designate a Community Relations Liaison, who shall be at least twenty-one (21) years of age; and shall provide the Liaison's name to the City Manager. The Liaison shall receive all complaints received by the City Manager regarding the Medical Cannabis Dispensary, and make good faith attempts to promptly resolve all complaints.

Inspections

14. State and Local representatives (Health, Fire and Building inspectors) may enter and inspect the Property of each Cannabis Business between the hours of nine (9) am and eight (8) pm or during normal business hours.
15. Licensing authorities and State and Local agencies may, at any time, inspect shipments and request documentation for current inventory.
16. Every Cannabis Business shall implement sufficient security measures, as approved by the Seaside Police Department to both deter and prevent unauthorized entrance into areas containing cannabis or cannabis products and theft of cannabis or cannabis products. These security measures, as appropriate, shall include, but not be limited to, the following: (a) Preventing individuals from remaining on the premises if they are not engaging in activity expressly related to the operations of the business; (b) Establishing limited access areas accessible only to authorized personnel; (c) Storing all finished cannabis and cannabis products in a secured and locked room, safe, or vault, and in a manner as to prevent diversion, theft, and loss.
17. Each Cannabis Business shall install and maintain a fully operational digital video surveillance and camera recording system that monitors no less than the front and rear of the Property, all points of ingress and egress at the business, all points of sale within the business, all areas within the business where medical cannabis products are displayed for sale, and all limited access areas within the facility as approved by the Seaside Police Department.
18. The video and surveillance system shall, at a minimum, meet the following requirements: (a) Capture a full view of the public right-of-ways and any parking lot under the control of the medical cannabis business; (b) Record and maintain video 24/7 for a minimum of ninety (90) days, or as otherwise determined by the Seaside Police Department.
19. The cannabis business shall install and use a safe for storage of any processed cannabis and cash on the property when the business is closed to the public. The safe shall be incorporated into the building as a secure receptacle.
20. The cannabis business shall install and discretionary use a fire and burglar alarm system that is monitored by a company that is staffed twenty-four hours (24) a day, seven (7)

days a week. The security plan submitted to the City shall identify the company monitoring the alarm, including contact information. Changes in the security plan shall be approved by the Seaside Police Department prior to implementation.

21. A cannabis business engaged in retail sales shall retain and maintain a security guard or patrol, licensed by the State of California, generally located at an indoor guard station, to an extent sufficient to ensure safety and approved by the Seaside Police Department.
22. No dried cannabis shall be stored at the property in structures that are not completely enclosed, in an unlocked vault or safe, or in any other unsecured storage structure.
23. Windows and roof hatches at the Cannabis Business shall be secured so as to prevent unauthorized entry.

Accounting/Record Keeping

24. The Cannabis Business shall maintain an inventory management system. The point of sale software shall be, upon regulatory implementation of the MMRSA, compliant with the State Unique Identifier and Track and Trace Program.
25. The records of the business shall clearly track cannabis product inventory purchased and/or grown and sales and disposal thereof to clearly track revenue from sales of any medical cannabis from other paraphernalia or services offered by the Cannabis Business.
26. The records shall clearly show the source, amount, price and dates of all cannabis received or purchased, and the amount, price, dates and business, patient or caregiver for all cannabis sold.
27. Each Cannabis Business shall keep a complete set of books of account, invoices, copies of orders and sales, shipping instructions, bills of lading, weigh bills, bank statements including cancelled checks and deposit slips and all other records necessary to show fully the business transactions of such licensee.
28. Each business shall maintain an inventory record documenting the dates and amounts of cannabis sold at the Property, and the daily amounts of cannabis stored on the Property.
29. Receipts shall be maintained via a computer program or by pre-numbered receipts and discretionary used for each sale.
30. Each business shall maintain on-site proof of a valid Business License Permit issued by the City of Seaside.
31. All records kept and maintained by the licensee shall at all times protect the confidential information of the patient or caregiver. All records must be identified as confidential and any disclosure shall be limited in a manner that maintains the confidentiality of the information contained therein.

32. A Cannabis Dispensary holding a Business License Permit shall report to the City Manager each of the following within the time specified; provided that if no time is specified, such a report shall be provided within fifteen (15) days of the triggering event: (1) The transfer or change of ownership interest, business manager, or in the permit application at least thirty days before the transfer or change; (2) Sales and taxable transactions and file sales and discretionary use tax reports to the City quarterly; (3) A conviction of any disqualifying crime by any applicant of a Cannabis Business.

City Standards

33. Discretionary Use Permit approval is subject to revocation procedures contained in S.M.C.S. 17.80.060 in the event any of the conditions of this approval are violated, this discretionary permit was granted on the basis of false or misleading information, written or oral, given willingly or negligently by the applicant or property owner, and/or there has been a discontinuance of the discretionary use, or purposed for which the permit was issued, for a period of 180 days or more.
34. This Discretionary Use Permit is subject to procedures and requirements of Chapter 17.64 (Permit Implementation, Time Limits, and Extensions), and those related to appeals and revocation in Article 6 (Zoning Ordinance Administration) of Title 17 of the Municipal Code.
35. 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.
36. Any proposed future development shall comply with the requirements of the applicable City and County agencies and must be in compliance with State Law.
37. The project shall comply with the requirements and the applicable ordinances of the Monterey Peninsula Water Management District (MPWMD) and Monterey Regional Water Pollution Control Agency (MRWPCA).
38. 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.
39. The Discretionary Use Permit shall have no force or effect unless and until accepted, and the terms thereof agreed to, in writing, by the applicant and property owner within fifteen (15) days from the date of its approval.

40. Applicant must execute and maintain a valid Development/Operating Agreement setting forth the terms and conditions under which the facility will operate which will be reviewed periodically for compliance including, but not limited to, timely payment of all fees and taxes.
41. For purposes of assuring compliance, the applicant, agents, representatives or their assignees agree not to deny or impede access to the subject property by City employees in the performance of their duties.

PASSED AND ADOPTED at the regular meeting of the City Council of the City of Seaside, State of California, on the 15th day of March 2018, 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

Resolution No. 18-XX

These permits are hereby accepted upon the express terms and conditions hereof, and shall have no force or effect unless and until agreed to, in writing, by the applicant and property owner(s).

The undersigned hereby acknowledge the approved terms and conditions and agree to fully conform to, and comply with, said terms and conditions within the time frames approved by the City of Seaside City Council.

Applicant's Signature

Date

Property Owner's Signature (if different from above)

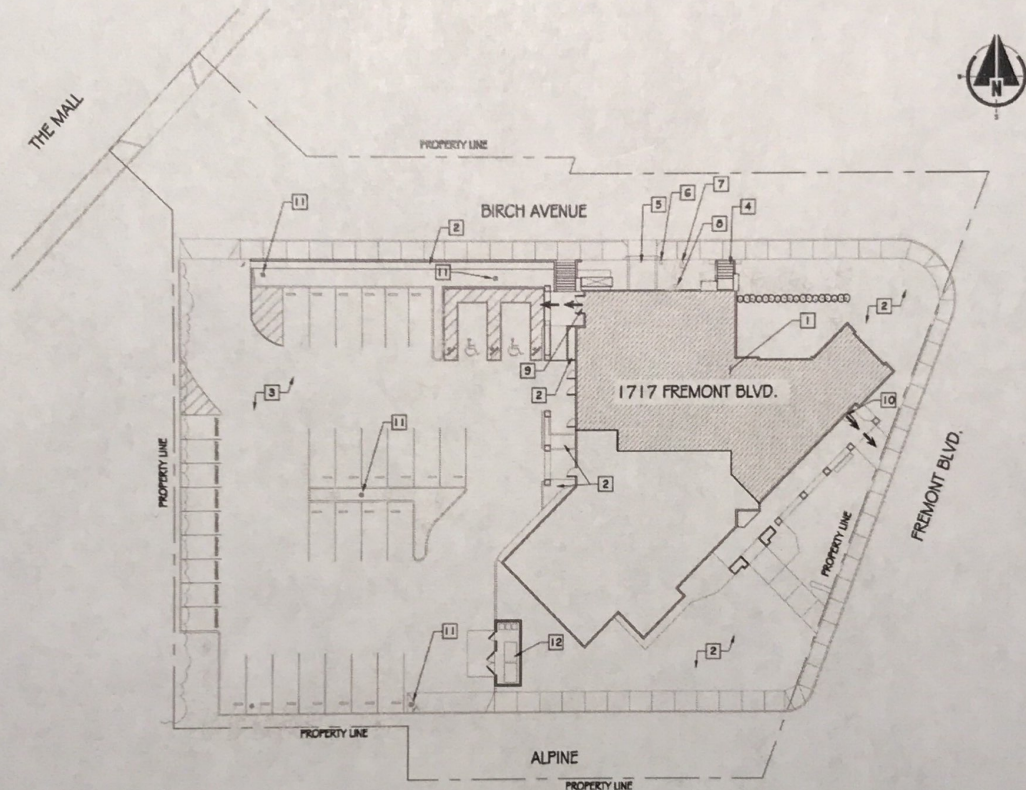
Date



PLANTACEA
planta·sea·ah

1717 Fremont Blvd
Seaside, CA 93955
Building Dimension: 5,600 Square Feet

Site Plan



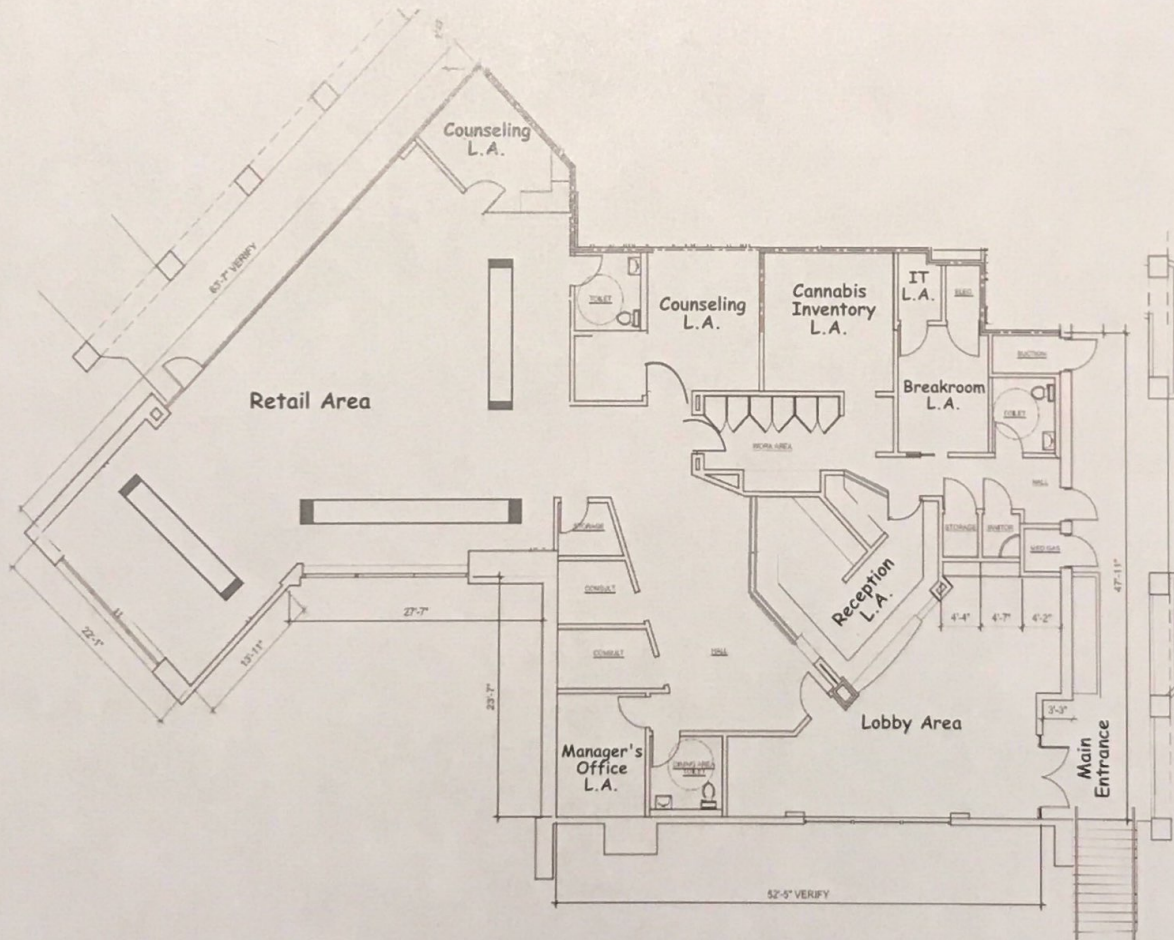
(E) SITE PLAN
SCALE: 1" = 20'-0"



PLANTACEA
planta·sea·ah

1717 Fremont Blvd
Seaside, CA 93955
Building Dimension: 5,600 Square Feet

Floor Plan

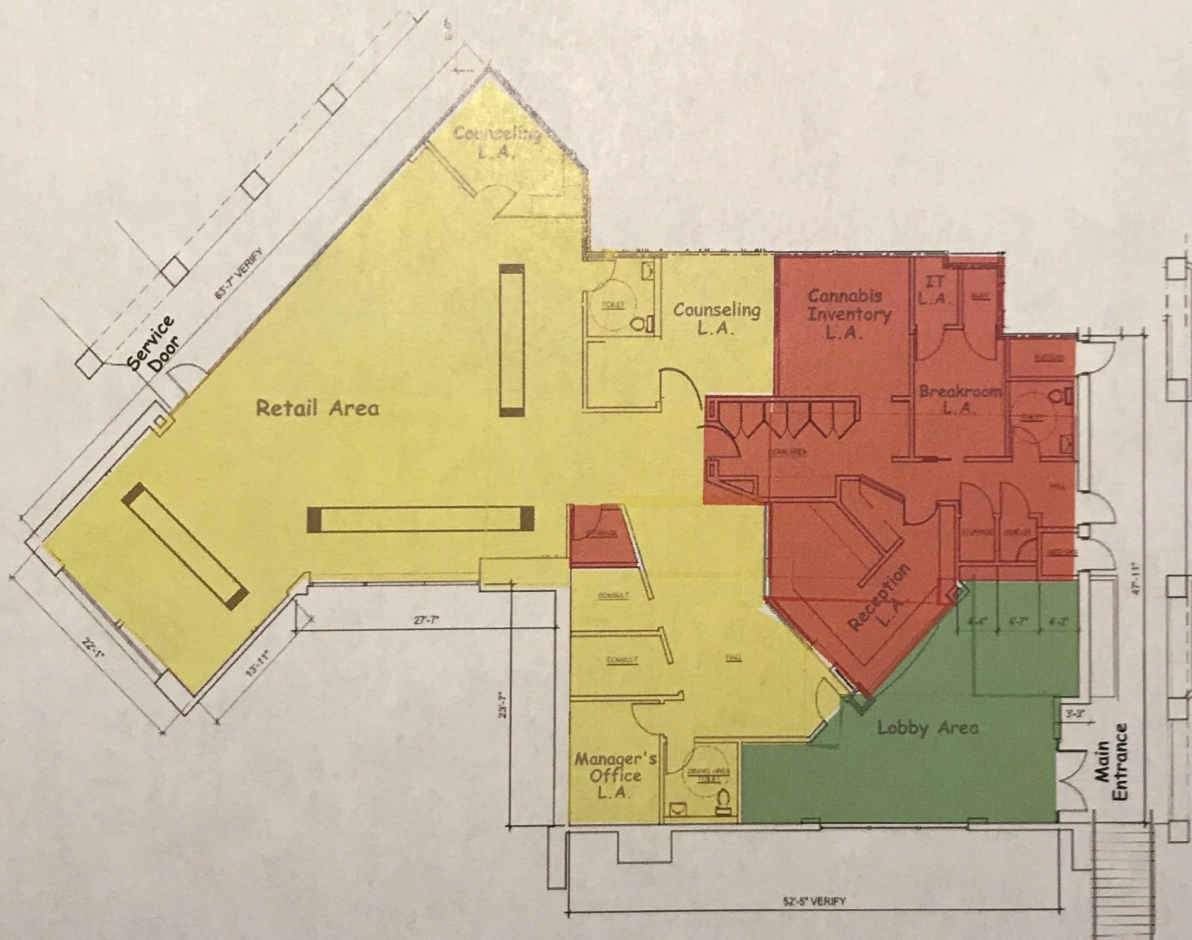




PLANTACEA
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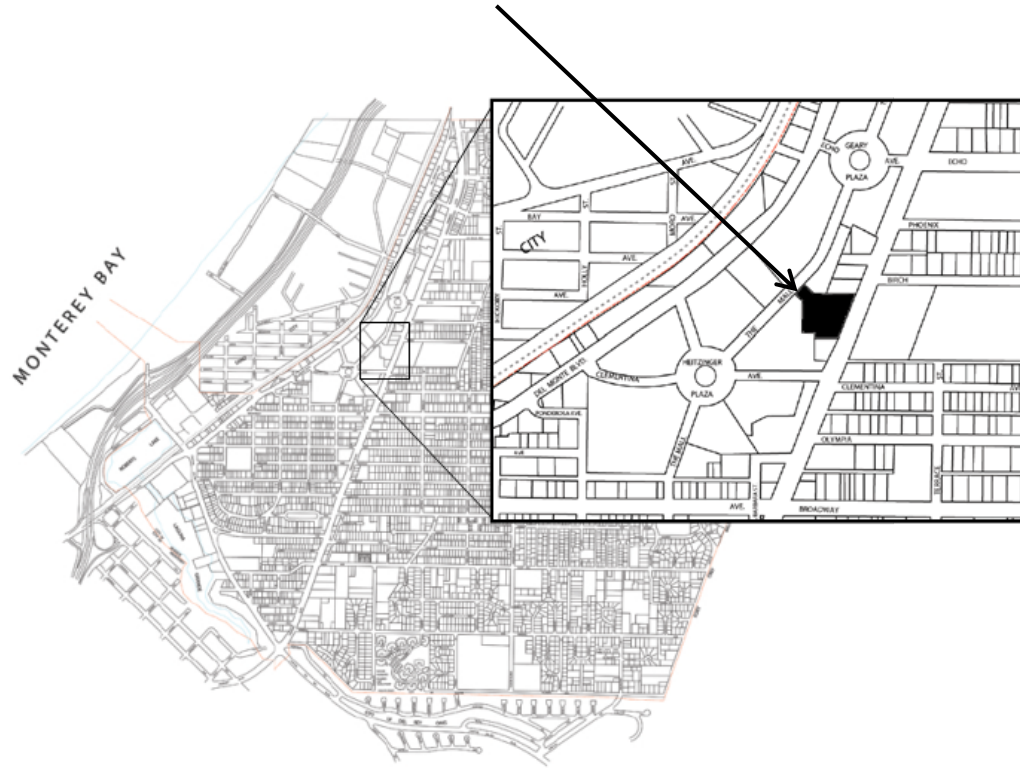
1717 Fremont Blvd
Seaside, CA 93955
Building Dimension: 5,600 Square Feet

-  General Area for the Public
-  Restricted to Patients, Vendors, and Employees only
-  Limited Access Area



Attachment 2

Location Map: 1717 Fremont Boulevard



Attachment 3

Location of Cannabis Facility



View of Front Façade facing Fremont Boulevard

Location of Cannabis Facility



View of rear façade facing parking lot



View of private street parking on north side



**CITY OF SEASIDE
STAFF REPORT**

Item No.: 10.A.

TO: City Council

FROM: Craig Malin, City Manager

BY: Lesley Milton-Rerig, City Clerk

DATE: March 15, 2018

**SUBJECT: DISCUSS AND APPROVE RESOLUTION ADOPTING AN UPDATED
RECORD MANAGEMENT POLICY AND RECORD RETENTION
SCHEDULE**

PURPOSE & RECOMMENDATION

To review and approve an updated Record Retention Policy and Schedule incorporating legislative changes and best practices since the last update in 2014.

BACKGROUND

In 1968 the California State Legislature passed the California Public Records Act (PRA) (Government Code, Section 6250 et seq.) which is modeled after the federal Freedom of Information Act and details what government information is, and is not, available to the public. In general, all records are open to the public except 28 specific exemption categories listed in PRA, Section 6254. The PRA applies to all records, in whatever form, maintained by either state or local public agencies.

An effective records management program manages the creation, utilization, maintenance, retention, preservation, and disposal of records. Effective Records Management ensures that records are kept only as long as they have some administrative, fiscal, or legal value and insure that information is available when and where it is needed, in an organized and efficient manner, and in a well-maintained environment. When records no longer fulfill the value for which they were created, they should be destroyed unless they also have some historic or research significance.

The record management policy outlines the practices that should be followed for an effective records management program for the City of Seaside. The following topics are outlined in the Policy;

- Record management expectations, guidelines, definitions and benefits

- Record Management formats including which records fall under the Public Records Act Request
- How to use the Retention Schedule
- Email Retention Policy
- Document Destruction Process

In 2014 the City Council Adopted Resolution 14-21 which adopted a Record Retention Policy and updated and reorganized schedule consistent with a Uniform Functional Filing System. This enabled consistent storage of records both electronically and physically and consistent throughout the City departments. Each department no longer has a separate retention schedule that describes all the records in their department, instead records are sorted according to the function of the record. This benefits the staff in many ways, primarily because staff can identify how to locate documents in any division or directory, with minimal training.

The proposed updated Records Retention Schedule strives to outline all records produced or maintained by the City. The schedule assists the city by establishing the mandatory minimum retention period or the minimum length of time the agency is required to keep a document, what format, if it is a vital record and the citation authority. For many records, departmental preference is the determining factor for the length of disposition. The schedule was established by using the Secretary of State Local Government Records Management Guidelines as a baseline, and modifying it to adhere to City of Seaside operational practices.

Since adoption in 2014, the following changes were made to the policy:

- An adopted statement that the City of Seaside responses will always err on the side of transparency
- Required Posting of Public Records Act (PRA) Responses to the City's Website prior to distribution
- Email retention policy was updated to more clearly define email record dispositions as well as mandatory deletion policy
- Impacts of the City of San Jose vs. Superior Court case on personal accounts of employees and elected officials and implementation of a Declaration Affidavit
- Updated Record Retention Schedules

Staff recommends that the City Council review and approve the updated Record Retention Policy and Schedule incorporating legislative changes and best practices since the last update in 2014.

FISCAL IMPACT

There is no fiscal impact associated with this item.

ATTACHMENTS

1. Draft-Reso Record Retention
-

2. Draft Updated Policy
 3. 2018 RR updated with Series numbers
-

Reviewed for Submission to the
City Council by:



Craig Malin, City Manager

RESOLUTION NO. 18-XX

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE

**ADOPTING AN UPDATED RECORD MANGEMENT POLICY AND UPDATED
RECORD RETENTION SCHEDULE**

WHEREAS, a proper records management system leads to effective and efficient operation of the government of the City of Seaside; and

WHEREAS the state and federal governments have adopted guidelines for retention periods for various government records including section 34090 of the Government Code of the state of California which provides a procedure whereby any City record which has served its purpose and is no longer required may be destroyed; and

WHEREAS in 2005 the City Council adopted Resolution 05-86 acknowledging the need for effective record management throughout the City of Seaside; and

WHEREAS in 2014 the City Council adopted Resolution 14-21 adopting a Record Retention Policy and revised, non proprietary schedule ; and

WHEREAS the dynamic of the City of Seaside working continues to change due to changes in technology, operations and services thereby resulting in a needed updated record retention schedule and associated policy for records management practices.

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Seaside hereby authorizes the records of the City of Seaside, as set forth in the updated Records Management Policy and Records Retention Schedule included as Exhibit A, to be destroyed as provided by Section 34090 et seq. of the government Code of the State of California and in accordance with the provisions of said schedule upon the request of the Department Head and with the consent in writing of the City Attorney, without further action by the City Council of the City of Seaside.

BE IT FURTHER RESOLVED, that with the consent of the City Attorney and the City Manager, updates are hereby authorized to be made to the Records Retention Schedule without further action by the City Council of the City of Seaside.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Seaside, State of California, on the ____ day of _____, 201_, 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



CITY OF SEASIDE

RECORDS MANAGEMENT POLICY





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PROGRAM AUTHORITY

The Records Management program for the City of Seaside is based on state and federal laws, agency policies and practices governing public records, including, but not limited to:

- California Public Records Act (PRA) of 1968 ([Government Code, Section 6250 et seq.](#))
- Government Code, Section 12236

MISSION

A Records Retention Policy and a Records Retention Schedule are key elements in effective records management programs. A properly prepared and approved Policy and Schedule manages the life, care, and disposition of all agency records and is the agency's legal authority to do whatever needs to be done with records and documents entrusted to their care.

A records management program includes the creation, utilization, maintenance, retention, preservation, and disposal of records. Effective Records Management ensures that records are kept only as long as they have some administrative, fiscal, or legal value. When records no longer fulfill the value for which they were created, they should be destroyed unless they also have some historic or research significance.

PROGRAM OBJECTIVES

Records Management's primary concern is the efficient, effective and economical management of information. The guiding principle of Records Management is to insure that information is available when and where it is needed, in an organized and efficient manner, and in a well-maintained environment. Records Management is more than retention schedules and the disposition of records; records management also encompasses all the record-keeping requirements that allow an organization to establish and maintain control over information flow and administrative operations. Records Management seeks to control and manage records through the entirety of their life cycle, from their creation to their final disposition.

Benefits of a Records Retention Policy and Schedule include:

- Helps reduce space and equipment necessary for filing records
- Organizes documents by record series which Increased efficiency in information retrieval
- Determines when records may be transferred to inactive or permanent storage or other format types
- Allows records that are no longer useful to be destroyed legally and not prematurely
- Provides information helpful in developing a vital records protection plan
- Ensures preservation of records with historic value
- Addresses how record management adapts to the changing technological environment.

This program establishes retention practices for records common to all departments. Questions relating to records management or the records retention schedule should be directed to the City Clerk at 831-899-6707



GUIDELINES AND DEFINITIONS

RECORDS RETENTION SCHEDULE

The proposed revision of the Records Retention Schedule is based upon a survey of city departments and contains all records produced or maintained by the City. The schedule assists the city by establishing the mandatory minimum retention period or the minimum length of time the agency is required to keep a document, what format, if it is a vital record and the citation authority. For many records, departmental preference is the determining factor for the length of disposition.

FINAL DISPOSITION

Once records have fulfilled their administrative, fiscal, or legal function they should be disposed of as soon as possible in accordance with their Records Retention Schedule. This phase of the information lifecycle involves two possibilities: destruction or transfer to a records facility for permanent preservation. Disposition of records should occur routinely and promptly in accordance with the provisions of the Retention Schedule. If destroying records, it is the department's responsibility to obtain authorization and to complete the Record Destruction Form (Exhibit A) prior to proceeding with destruction of records. Record Destruction Forms are permanent documents that need to be maintained by the disposing department.

The City contracts with Corodata for offsite record storage and hard copy permanent preservation. Documents can be sent to Corodata at any time. Contact the City Clerk's office for more information.

EXCEPTION: If a request for information has been filed on the records under the Public Records Act, or the records are involved in current or pending litigation, or are subject to an audit, destruction cannot be carried out until all legal action has concluded.

VITAL RECORDS PROTECTION

Vital records are defined as those essential department records needed to meet operational responsibilities under national or regional emergency disaster conditions.



City of Seaside Record Management Policy

EMAIL RETENTION POLICY

The California Public Records Act (CPRA, Government Code Sections 6250-6276.48) defines a public record as, "any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics." The CPRA thus applies to email messages and requires that proper identification and care of email be performed. This policy is written to ensure record emails are properly identified and managed. Every email user is responsible to follow this policy.

Email is not considered a record series or category on its own. It is simply a format. Retention or disposition of email messages is done in relation to the information they contain, the purpose they serve, and the relevant line item/records series to which they belong. Given the frequent use of email, it should be evaluated on a regular basis with transitory emails being deleted when no longer needed. The content of an email message determines if and how long an email must be retained.

City email system is not intended to be used for the electronic storage or maintenance of City records. The email system, to function as intended, anticipates and requires that employees regularly delete communications from the system. Non-record and duplicate emails should be deleted from mailboxes regularly.

Routine email messages comparable to telephonic communications are non-records. They are not intended to be retained in the ordinary course of City business, and the informational content of such communications is neither necessary nor intended to be preserved for future City use or reference. Email messages and attachments comparable to hard copy documents that would be retained under the Record Retention Schedule should be categorized in the appropriate record series and converted to the appropriate electronic format and saved outside of the email system.

It is each user's responsibility to remove non-substantive records from the GroupWise system on a **rolling six months schedule**. This includes items in "received" and "sent" folders. An e-mail is not considered destroyed once it has been deleted from a user's mailbox. It may still be considered a record until it is permanently deleted from the system.

Email trash folders will automatically purge any file placed in the folder after 30 days.

All emails sent or received through the City of Seaside's GroupWise email system are subject to the public records act, including emails of a personal nature. City staff are provided with city email accounts, and are expected to use this email account only for city business and not use personal email accounts.

USER & EMAIL ACCOUNT & RETENTION

User accounts and email accounts will automatically be disabled for employees upon separation from employment. Full accounts will be deleted according to the following schedule:

- Non-supervisory personnel – 6 Months or upon receipt of staff confirmation no substantive records remain on the account.
- Supervisory personnel– 1 year or upon receipt of staff confirmation no substantive records remain on the account.



PUBLIC RECORDS ACT REQUESTS RESPONSES

Understanding the regulations of CA GC 6253, when a CPRA is made and the responsive documents are exclusively in hard copy, the City can choose, on a case by case basis, to provide the documents in an electronic format if they find it more convenient, but are not required to.

All conversion of hard copy to electronic formats must be done in compliance with Government Code 34090.5 and the Secretary of State's guidelines on "trustworthy electronic document or records preservation"

It is the position of the City of Seaside that whenever possible, to err on the side of transparency.

All Public Records Act requests which have responsive, disclosable records in an electronic format will be provided only after it has first been posted to the City's Website.

SAN JOSE VS. SUPERIOR COURT DECISION

On March 2, 2017, the California Supreme Court, in *City of San Jose v. Superior Court of Santa Clara County (Smith)*, held that "when a city employee uses a personal account to communicate about the conduct of public business, the writings may be subject to disclosure under the California Public Records Act (CPRA or Act)".

According to the Supreme Court's decision the following are public records if they are:

- 1) Writings, in any format including but not limited to emails, text messages or voice mails,
- 2) Related to the Conduct of the People's Business and
- 3) Prepared by any state or local agency employee, which includes staff as well as elected or appointed officials are public records, and
- 4) Even if the writing is prepared using an employee's personal (nongovernmental) account but containing city business.

RECOVERING RECORDS REQUESTED FROM PERSONAL ACCOUNTS

The City of Seaside respects an employee's right to privacy and this policy is intended to strike the balance between privacy and disclosure. When a CPRA request is received that seeks records held in employees' nongovernmental accounts, the City Clerk will communicate the request to the employee(s) in question and will rely on the employee to search *their* own personal files, accounts, and devices for responsive material. Staff will be required to provide any responsive records to the City Clerk as well as a completed Declaration of Records Search form (Exhibit B).



HOW TO USE THE RETENTION SCHEDULE

Records should only be retained as long as they serve the purpose for which it was created. Each record type is listed on the retention schedule with an associated Series Number, Retention Disposition Timeline, Required Format, Department of Record Assignment and Citation Authority authorizing the disposition schedule.

Once the record retention period has passed, the City of Seaside's policy is to dispose of the record **routinely and promptly in accordance with the provisions of the Retention Schedule**. Compliance with this schedule will defend agency action. If destroying records, it is the department's responsibility to obtain authorization and to complete the Record Destruction Form **prior** to proceeding with destruction of records. **Record Destruction Forms (Found on Page 10) are permanent documents that need to be maintained by the disposing department.**

The specified retention period applies regardless of the form of the record: If a record is stored on paper and a computer file on a hard drive, both records should be destroyed (or erased) after the specified period of time has elapsed.

Copies or duplicates of records should never be retained longer than the prescribed period for the original record.

STRUCTURE: CITYWIDE, DEPARTMENTS & DIVISIONS

The Record Retention Schedule was developed in accordance to the Uniform Functional Filing System and assigned series numbers as such. This enables consistent storage of records both electronically and physically and consistently throughout the city departments.

Each department no longer has a separate retention schedule which describes all the records in their department. Records are now sorted according to the *function* of the record. Only those records that are unique to their department, or for which they are the Office of Record show up in your department section. If a record is not listed in your department retention schedule, it does not mean that you are not the office of record, or that your record is not an official record.

Records must be destroyed only in the ordinary course of business in accordance with the City's policies and procedures, and in full compliance with applicable Federal, State and Municipal laws. For questions or assistance in understanding what is a record and when it is no longer valuable, please contact the City Clerk at 831-899-6707.



ABBREVIATIONS

RETENTION CODES:

AU	Audit
C	Current
P	Permanent
S	Separation
D	Death
L	Life of the Equipment
T	Term
E	Election
FD	Final Disposition (Legal Cases)

OFFICE OF RECORD CODES

LD	Lead Department
DOR	Department of Record
CC	City Council/City Clerk
CM	City Manager
FIN	Finance
REC	Recreation Services
BLD	Building
ENG	Engineering
PW	Public works
SCSD	Seaside County Sanitation District
PD	Police Department
FD	Fire Department
IT	Information Technology
HR	Human Resources
PL	Planning
ED	Economic Development



DEFINITIONS

Definitions from the Secretary of State - 2-1030

- Active Records – As a measure of activity for records that are referred to at least once a month per cubic foot of records. Also – As a retention period for a Perpetual Record that remains “active” until some event occurs to change its status, at which time it has fulfilled its function. (See also Perpetual Record)
- Administrative Records – Records commonly found in all offices and typically retained only for short time periods – less than five years. Examples include subject, chronological, budget, and policy files.
- Archival Records - Records with enduring value because they reflect significant historical events, document the history and development of an agency, or provide valuable research data.
- Non-Records - Material not usually included within the definition of records, such as unofficial copies of documents kept only for convenience or reference, working papers, appointment logs, stocks of publications and processed documents. Also, documents such as rough notes, calculations or drafts assembled or created and used in the preparation or analysis of other documents. (See also Discovery)
- Permanent Records – Records that are required in perpetuity, usually identified by statute or other written guidance. Examples include original birth certificates, death certificates, Spanish land grants, etc.
- Perpetual Records – Records retained for an indefinite period of time and then stored or destroyed after some event takes place. Examples include office personnel files which are kept until a person leaves the office, policy files kept until the policy is changed, contract files kept until the contract terminates, etc.
- Program Records - Records that relate to the primary function of the agency in response to its daily mission. Examples include lien files, recorders files, election files, probate records, medical records, etc.
- Public Records - Any information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.
- Records - All papers, maps, exhibits, magnetic or paper tapes, photographic films and prints, punched cards, and other documents produced, received, owned or used by an agency, regardless of physical form or characteristics.
- Records Retention Schedule - A list of all records produced or maintained by an agency and the actions taken with regards to those records. A retention schedule is an agency's legal authority to receive, create, retain, and dispose of official public records. It assists the agency by documenting which records require office or temporary storage, which records have historic or research value, and which records should be destroyed because they no



City of Seaside Record Management Policy

longer have any administrative, fiscal, or legal value. In the event of litigation, courts accept a retention schedule as establishing an agency's "normal course of doing business".

- **Retention Period** – The length of time a record must be retained to fulfill its administrative, fiscal and/or legal function. Then a record should be disposed of as soon as possible in accordance with an approved Records Retention Schedule.

RECORDS DESTRUCTION FORM - SAMPLE

The records listed below are scheduled to be destroyed, as indicated on:

____ Retention Schedule adopted by City Council

____ Law. Specific Code Section: _____

____ City Council Resolution Number _____

Pursuant to the City's Records Retention Policy and Records Retention Schedule adopted by Resolution 18-XX, I am recommending that the following records be destroyed:

Type of Records	Dates	Retention Schedule Code
(SAMPLE) Affidavits of Postings	1/1/2010-1/31/2010	201-01

DOCUMENTS HAVE BEEN REVIEWED AND APPROVED FOR DESTRUCTION:

Employee

Date

Department Head

Date

City Attorney

Date

(Complete after destruction has been performed)

I HEREBY CERTIFY that the items listed above have been destroyed in accordance with City policies and procedures:

Employee

Date



City Of Seaside
City Clerk's office
440 Harcourt Ave Seaside, CA 93955

DECLARATION OF RECORD SEARCH

PRA Request (Attached or described as follows): _____

I, _____ certify that I have conducted a thorough search of the following personal accounts and devices (select all that apply):

_____ Email _____ Social Media

_____ Text Message

_____ Personal files

A careful search for the records has revealed the following (select all that apply):

_____ Records were found that were responsive to the request and I have provided all of the responsive records to the City Clerk.

_____ A thorough search was conducted using the specific information provided in the request and revealed no documents, records, images or other materials that were responsive to this request.

_____ Some or all of the records as described in the request were destroyed/purged in accordance with the City's record retention policy.

I declare under penalty of perjury that the foregoing is a true and accurate statement.

Name: _____ Signature: _____ Date: _____

City of Seaside - Record Retention Schedule

DOR	SERIES	RECORDS DESCRIPTION	RETENTION/DISPOSITION			FORMAT	VITAL	COMMENTS/CITATION
			Active	Inactive	Total			
100- GENERAL SUBJECT AND REFERENCE								
LD	101-01	General information/Administrative Files	2		2	HC/E		GC §34090, 40801
LD	101-02	City Wide Policies & Procedures	C	5	C+5	HC/E		GC §34090 (d)
CC	101-03	Organizations (professional or community)	3		3	HC/E		Correspondence & Non-records; GC §§34090, 6252(e)
CM	101-04	Brochures / Handouts / Mailers	2		2	HC/E		GC §34090
LD	101-05	Surveys / Questionnaires	2		2	HC/E		If a summary of the data is compiled, the survey forms are considered a draft or transitory record, and can be destroyed when no longer required. GC §34090
LD	101-06	Press Releases	2		2	HC/E		GC §34090
LD	101-07	Inventories	C	2	C+2	HC/E		Inventories of inactive records, holdings & locations
HC	101-08	Historical Records	10	P	P	HC/E	Y	Administratively and Historically significant, therefore retained permanently; GC §34090
LD	101-09	Reports and Studies (other than Historically significant reports - e.g. Annual Reports)	2		2	HC/E		Information is outdated after 10 years; statewide guidelines propose 2 years; If historically significant, retain permanently; GC §34090
CC	101-10	Strategic Planning	2		2	HC/E		GC §34090
102- RECORDS MANAGEMENT								
CC	102-01	Records Management: Retention Schedule	C		C +4	HC/E		GC §34090 et. seq., CCP 343
CC	102-02	Records Management: Destruction Forms	P		P	HC/E		GC §34090 et. seq.
LD	102-03	Forms & Templates	C	2	C+2	HC/E		Includes mailing labels, blank forms and document templates.GC §34090
LD	102-04	Correspondence	2		2	HC/E		ROUTINE (e.g. Administrative, Chronological, General Files, Letters, Memorandums, Miscellaneous Reports, Reading, Working Files, etc.) GC §34090. TRANSITORY / PRELIMINARY DRAFTS not retained in the ordinary course of business are not records and can be destroyed at any time (e.g. calendars, checklists, logs, computer sign-ups, mailing lists, supply inventories, transmittal letters, thank yous, meeting room registrations, request. GC 34090(d)
LD	102-05	Written Correspondence from The Public or Other Agencies	2		2	HC/E		This includes public comment provided during meetings. GC 34090(d)
LD	102-06	Copies or duplicates of any record	C			HC/E		These are not considered records and can be destroyed at any time. GC §34090.7
200 LEGISLATIVE AND LEGAL								
201	Legislative and Legal Documents							
CC	201-01	General Information	2		2	HC/E		GC §34090
CC	201-02	Agendas and Affidavits of Postings	2		2	HC/E		Brown Act challenges must be filed within 30 or 90 days of action; GC §§34090, 54960.1(c)(1)
CC	201-03	Agenda Packets	5	10	10	HC/E	Y until inactive	Includes Agenda, Staff Reports, Annotated Agendas; Hard Copy can be destroyed after 2 years GC §34090
DOR	201-04	Staff Reports	C	10	C+10	HC/E	Y until inactive	Agenda Reports for all Brown Act meetings include all reports and attachments. Once scanned, the hard copy can be destroyed unless requires permanent retention; GC §34091
CC	201-05	Public Records Requests, Subpoenas, Miscellaneous	2		2	HC/E		Departmental requests are considered transitory records and can be destroyed when no longer required; GC §34090
CC	201-06	Proof of publication/ Legal Notices	C	4	C+4	HC		The original is maintained with the subject file until destruction; CCP §§337 et seq, 349.4; GC §34090

City of Seaside - Record Retention Schedule

DOR	SERIES	RECORDS DESCRIPTION	RETENTION/DISPOSITION			FORMAT	VITAL	COMMENTS/CITATION
			Active	Inactive	Total			
CC	201-07	Minutes	P		P	HC	Y	For all Boards and Commissions. Originals maintained in the office of the City Clerk; GC §34090
CC	201-08	Resolutions	P		P	HC	Y	For all Boards and Commissions. Originals maintained in the office of the City Clerk ;GC §34090 et. Seq.
CC	201-09	Ordinances	P		P	HC	Y	For all Boards and Commissions. Originals maintained in the office of the City Clerk; ;GC §34090 et. Seq.
CC	201-10	Audio Recordings of Public meetings	C	30 days	C+30 days	E		Legally required for 30 days or until adoption of the minutes; GC §54953.5(b)
CC	201-11	Public Comment From Meetings	2		2	HC/E		GC §34090.7
CC	201-12	Video Recordings of Public Meetings	C	5	5	E		legally required for 90 days; GC §34090.7
CC	201-13	Municipal Code and History File	P		P	HC		Amendments to the Municipal Code. Include outdated supplements; GC §34090
CC	201-14	Petitions	1		1	HC E		Submitted to Council on any subject; includes comments from the public and other agencies. Also see Elections for Initiative, Recall or Referendum. Law requires 1 year for petitions; GC §50115
CC	201-15	Presentations / Proclamations / Commendations / Memoriam / Certificates of Appreciation	2		2	HC E		Awards to non city staff, or given to City as a whole. That are NOT a part of an Agenda Staff Report; GC § 34090
CC	201-16	Legislation (Proposed): County, State or Federal Governments	2		2	HC E		GC § 34090
CC	201-17	Bylaws & incorporation Documents	P				Y	GC §34090
202 Legal Agreements and Contracts								
CC	202-01	Agreements & Contracts; excluding leases, infrastructure or Capital Improvement Projects	C	10	C+10	HC E	Y Before Completion	Includes Change Orders; CCP §§337. 337.1(a), 337.15, 343; GC, §34090,
CC	202-02	Agreements & Contracts: Infrastructure or Capital Improvement Projects	C	P	P	HC E	Y Before Completion	Includes Change orders. All infrastructure, JPAs, & Mutual Aid contracts are permanent for emergency preparedness; INFRASTRUCTURE (Architects, buildings, bridges, demolitions, park improvements and playground equipment (tot lots), reservoirs, sewers, sidewalks, street & alley improvements, traffic signals, utilities, water); CCP §§337. 337.1(a), 337.15, 343; GC, §34090,
CC	202-03	Agreements & Contracts: Land (Subdivision, Lot Splits, Lot Line Adjustments, etc.)	2	P	P	HC E	Y	Land Records; GC §34090
CC	202-04	Agreements & Contracts: Mutual Aid, Joint Powers (JPAs)	S + 2	P	P	HC E		All infrastructure, JPAs, & Mutual Aid contracts are permanent for emergency preparedness; CP §§337, 337.1(a), 337.15, 343; GC §34090
CC	202-05	Memoranda's of Understanding (MOU's)	5	P	P	HC E	Y	29 CFR 516.5, GC §§12946, 34090
FIN	202-06	Lease Agreements	C+2	5	C+5	HC E		CCP §§336(a), 337 et. seq., GC §34090
PW CC	202-07	Annexation Agreements, Deeds and Conveyances	C	P	P	HC E	Y	Department Preference; Property owned by City (property acquisition files, including orders of condemnations); GC §34090 GC §34090
CC	202-08	Notice of Completion	P		P	HC E	Y	To be included with original contract and maintained in office of the City Clerk; §34090.7
CC	202-09	Franchise Agreements (e.g. Cable TV, Electric, Gas, etc.)	C	10	C+10	HC E		CCP §§337. 337.1(a), 337.15
203 BOARDS, COMMISSIONS, COMMITTEES								
CC	203-01	Appointments	C	5	C+5	HC E		Appointments to outside agencies and subcommittees, Board and Commission Appointments; GC §34090

City of Seaside - Record Retention Schedule

DOR	SERIES	RECORDS DESCRIPTION	RETENTION/DISPOSITION			FORMAT	VITAL	COMMENTS/CITATION
			Active	Inactive	Total			
CC	203-02	Board, Commission and Committee formation, policies and procedures	P	P	P	HC E		Includes Bylaws, Articles of Incorporation, Powers, JPA, Creation of Subcommittees, Handbooks, Policies and Procedures
CC	203-03	Applications to Boards, Commissions, & Committees: Appointed	T	5	T+5	HC E		GC §34090, PC §801.5, 803c
CC	203-04	Applications to Boards, Commissions, & Committees: Unsuccessful	CL	2	CL+2	HC E		GC §34090 et seq.
CC	203-05	Conflict of Interest Code	P		P	HC E		GC §34090
204 ELECTIONS								
CC	204-01	General Information	2		2	HC E		Used for a model for the next Election, (Correspondence, Notices, Postings, Candidate Handbook, Information Requests, County Election Services, etc.); GC §34090
CC	204-02	Election Calendar	C	2	C+2	HC E		GC §34090
CC	204-03	Petitions (Initiative, Recall or Referendum)	8 mo		8 mo	HC		Not accessible to the public; The 8 month retention applies after election results, or final examination if no election. Applies unless a legal/FPPC proceeding; EC §§17200, 17400
CC	204-04	Elections - Precinct Maps, and voter information	2		2	HC		EC §17501, GC §34090
CC	204-05	Canvass and ballot	2	P	P	HC	Y	Retained for Historical Value including Voter Guide, Oaths of Office, Certificate of Elections, election summary, etc.: GC §22932; EC 17130; EC2653
CC	204-06	Nomination Papers - Successful	C	4	C+4	HC	Y	Includes Candidate Statement; EC §17100
CC	204-07	Nomination Papers - Unsuccessful	C	2	C+2	HC	Y	Includes Candidate Statement; EC §17100
CC	204-08	Oath of Office	C	4	C+4	HC	Y	For Elected and Appointed officials; GC 34090; 29 USC 113
CC	204-09	Measures	P		P	HC		Retained for historic value; GC 34458-60; GC 34090
CC	204-10	Lobbyist Registration	P		P	HC		Statements; EC 81009(b)
205 FPPC								
CC	205-01	General Information	2		2	HC E		GC §34090
CC	205-02	Forms	c		c	HC E		Blank forms; GC §34090
CC	205-03	Ethics, SB 1234	C	5	C+5	HC E		Ethics Training Certificates and staff reports
CC	205-04	FPPC 700 Series Forms - Elected	T	7	T+7	HC E		For Public Officials, City maintains copies only; original statements are filed with FPPC; GC §81009(e)(g), GC §81009(f)(g)
CC	205-05	FPPC 700 Series Forms - Not Elected	E	5	E+5	HC E		For Public Officials, City maintains copies only; original statements are filed with FPPC; GC §81009(e)(g), GC §81009(f)(g)
CC	205-06	FPPC 700 Series Forms - Staff and Appointed Board and Commission members	2	5	7	HC E		City maintains original statements; GC §81009(e)(g), GC §81009(f)(g)
CC	205-07	Campaign Disclosure Statements - Elected	P		P	HC E		410s, 420s, 460s, 470s, 490s, and 501s. Paper must be retained for at least 2 years; GC §81009(b)(g)
CC	205-08	Campaign Disclosure Statements-Not Elected	E	5	E+5	HC E		410s, 420s, 460s, 470s, 490s, and 501s. Paper must be retained for at least 2 years; CP§583.320(a)(3); GC §81009(b)(g)
CC	205-09	Campaign Disclosure Statements-Committees	E	7	E+7	HC E		410s, 420s, 460s, 470s, 490s, and 501s. Paper must be retained for at least 2 years; GC 81009(c)(g)
206 CITY ATTORNEY								
CM	206-01	City Attorney Opinions/Advice	P		P	HC E	Y	Department Preference; GC §34090
CA	206-02	Investigations	R	5 yrs.	R + 5	HC E	Y until resolution	Department Preference; Covers various statute of limitations; CCP §§ 337 et seq.; GC §911.2, 945, 34090, 34090.6; PC §832.5

City of Seaside - Record Retention Schedule

DOR	SERIES	RECORDS DESCRIPTION	RETENTION/DISPOSITION			FORMAT	VITAL	COMMENTS/CITATION
			Active	Inactive	Total			
CA	206-03	Lawsuits/litigation - historical cases	R	P	P	HC E	Y until resolution	Department Preference for historical purposes; CCP §§ 337et seq.; GC §§ 911.2, 945, 34090, 34090.6; PC §832.5
CA	206-04	lawsuits/litigation - routine cases	R	5 yrs.	R + 5	HC E	Y until resolution	Covers various statute of limitations; CCP §§ 337 et seq.; GC §§ 911.2, 945, 34090, 34090.6; PC §832.5
CA	206-05	Subject/Project Files (Cable TV, etc.)	C	C+ 2	C + 2	HC E	Y until resolution	Some material may be required for reference, depending upon subject; GC §34090
CA	206-06	Subpoenas / Authorization to Release Records	2		2	HC E	Y until resolution	GC §34090
300- Finance								
301- Finance Administration								
FIN	301-01	General Information	2		2	HC E		GC §34090
FIN	301-02	Treasurer's Reports	Aud+1	5	7	HC E		Department Preference; GC §34090
FIN	301-03	Finance Reports	Aud+1	5	7	HC E		Finance Reports including: Status Reports, Journals, Ledgers, Reconciliations, Registers, Transaction Histories, Balance Sheets, Budget Adjustments (MONTHLY OR PERIODIC) Does NOT include year-end General Ledger, June's Journal Entries, or Monthly Revenue & Expenditures. Transitory records not retained in the ordinary course of business; GC §34090
FIN	301-04	State Controller's Reports, including Gas Tax Reports	Aud+1	P	P	HC E		Department Preference; GC §34090
302- Accounting								
FIN/CC	302-01	Budget - Final Adopted	P		P	HC E	Y	City Clerk maintains originals; Final must be filed with County Auditor; GC §34090.7, 40802, 53901GC §34090, 40802, 53901
FIN	302-02	Mid-year Budget Report	Aud+1	5	7	HC E		Department Preference; GC §34090
FIN	302-03	Budget Adjustments	Aud+1	5	7	HC E		Department Preference; GC §34090
FIN	302-04	General Ledger: Final year-end	Aud+1	P	P	HC E	Y	Department Preference; Published articles show 3 -10 years; Other Cities have adopted 2 years - 20 years; GC §34090
FIN	302-05	Journal Entries	Aud+1	5	7	HC E		GC §34090, 60201(12); CCP §337
FIN	302-06	Check Registers	Aud+1	5	7	HC E	Y	City preference to comply with Special District retention requirements; Statute of Limitations is 4 years; statewide guidelines propose Audit + 2 years; GC §34090, 60201(12); CCP § 337
FIN	302-07	Bank Reconciliation & Statements,	Aud+1	5	7	HC E	Y	Includes Transaction Statements, Wire Transfers, Check Listing Audit Trail, Deposits, Cancelled Checks. GC §34090, 60201(12); 26 CFR 1.6001-1
FIN	302-08	Audits / CAFR - Comprehensive Annual Financial Reports	Aud+1	P	P	HC E	Y	Includes management letters; Department Preference; GC §34090
FIN	302-09	Audits - Internal	Aud+1	P	P	HC E	Y	Includes Gas Tax, Single, Special, etc. Department Preference; GC §34090
FIN	302-10	Federal and State Tax	Aud+1	5	7	HC E	Y	Department preference; §31.6001- 1(e)(2), 26 CFR §1.6001-1, R&T §19530, GC §34090
FIN	302-11	Maintenance of Effort Calculations	Aud+1	P	P	HC E		Traffic Congestion Relief, Prop III, Measure A, etc. Department Preference; GC §34090
FIN	302-12	Former Redevelopment Agency Reports	P		P	HC E		State Controllers Report, Statement of Indebtedness, Pass-through, Audits, Audited Financial Statements. Department Preference; GC §34090 et seq.
303- Accounts Payable & Purchasing								

City of Seaside - Record Retention Schedule

DOR	SERIES	RECORDS DESCRIPTION	RETENTION/DISPOSITION			FORMAT	VITAL	COMMENTS/CITATION
			Active	Inactive	Total			
FIN	303-01	Accounts Payable / Vendor Files	Aud+1	5	7	HC E	Y	(All Records and Reports - Includes Invoices, P.O.s, Travel Expense Reimbursements, Postage, Procurement Cards, Credit Card Transmittals, Redemption Records, etc.) - both City and Redevelopment
FIN	303-02	Payment Vouchers/ Invoices / Purchase Requisitions / Purchase Orders	Aud+1	5	7	HC E	Y	Includes all Backup Documentation. Finance Maintains Originals; GC §34090.7 CCP 337
FIN	303-03	Escheat (Unclaimed money / uncashed checks)	Aud+1	5	7	HC E		City preference to comply with Special District retention requirements; All tangible property held by government agencies escheats after 3 years; Statute of Limitations is 1 year for seized property; Meets auditing requirements CCP §§340(4), 1519; GC §340
FIN	303-04	1099's Issued	Aud+1	5	7	HC E		Department Preference; IRS: 4 years after tax is due or paid (longer for auditing & contractor delinquency); Ca. FTB: 3 years; Published articles show permanent; IRS Reg §31.6001- 1(e)(2), R&T §19530, GC §34090, 60201(12)
FIN / DOR / CC	303-05	Successful Bids, RFP's, RFQ's	Aud+1	5	7	HC		Winning bid staff reports and winning bids stored with contract in CCO. Takes on the Retention period of the contract.
FIN / DOR / CC	303-06	Unsuccessful Bids, RFP's, RFQ's	Aud+1	1	3	HC		Bid quote summaries are stored under this series number with the failed bid packets. GC34090; GC 34090(d); CCP 337; GC 25105-5
304- Accounts Receivable								
FIN	304-01	Accounts Receivable	Aud+1	5	7	HC E	Y	(Includes Auction Receipts & Records, Taxes, TOT, Sales & Use Tax, Returned Checks, Utility Users Tax Records & Exemptions, Franchise Fees, False Alarm Billings, etc.)
FIN	304-02	Fee Schedule	Aud+1	5	P	HC E	Y	Fee Schedule is in the Adopted Budget which is permanently retained by Finance and the City Clerk
FIN	304-03	Assessment District / Community Facilities District Projects / Landscape / Street Lighting Districts Binders	Aud+1	P	P	HC E	Y	Department Preference; CCP §337. 337.1(a), 337.15, 343; GC §34090.7
FIN	304-04	Bond Statements and Bond Information	Aud+1	P	P	HC E	Y	Department Preference; There are specific requirements for disposal of unused bonds; CCP §§336(a)(1) & (2), 337.5(2);
FIN	304-05	Business Licenses	Aud+1	5	7	HC E		Application, Annual Renewal Form, Enforcement Letters. Consistent with auditing standards; third party processor retains files; GC §34090 et seq. CCP 337
FIN	304-06	Deposits and Receipts	Aud+1	5	7	HC E	Y	City preference; GC §34090, 60201(12)
FIN	304-07	Debts Assigned to Collection Agency	Aud+1	5	7	HC E	Y	Department Preference; Debts remain on credit reports for 7 years; GC §34090
FIN	304-08	Investment Files	Aud+1	5	7	HC E		Individual Transactions (Broker confirmations, Certificates of Deposit, Wire Transfers, Arbitrage, Bid data, bank rates, etc.) Supporting documentation for Investments of Operating Funds; meets auditing standards; GC §34090, CCP 337; GC 53607
FIN	304-09	Abatement billing	Aud+1	5	7	HC E		Detailed backup information retained by Code Enforcement; GC §34090
FIN	304-10	Rehabilitation Loans: Funded	Aud+1	5	Loan payoff + 5	HC E		Rehabilitation, Down Payment Assistance, etc. 21 CFR 1403.42; 24 CFR 85.42 & 570.502(b), 29 CFR 97.42, GC §34090

City of Seaside - Record Retention Schedule

DOR	SERIES	RECORDS DESCRIPTION	RETENTION/DISPOSITION			FORMAT	VITAL	COMMENTS/CITATION
			Active	Inactive	Total			
FIN	304-11	Rehabilitation Loan Applications: Not Funded	Aud+1		2	HC E		GC §34090
305- Assets								
FIN	305-01	Depreciation Schedules, Fixed Assets	Aud+1	P	P	HC E		GC §34090
FIN	305-02	Fixed Assets - Auction / Disposal / Sales / Surpluses	Aud+1	5	7	HC E		GC §34090; CCP 337
FIN	305-03	Fixed Assets - Inventory, Schedule of Infrastructure and Buildings	Aud+1	P	P	HC E		Includes permanent assets; GC §34090
FIN	305-04	Vehicle Ownership and Title	Aud+1	5	Sale of vehicle + 5	HC E		Title Transfers when vehicle is sold

City of Seaside - Record Retention Schedule

DOR	SERIES	RECORDS DESCRIPTION	RETENTION/DISPOSITION			FORMAT	VITAL	COMMENTS/CITATION
			Active	Inactive	Total			
306-Payroll								
FIN	306-01	General Information	2		2	HC E		GC §34090
FIN	306-02	Other Payroll-Related Documents	Au	8	Au+8	HC E	Y	Includes W-2, W-4 forms, Leave balance sheets, Personnel Data Sheet, etc. IRS Reg §31.6001- 1(e)(2), 26 CFR §1.6001-1, R&T §19530, GC §34090, 29CFR 516.5 - 516.6, 29USC 436,
FIN	306-03	Salary Records	2	P	P	E	Y	Deduction authorizations, beneficiary designations, unemployment claims, garnishments; GC 34090; 29 CFR 516.2
FIN	306-04	Payroll Registers (Detail Year-end)	2 years	P	P	E	Y	Labor Costs by employee and Programs. Department Preference for use in reconstructing hours for PERS service for employees; 29CFR 516.5 - 516.6, GC §34090; 60201(12)
FIN	306-05	Labor Distribution Reports	2		2	HC E		Department Preference; consistent with Payroll Registers; GC §34090
PER	306-06	PERS Reports	C	4	C+4	E		Department Preference; PERS is OFR; retained to meet auditing standards; GC §34090 et seq.
FIN	306-07	Time Sheets / Time Cards with original signatures (Police, Fire, Public Works)	Au	6	Au+6	E		GC 34090; 39 CFR 516.2
FIN	306-08	Retirement Program Documents	P		P	HC E	Yes	PERS, Social Security, SSI. EEOC/ADEA; 29 CRF 1627.3(2); GC 12946; 34090
307- Risk Management								
FIN	307-01	Accident, Emergency, Incident, Injury, Emergency and Property Damage Reports: PUBLIC	3		3	HC E	Y	Reports and Related Records. Third party administrator retains all files, as required.
PER	307-02	Accident, Emergency, Incident, Injury, Emergency and Property Damage Reports: EMPLOYEES	3		3	HC E	Y	Reports and Related Records. Third party administrator retains all files, as required.
FIN	307-03	Claims, Damages	3		3	HC E	Y	Sent to 3rd party administrator, retention and settlement authority is delegated to them, in consultation with CJPIA and the City.
FIN	307-04	Claims - City or Seaside County Sanitation District (SCSD)	3		3	HC E	Y	Sent to 3rd party administrator, retention and settlement authority is delegated to them, in consultation with CJPIA and the City.
FIN / DOR	307-05	Liability Waivers	3		3	HC E		Individual liability waivers for Recreation Activates, Field Trips, Volunteers, etc. should be retained by the DOR, by event, class, trip, activity, etc.. Electronic copies should be forwarded to risk management (finance) for retention.
FIN / DOR / CC	307-06	Warranties	T	2	M+2	HC E	Y	Any warranties issued to the City to cover services, purchases and work performed for the City; should be filed in contract file.
FIN / DOR / CC	307-07	Insurance Certificates	T	2	M+2	HC E	Y	Insurance certificates are filed with the contract; insurance certificates filed separately from contracts, including insurances filed by licensees. GC 34090
FIN	307-08	Insurance Policies	C	2	C+2	HC E	Y	Including liability, property, workers comp
FIN	307-09	Risk Management Reports	Aud+1	5	7	HC E		Third party administrator liability and workers' compensation

City of Seaside - Record Retention Schedule

DOR	SERIES	RECORDS DESCRIPTION	RETENTION/DISPOSITION			FORMAT	VITAL	COMMENTS/CITATION
			Active	Inactive	Total			
308- Grants								
DOR	308-01	General Information	2		2	HC E		GC §34090
DOR	308-02	Grants Applications and Correspondence - UNSUCCESSFUL	2		2	HC E		GC §34090
FIN & DOR	308-03	Grants Reports and Financial Information - SUCCESSFUL	Aud+1	5	7	HC E		Grant Agreements are Kept in Legal Documents 200 series. Application, Reports and Audit documents are stored here.
FIN & DOR	308-04	Donations	Aud+1	5	7	HC E		GC §34090
400 - Personnel								
401- General Information								
PER	401-01	Personnel General Information	C	2	C+2	HC E		GC §34090
PER	401-02	Employee Handbook and Personnel Policies	C	2	C+2	HC E	Yes	General Employee Information, City Personnel Policies, Programs, and Benefits
PER	401-03	Employee Programs	C	2	C+2	HC E		Includes Recognition
PER	401-04	Classification & Compensation & Reorganization Studies	C	2	C+2	HC E		Council adopts classifications; Includes classification and wage rates, studies, surveys and reclassification; 29 CFR 516.6(2), 29 CFR 1602.14, GC §§12946, 34090
PER	401-05	Job Specifications and Descriptions	C	2	C+2	HC E	Yes	All Current document are vital records. GC §34090.7
PER	401-06	Interest Cards	C		C	HC E		Not deemed part of City recruitment practices; considered a transitory record not materially impacting the conduct of the public's business; GC §34090
PER	401-07	Personnel Rules & Regulations	S	2	S+2	HC E	Yes	GC §34090
PER	401-08	HIPAA Policies and Procedures (Health Insurance Portability and Accountability Act)	S	6	S+6	HC E		GC §34090
PER	401-09	Recruitment File	3 years		3 years	HC E		Advertisements, Flyers, Brochures, Applications, Exam Materials, Letters, Questions, Equal Employment Opportunity Data; GC §12946, 6250 et seq; 29 CFR 1602 et seq 29 CFR 1607; 29 CFR 1627.3
PER	401-10	Resumes or Applications for Employment (unsolicited)	C		C	HC E		No positions open; therefore not deemed part of City recruitment practices; considered a transitory record not materially impacting the conduct of the public's business; GC §34090
PER	401-11	EEO-4 Reports	3 years		3 years	HC E		Department Preference; 29 CFR 1602.30
402- Personnel Info								
CC	402-01	Oath of Office	C	4	C+4	HC E	Yes	For hired staff; GC 34090
PER	402-02	Personnel Files - Confidential Medical File	S	30	S+30	HC E	Yes	Files maintained separately; Claims can be made for 30 years for toxic substance exposure; 8 CCR §3204(d)(1) et seq., GC §§12946, 34090
PER	402-03	Personnel Files - Regular, Active, Permanent, Non-Regular, Temporary and Part-time Employees (includes I-9s)	C-5	6	C+6-11	HC E	Yes	Department Preference; Commendations, Disciplinary Actions, Terminations, Oaths of office, Evaluations, Pre-employment medical info; 29 CFR 1602.31 & 1627.3(b)(ii), 8 CCR §3204(d)(1) ets
	402-04	Volunteers	C-5	3	C+3-8	HC E	Yes	Volunteer Applications, Forms and emergency contact information. Waivers Maintained with Contracts

City of Seaside - Record Retention Schedule

DOR	SERIES	RECORDS DESCRIPTION	RETENTION/DISPOSITION			FORMAT	VITAL	COMMENTS/CITATION
			Active	Inactive	Total			
PER Dept.	402-05	Personnel Work Schedules (shift schedules)	2		2	HC E	Yes	GC §34090
PER	402-06	DMV Pull Notices (drivers, etc.)	2		2	HC E		DMV audits every 2 years; Bureau of National Affairs recommends 2 years for all supplementary Personnel records; GC §34090
PER	402-07	Drug and Alcohol Testing / D.O.T files	3	2	5	HC E	Yes	29 CFR 1627.3(b)(v), GC §§12946, 34090, 49 CFR 653.71 et seq.
PD	402-08	Background Files - Non-sworn Employees, Volunteers & Reservists	C	5	C+5	HC E	Yes	Retained for administrative value; GC §34090
PD	402-09	Background Files - Sworn Employees	Death		Death	HC	Yes	Department Preference; 29 CFR 1627.3(a)(5) and (6), 8 CCR §11040.7(c), GC §§12946, 34090
PD	402-10	Background Files - Unsuccessful Applicants	3 years		3 years	HC	Yes	29 CFR 1627.3(a)(5) and (6), 8 CCR §11040.7(c), GC §§12946, 34090
PD	402-11	PD Personnel Files - Photo history and Livescans Records	Death of Employee - Min 3 yrs.		Death of Employee - Min 3 yrs.	HC	Yes	Ensure records kept in Department files comply with City policy; State & Federal laws require 2 -3 years; 29 CFR 1602.31 & 1627.3(b)(ii), 8 CCR §3204(d)(1) et seq., GC §§12946, 34090
PD	402-12	PD Personnel Files (Department level Supervisor's Folder) - EXCEPT Photo history and Livescans records	Separation + 3 yrs.		Separation + 3 yrs.	HC	Yes	Ensure records kept in Department files comply with City policy; State & Federal laws require 2 -3 years; 29 CFR 1602.31 & 1627.3(b)(ii), 8 CCR §3204(d)(1) et seq., GC §§12946, 34090
403 - Benefits								
HR	403-01	General Information	2		2	HC E		GC §34090
HR	403-02	Benefit Plan Documents	C	4	C+4	HC E	Yes	
HR	403-03	Employee Benefit Files	C 5	10 6	C+10 11	HC E	Yes	
HR	403-04	Retirement Program Documents	P		P	HC E	Yes	PERS, Social Security, SSI. EEOC/ADEA; 29 CFR 1627.3(2); GC 12946; 34090
HR	403-05	Vendor/Administrator Correspondence and Reports	C	2	C+2	HC E		GC §34090
HR	403-06	Personnel Forms	C	D/R		HC E		Includes orientation paperwork, destroy blank forms when no longer current
404 - Workers Compensation								
HR	404-01	General Information	2		2	HC E		GC §34090
HR	404-02	Forms and Handouts	2		2	HC E		GC §34090
Finance	404-03	Workers Compensation Files	5 years	25 years	30 years	HC E	Yes	Sent to 3rd party administrator (retention may be delegated to them); Detailed files are maintained by the third-party administrator; Claims can be made for 30 years for toxic substance exposure; 8 CCR §3204(d)(1) et seq., GC §§12946, 34090, 60201 et seq.
405- Training								
LD	405-01	Training - Safety Meetings	C	7	C+7	HC E	Yes	Includes non safety, Police and Fire Personnel. To include attendance, rosters, class training materials. Certificates are maintained in Personnel files.
406- Labor Relations								
HR	406-01	Negotiations: Employee Associations	C	10	C+ 10	HC E	Yes	For use in interpreting intent of MOU provisions; 29 CFR 516.5, GC §§12946, 34090
HR	406-02	Grievances	C	5	C+ 5	HC E	Yes	City's Preference; Lead Department is OFR for grievances resolved in their department; GC §12946, 34090
HR	406-03	Department of Fair Employment & Housing (DFEH or EEOC) Claims that are resolved administratively	C	2 5	C+2 5	HC E	Yes	Completion means final disposition. GC §§12946, 34090
HR	406-04	Complaints	C	5	C+ 5	HC E	Yes	EVC § 1045, GC §§12946, 34090; PC §§801.5, 803(c), VC §2547

City of Seaside - Record Retention Schedule

DOR	SERIES	RECORDS DESCRIPTION	RETENTION/DISPOSITION			FORMAT	VITAL	COMMENTS/CITATION
			Active	Inactive	Total			
407- (Reserved for RESERVES & VOLUNTEERS)								
500 Information Technology								
IT	501-01	General Information	2		2	HC E		GC §34090
IT	501-02	System Backup of Program Files/Directories/Citywide Network, on Shared Drives	C	2 weeks	C+ 2 week	E	Y	Considered a copy and can be destroyed when no longer required; retention based on administrative value; recycle backups; GC §34090 et seq.
IT	501-03	Electronic Calendar Items	C		C	E		Department Preference (transitory records); GC §34090 et seq.
IT	501-04	E-mail Trash Folder	30 Days		30 Days	E		See Record Retention Policy; GC §§6252, 34090 et seq.
IT	501-05	GIS Database	S		S	E	Y	Department Preference (transitory records); GC §34090 et seq.
IT	501-06	Network Information Systems	C	2	C+2	E		Hardware/Software Inventory Logs; System Manuals
IT	501-07	Internet, World Wide Web	C	2	C+2	E		Management/Policies and Supporting Documentation
IT	501-08	Software Program Management	C	2	C+2	E		GC §34090
IT	501-09	User Accounts	C	S	S+1	E		GC §34090
600- Recreation and Community Services								
601 - Recreation Administration								
REC	601-01	General Information	2		2	HC E		GC §34090
REC	601-02	Program Files	2		2	HC E		Program Information, advertisements, applications, etc. GC §34090
REC	601-03	Sign In Sheets	2	2	4	HC E		Facility Sign in Sheets. Must be maintained for 4 years for statute of limitations, GC §34090
REC	601-04	Minor Incident Reports (scraped knees, etc.)	2		2	HC E		Finance is the OFR for all major incidents and claims; GC §34090
REC	601-05	Complaints and Behavior Reports	C	2	C+2	HC E		GC §34090
REC	601-06	Recreation Class Database (RecWare)	P		P	HC E		GC §34090 et seq., CCP §§337, 343
REC	601-07	Program Participant Records - Preschool (vaccinations, etc.) Kept by Instructor	2	2	4	HC E		Department Preference to cover statute of limitations; GC §34090, CCP §§337, 343
REC	601-08	Class Registration Forms - City Sponsored Activities (includes sports programs)	2	2	4	E		Maintained Electronically in Rectrak. HC can be destroyed after one year. GC §34090, CCP §§337, 343
602- Events & Street Closures								
REC	602-01	Special Events	2		2	HC E		Permits, Correspondence, related documents, use of right of way, etc. GC §34090, CCP §§337, 343
REC	602-02	Special Event Fee Waiver Request	2		2	HC E		GC §34090.7
603- Recreation Services/Programs								
REC	603-01	Programs (Winter Snow, Dancing, etc.)	2	2	4	HC E		Department Preference to be consistent with registration, permits, etc.; GC §34090, CCP §§337, 343
REC	603-02	Senior Nutrition Program Participant Sign-ups and Liability Waivers (provided by Meals on Wheels)	4		4	HC E		24 CFR 85.42 & 570.502(b), 29 CFR 97.42; CCP §337 et seq.;

City of Seaside - Record Retention Schedule

DOR	SERIES	RECORDS DESCRIPTION	RETENTION/DISPOSITION			FORMAT	VITAL	COMMENTS/CITATION
			Active	Inactive	Total			
604- Recreation Facilities								
REC	604-01	Facility Manager Reports	2		2	HC E		CCP §§337, 343
REC	604-02	Facility Rental Logs/Use Applications	2		2	E		Maintained Electronically in Rectrak. HC can be destroyed after one year. CCP §§337, 343
RMS	604-03	Field Use Permits, Permit Contracts, Facility Renewal Requests and Use Permits	2	2	4	HC E		Includes Application, Permit, Contract, Renewal Request and Use requirements. Permits for All Recreation Facilities including Banners, Schools, Room Reservations, Club House Rentals, Park Use and Rentals, etc.) GC §34090, CCP §§337, 343
REC	604-04	Facility Use Fee Waiver Requests	4		4	HC E		GC §34090, CCP §§337,343
REC	604-05	Swimming Pool Maintenance Reports and Chemical Measurements	2	28	30	HC E		Claims can be made for 30 years for toxic substance exposure; 8 CCR §3204(d)(1) et seq., GC §§12946, 34090
701 Community & Economic Development								
CD	701-01	General Information	2		2	HC E		GC §34090
CC	701-02	General Plan (Adopted Plans, Elements, Amendments, Final EIRs)	2	P	P	HC E	Y	GC §34090
CC	701-03	Strategic Plan / Master Plan for Parks and Recreation Services	2	P	P	HC E	Y	GC §34090.7
CD	701-04	Consolidated action plan	5		5	HC E	Y	Consolidated Plan Requirement; 21 CFR 1403.42; 24 CFR 85.42 & 570.502(b), 29 CFR 97.42, GC §34090
CD	701-05	Prospect File: Business Development Files (Issues and/or projects will vary over time - e.g. Hotels, etc.)	C	2	C + 2	HC E	Y	GC §34090
CD	701-06	Redevelopment Project Areas	C	10	C + 10	HC E	Y	Department Preference to cover statute of limitations for errors and omissions; CCP §337 et seq.; GC §34090 et seq.
CD	701-07	Community Development Block Grant	Au	4	Au+4	HC E		Applications, reports, supporting documents, actual grant contract filed in 200 series
CD	701-08	Redevelopment Bonds	C	10	C+10	HC E	Y	Bonds Insuring Real Property Must Be Retained permanently
PW	701-09	Annexations	C	P	P	HC E	Y	Department Preference; GC §34090.7
	701-10	Studies, Special Project Areas	C	2	C+2	HC E		Engineering Joint powers, noise, traffic impact studies, circulations, archeological artifacts
CD	701-11	Appraisals (confidential)	C	10	C+10	HC E	Y	Appraisals of land owned by the City or Former Redevelopment Agency. May Retain for historical purposes.
702 - Planning								
RMS	702-01	General Subject Files	2		2			GC §34090
RMS	702-02	Historic Preservation Inventory	2		2		Y	Historic Structures and Landmarks
RMS	702-03	Land Uses, Non conforming	P		P		Y	Building or site usage which does not conform to current standards
RMS	702-04	Development Standards	P		P		Y	Landscape mediums, parkway landscape development t, public works construction. GC 34090 (a)
RMS	702-05	Case/Project Files	C	P	P		Y	Planning Zoning: pertains to real property; includes: blueprints, drawings, maps, plans, reports, correspondence, studies, appeals, compliance certificates, adjustments, maps etc. GC 34090(a); 4003; 4004; H&S 19850

City of Seaside - Record Retention Schedule

DOR	SERIES	RECORDS DESCRIPTION	RETENTION/DISPOSITION			FORMAT	VITAL	COMMENTS/CITATION
			Active	Inactive	Total			
RMS	702-06	Studies, Special Projects and Areas	C	2	C+2			Engineering, Joint Powers, noise, transportation, etc. GC 34090 (d)
703 -Building								
RMS	703-01	General Information	2		2	HC E		GC §34090
RMS	703-02	Code Books and Information	P		P	HC E	Y	National Electrical Code, Uniform Building, Fire, Mechanical, Plumbing and Supplements. GC 34090 (e)
RMS	703-03	Contractors	C	2	C+2	HC E		Current Listing
RMS	703-04	Permits, Construction	P		P	HC E	Y	Plans, building, signs, grading, encroachment, including blueprints and specifications for commercial only. For Residential Blueprints/specs, see 103-06. GC 34090(a); H7S 19850; 4003; 4004
RMS	703-05	Permits, Other	C	2	C+2	HC E	Y	Alterations, encroachments, excavations, road, street, sidewalks & curb alterations, transportation, swimming pool drainage, temporary uses, etc. GC 34090 (d)
RMS	703-06	Blueprints, Specifications - Residential Only	C	2-90 Days	C+2- 90 Days	HC E	Y - while current	Submitted by contractors with application for permit and builds for Certificate of Occupancy. GC 34090 (d)
RMS	703-07	Certificates	P		P	HC E		Certificates of Compliance, elevation, occupancy which affect real property. GC 34090(a)
RMS	703-08	Inspection Logs	C	2	C+2	HC E	Y	Residential and Commercial Property Inspections GC 34090
RMS	703-09	Americans With Disabilities Act	C	2	C+2	HC E		GC 34090
704 - Code Enforcement								
RMS	704-01	Regulations	S	2	S+2	HC E		
RMS	704-02	Case Files	CL	2	CL+2	HC E	Y	Building, Housing and home code violation records including inspections; public nuisance rubbish and weed abatement, vehicles abatement, citations, massage parlor permits, general. Case is open until satisfactorily resolved (some liens are not resolved); City Clerk maintains original staff reports and resolutions that are presented to Council; GC 34090(d)
RMS	704-03	Liens & Releases, Supporting Recorded	CL+2	P	P	HC E	Y	Utilities, Abatement, Licensees; GC 34090
RMS	704-04	Abandon Vehicles	CL	2	CL+2	HC E		GC 34090
RMS	704-05	Logs	C	2	C+2	HC E		Lien Recovery, Citations, Complaints
BLD	704-06	Tax Liens (Notice of Pendency)	2 yrs.	P	P	HC E	Y	GC §34090(a)
801- Engineering								
PW	801-01	General information	2		2	HC E		
PW	801-02	Assessment District Projects (Maps, Diagrams, Spreadsheets, Improvement Plans - e.g. water, sewer, sidewalks, undergrounding)	2	P	P	HC	Y	CCP+H13 §§337. 337.1(a), 337.15, 343; GC §34090.7
PW	801-03	Maps, Plans, & Drawings - Finals or "As built" (Drainage, Grading, etc.)	P		P	HC	Y	Drafts should be destroyed; Some maps are also retained by Planning; Record maps and plans are retained in Public Works for administrative purposes; GC §34090, 34090.7
PW	801-04	Project Files: CAPITAL PROJECTS - <u>Administration File</u>	Au	10	Au+10	HC E	Y	Project Administration, Certified Payrolls, Invoices, Project Schedules, etc. Some grant funding agencies require audits; CCP §§337. 337.1(a), 337.15, GC §34090
PW	801-05	Project Files: CAPITAL PROJECTS - <u>Permanent File</u>	C+2	P	P	HC E	Y	Design, specifications, Bidding, Construction, Approval, Soils Reports, Materials Testing, Geology / Geotechnical Reports, Hydrology Reports, Inspectors Diaries, etc. CCP §§337. 337.1(a), 337.15, GC §34090
PW	801-06	Project Files: CAPITAL PROJECTS (Preliminary Studies / Project Assessments that are NOT Acquired or Pursued)	C	5	C+5	HC E		Department Preference; GC §34090

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DOR	SERIES	RECORDS DESCRIPTION	RETENTION/DISPOSITION			FORMAT	VITAL	COMMENTS/CITATION
			Active	Inactive	Total			
Comm. Develop. / Planning	801-07	Project Files: PRIVATE DEVELOPMENT (Engineering Department records only)	C	P	P	HC E		Department Preference; CCP §§337. 337.1(a), 337.15, GC §34090
802- MAINTENANCE & OPERATIONS								
PW	802-01	General information	2		2	HC E		
PW	802-02	Scheduled Maintenance	C	2	C+2	HC E		CCP §§338 et seq., 340 et seq., 342, GC §§945.6, GC §34090
PW	802-03	Work Orders / Service Requests	3		3	HC E		Department providing service retains originals. Consistent with Operational Complaints; CCP §§338 et seq., 340 et seq., 342, GC §§945.6, GC §34090
PW	802-04	Work Orders / Service Requests for Army Facilities (Fort Ord)	C	5	C+5	HC E		The City has a contract to provide these services to the Army; covers statute of limitation for contracts (errors and omissions does not apply); CCP §§338 et seq., 340 et seq., 342, GC §§945.6, GC §34090
PW	802-05	City Owned Facilities	C	10	C+10	HC E	Y	GC §34090
PW	802-06	Backflow Certifications - City Facilities	2		2	HC E		GC §34090
PW	802-07	Fuel Usage, Storage, Records	Au+3		Au+3	HC E		Includes meter readings, fuel consumption reports, invoices, receipts and records pertaining to refueling operations. Consistent with Cash receipts (maintained for auditing purposes); GC §34090
PW	802-08	Vehicle & Equipment Maintenance History	L	3	L+3	HC E	Y	8 Ca. Code Reg. § 3203(b)(1); CCP §337 et. Seq., GC §34090
PW	802-09	Daily Vehicle Inspections	2		2	HC E		Consistent with CHP requirements; OSHA requires 1 year; 8 Ca. Code Reg. § 3203(b)(1); GC §34090
803-Streets & Traffic								
PW	803-01	General information	2		2	HC E		
PW	803-02	Abandonments and Vacations	C	P	P	HC E	Y	Supporting documentation and includes temporary construction easements. GC §34090.7
PW	803-03	Easements, Dedications, Rights of Way and other Access Agreements	P		P	HC E	Y	Includes Supporting documentation, emergency access and alternate access routes GC §34090
PW	803-04	Encroachment Permits:	5	P	P	HC E	Y	All Sidewalk, Driveway Approach, Curb and Gutter, etc. Statewide guidelines propose Permanent; CCP § 337 et. Seq.; GC § 34090
PW	803-05	Traffic Advisory Information	10		10	HC E		Traffic calming requests, stop sign requests, red curb requests, safety issues around schools. May include traffic studies; GC §34090
PW	803-06	Traffic Studies & Analysis	C	10	C+10	HC E		GC 34090
PW	803-07	Traffic Counts, Summaries, Reports	10		10	HC E	Y	Evaluation of Traffic volume, counts for ADT/Segments, turning movements, bike and pedestrian, queuing, speed and collision data and historical trends; GC §34090
PW	803-08	Traffic Signals, Signs, Lights, and Legends (location, placement)	C	2	C+2	HC E		Logs, drawings, wiring diagrams, codes, circuits, installation records, testing and maintenance, traffic signal systems, timing plans, Cross walk warnings, Dynamic message signs, signals for other jurisdictions; GC §34090
PW	803-09	Transportation Maps, Plans & Drawings (Transportation, Striping, Signals, etc.)	C	2	C+2	HC E	Y	Drafts should be destroyed; Some maps are also retained by Planning; Selected maps are retained in Public Works Admin. for administrative purposes; GC §34090, 34090.7
PW	803-10	Right of Ways	P		P	HC E		GC §34090
804-PARKS								
PW	804-01	General Information	C	2	C+2	HC E		
PW	804-02	Asset History/Inventory	Life		Life	HC E	Y	Includes playground equipment and warranties and inspections. Department Preference to cover all statute of limitations; GC §34090, CCP §337 et seq.
PW	804-03	Maintenance and Operation	C	2	C+2	HC E		Daily Logs for Park Maintenance, Repairs, Schedules, Security, Facility Staff, etc. GC §34090
	804-04	Landscaping	C	2	C+2	HC E		Plants, Tree maintenance, work orders GC §34090

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DOR	SERIES	RECORDS DESCRIPTION	RETENTION/DISPOSITION			FORMAT	VITAL	COMMENTS/CITATION
			Active	Inactive	Total			
PW	804-05	Pesticide and Herbicide Control	C	2	C+2	HC E	Y	Regulations, recommendations, MSDS sheets, Monthly usage reports and labels. GC §34090(d), 16 CCR 1970
805-Water Distribution/Stormwater/Flood Control								
PW	805-01	General information	2		2	HC E		GC §34090
PW	805-02	Policies and Procedures	C	2	C+2	HC E		GC §34090
PW	805-03	Permits: NPDES Permit (Regional), Best Management Practices (BMPs) and California Regional Water Quality Control Board	C	P	P	HC E	Y	National Pollution Discharge Elimination System (stormwater), Areas of Special Biological Significance (ASBS) 40 CFR 22.41(j)(2); 40 CFR 141.33(b); 22 CCR 64453(b)(2) et seq.
PW	805-04	Regulatory Agency Correspondence, Reports, or Compliance Reports	5	P	P	HC E	Y	Department Preference; Hazmat discharge records are required for 3-5 years; 40 CFR 122.41(j)(2)
PW	805-05	Water Quality Reports / Consumer Confidence Reports	5	7	12	HC E	Y	State law requires 12 years, federal 10 years; 40 CFR 141.33(a); 22 CCR §64692
PW	805-06	Water Reports and Sampling	5	P	P	HC E		Bacteriological and Organics, Chemical, Lead and Copper, Perchlorate, Radon, Arsenic, etc. Department Preference (required for 5 years); 40 CFR 141.33(a), 141.91
PW	805-07	Confined Space Entries / Hot Work Permits for welding	3		3	HC E		Permitted entries into confined spaces such as sewers and storm drains in order to comply with regulations. Code of Federal Regulations requires 3 years; 40 CFR 122.41(j)(2)
PW	805-08	Customer Concerns: Odor / Taste / Visual Complaints (most are stored on CSR system)	5		5	HC E		5 years is required in State and Federal law for any complaints; 40 CFR 122.41(j)(2) & 40 CFR 141.33(b); 22 CCR 64453(a)
PW	805-09	Maintenance and Operation	C	2	C+2	HC E		Work Orders, inspections, repairs, cleaning, reports etc. GC §34090
PW	805-10	Backflow: Cross-Connection Backflow Device Inspections and Maintenance	3		3	HC E	Y	Meets California Department of Health requirements; GC §34090
PW	805-11	Blow Off / Flushes	5		5	HC E		Department preference; GC §34090 et seq.
PW	805-12	Chains of Custody (Water testing instructions)	5 years		5 years	HC E		22 CCR 64453(b) et seq.; 40 CFR 141.33(a)
PW	805-13	Fire Hydrant Inspections	10 years		10 years	HC E	Y	Department preference (tests at least every 5 years); GC §34090 et seq.
PW	805-14	Gate Valve Inspection Logs	10 years		10 years	HC E	Y	Department preference; GC §34090 et seq.
PW	805-15	Meter Reading Database	P		P	HC E		Meter Reads and Cards entered into the data base. Data is interrelated; system qualifies as a "trusted system"; GC §§34090, 12168.7
LD	805-16	Valve Exercise and Maintenance	5		5	HC E		Department preference; GC §34090 et seq.
PW	805-17	Water Main Break History	5	P	P	HC E	Y	Department preference; GC §34090 et seq.
PW	805-18	Water Maintenance, Pumping Records (Meter Readings)	P		P	HC E	Y	Department Preference; GC §34090 et seq.
PW	805-19	Water Pressure Charts	10		10	HC E	Y	Department Preference; GC §34090 et seq.
806-Utilities & Sanitation								
PW	806-01	General information	2		2	HC E		GC §34090
CC	806-02	Utilities Administration PUC (Correspondence, Rate Changes, Applications, Gas, Electricity, Water District, etc.)	2		2	HC E		GC §34090
900-Public Safety								
901-MERGENCY RESPONSE								

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DOR	SERIES	RECORDS DESCRIPTION	RETENTION/DISPOSITION			FORMAT	VITAL	COMMENTS/CITATION
			Active	Inactive	Total			
FD	901-01	Disaster Preparedness Plans	S	2	S+2	HC E	Y	Department Preference; GC §34090 et seq.
902-HAZARDOUS MATERIALS (HAZ MAT)								
FD	902-01	HazMat Cleanups / Responses	5	25	30	HC E	Y	Claims can be made for 30 years for toxic substance exposure; 8 CCR §3204(d)(1) et seq., GC §§12946, 34090
FD	902-02	Hazardous Waste Disposal	C	10	C+10	HC E	Y	Documentation Regarding handling and disposal of hazardous waste. CAL OSHA; 40 CFR 122.21
FD	902-03	Permits, Hazardous Materials Storage	C	P	P	HC E	Y	Two years retention required, permanent recommended. GC 34090
903-FIRE ADMINISTRATION								
FD	903-01	General Information	2		2	HC E		GC §34090
FD	903-02	Fire Code and Manuals	C	3	C+3	HC E		GC §34090
FD	903-03	Standard Operating Procedures / Policy and Procedure Manual	S	3	S+3	HC E		Statute of Limitations for Health Providers is 3 years; CCP §340.5, GC §34090
CC	903-04	Mutual Aid Agreements, Joint Power Authorities	C		C	HC E	Y	Originals Maintained by City Clerk Permanently; GC §34090.7
FD	903-05	Annual Reports / Fire Incident Statistics	P		P	HC E		Retained for historical and administrative value; GC §34090
904- FIRE OPERATION								
FD	904-01	Staffing Reports	2			HC		GC §34090 et seq.
FD	904-02	Logs & Journals	C	2	C+2	HC E		Filed, Non Fire and Fire logs . GC §34090 et seq.
FD	904-03	Property Files	2	P	P	HC E	Y	Department Preference; GC §34090 et seq.
FD	904-04	Plans, Fire Pre-Plans (Hospitals, Hotels, etc.)	S	2	S+2	HC E		Department Preference (Kept at Fire Stations); GC §34090
FD or PW	904-05	Fire Hydrant Inspections	10		10	HC E		Department preference (tests at least every 5 years); GC §34090 et seq.

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DOR	SERIES	RECORDS DESCRIPTION	RETENTION/DISPOSITION			FORMAT	VITAL	COMMENTS/CITATION
			Active	Inactive	Total			
FD	904-06	Fire Incident Database	P		P	E	Y	Data is interrelated; system qualifies as a "trusted system"; No statute of Limitations on Capital Crimes; Arson sentences vary between 3 years to life, depending upon the circumstances; CDF recommends Act + 10 years; California Fire Code requires 3 years
FD	904-07	Fire Incident Reports	C	5	C+5	HC	Y	PC §§451 et seq., 799, GC §34090, UFC
FD	904-08	County EMS Form	3		3	HC		CCP §340.5, GC §34090 et seq.
FD	904-09	Inventory, Equipment and Supplies	C	2	C+2	HC		GC §34090
PW	904-10	Fire Apparatus & Equipment Maintenance Records & Testing	L	1	L+1	HC		Department Preference; Statute of Limitations for Health Providers is 3 years; OSHA requires 1 year; State requires 2 years; Statewide guidelines propose 2 years; 8 Cal Code Reg. §3203(b)(1), CCP §340.5, GC §34090
905-FIRE PREVENTION								
FD	905-01	Public Education Program	C	2	C+2	HC/E		Department Preference; GC §34090 et seq.
FD	905-02	Single Event Permits	C	2	C+2	HC/E		Fire hydrant use, open flame, tents, etc. GC §34090
FD	905-03	Inspections, Fire Prevention	CL	3	CL+3	HC/E	Y	GC §34090
FD	905-04	Burn Permits	C	3	C+3	HC/E	Y	CDF recommends 1 year without a citation, 3 years with a citation; GC §34090
FD	905-05	Citations / Notice of Violations	3		3	HC/E	Y	California Fire Code requires 3 years; CFC §104.3.2, §104.3.4, GC §34090
FD	905-06	Fire Investigation Reports (Arson, Homicide, Capital Crimes)	10	P	P	E	Y	In Firehouse Database system indefinitely. Support Prosecution, Great bodily harm, inhabited structure or property; UFC §104.3.2, §104.3.4, GC §34090
FD	905-07	Fire Investigation Reports (EXCEPT Arson, Homicide, Capital Crimes)	3	P	P	E	Y	In Firehouse Database system indefinitely. California Fire Code requires 3 years; UFC §104.3.2, §104.3.4, GC §34090
FD	905-08	Juvenile Firestarter	10		10	E	Y	Department preference; GC §34090
FD	905-09	Fire Prevention Files / Business Files	10		10	E	Y	Fire Alarms, Holds, Plan Checks, Violations, Flame Retardancy Certificates, Floor Plan Drawings, etc. GC §34090
906-POLICE ADMINISTRATION								
PD	906-01	General Information	2		2	HC E		GS §34090
PD	906-02	Chief's Issue File	C	2	C+2	HC E		GS §34090
PD	906-03	Use of Force File	C	5	C+5	HC E		GS §34090
PD	906-04	Watch Logs (who was on duty)	10		10	HC E		Department Preferences; Bureau of National Affairs recommends 2 years for work schedules; 29 CFR 516.6(1), 29 CFR 1602.14, GC §34090
PD	906-05	Youth Division, School Resource, Community Liaison Programs	C	2	C+2	HC E		Department preference; GC §34090
PD	906-06	Shift Notes / Daily Activities	C		C	HC E		Considered a transitory / preliminary draft not retained in the ordinary course of business, GC §34090 et seq., GC §6252
PD	906-07	CLETS Logs	C		C	E		GC §34090
PD	906-08	False Alarms	2 years		2 years	E		GC §34090
PD	906-09	Jail Videos	1 year		1 year	E		GC §34090.6(a)
PD	906-10	Mobile Audio Videos (MAV)	1 year		1 year	E		Those segments of videos that are determined to be evidence are copied onto a different tape and retained for the same length of time as the crime report (see crime reports for legal citations); GC §34090.6 et seq.

City of Seaside - Record Retention Schedule

DOR	SERIES	RECORDS DESCRIPTION	RETENTION/DISPOSITION			FORMAT	VITAL	COMMENTS/CITATION
			Active	Inactive	Total			
907-POLICE OPERATIONS								
PD	907-01	Pawn Slips	2 years		2 years	HC E		Department Preference; Non-records used for investigations; Originals entered into the State Automated Property System; most agencies retain for 2 years; GC §34090
PD	907-02	Entry into Evidence	2 years	P	P	HC E		Department preference; GC §34090
PD	907-03	Property, Gun and Narcotics Logs (manual)	2 years	P	P	HC E		Statute of Limitations is up to 3 years (recovery from seized property by police is 1 year); CCP §338(c), 340(4), 341(a); GC §34090
PD	907-04	Property, Property Sheets (with CR#)	(Criminal Report Retention)		(Criminal Report Retention)	HC E		Department Preference; Statute of Limitations is 1 year for property seized by officers; CCP §340(4); GC §34090
PD	907-05	Alarm Permits	2 years		2 years	HC E		GC §34090
PD	907-06	Annual Destruction of Guns and Narcotics (with Court Order)	2 years	P	P	HC E		Department preference; GC §34090
FIN	907-07	Auction Receipts and Records	C		C	HC E		Department preference for auditing purposes (Finance is DOR); GC §34090
PD	907-08	Guns: Dealers Record of Sale	C	2	C+2	HC E		Some dealers have an automated link to DOJ; PC §12070
PD	907-09	Alcohol Beverage Applications	C	2	C+2	HC E		Non-record Department Preference, GC §34090
PD	907-10	Bite Reports / Rabies Control Records	3		3	HC E		Department Preference; GC §34090 et seq.
PD	907-11	Vehicle Abatement	2		2	HC E		Statute of Limitations is 1 year for property seized by officers; CCP §340(4); GC §34090
PD	907-12	Bite Daily Log: Call for service log from County Dispatch	2		2	HC E		GC §34090
PD	907-13	Officer Subpoenas and SDTs	2		2	HC E		Department Preference; GC §34090 et seq.
PD	907-14	Drug Registrants (in DR file)	3	2	5	HC E		Department Preference; Registration is required for 5 years; GC §34090, H&S §11590 et seq., H&S §11594(a)
PD	907-15	Restraining Orders (TROs & EPOs)	Exp		Exp	HC E		Department Preference; Non- records (Court is OFR); GC §34090
PD	907-16	Sex Offender Registrations: Adults (in DR File)	3	P	P	HC E		Pursuant to PC §290 et seq.; If released from CYA, records are destroyed after age 25 or sealing pursuant to W&I §781;
PD	907-17	Sex Offender Registrations: Juveniles released from California Youth Authority (In DR File)	3	A+5	A 25+5	HC E		Pursuant to PC §290 et seq.; If released from CYA, records are destroyed after age 25 or sealing pursuant to W&I §781;
PD	907-18	Vehicle Repossession	2		2	HC E		GC §34090
908- POLICE INVESTIGATIONS								
PD	908-01	Crime Statistics/ Uniform Crime Reporting: ANNUAL	2 yrs.	P	P	HC E		Historical Value; GS §34090
PD	908-02	Crime Statistics/ Uniform Crime Reporting: Periodic	2 yrs.		2 yrs.	HC E		GS §34090
PD	908-03	Green cards (track Officers Subpoenas)	2 yrs.		2 yrs.	HC E		GS §34090
PD	908-04	Internal Investigation; Homicide and Officer Involved Shootings	C	P	P	HC E		GS §34091
PD	908-05	Internal Investigation; Sustained and Not Sustained (other than Homicides and Officer Involved Shootings)	Complaint Date + 5		Complaint Date + 5	HC E		GS §34092, Penal Code § 832.5
PD		Written Reprimand or Counseling Memo	2		2	HC E		GS §34090, GS §34092. Can be removed at the discretion of the Chief after a minimum of two years and a written request is received from Office.

City of Seaside - Record Retention Schedule

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			Active	Inactive	Total			
PD	908-06	Citations	3		3	HC E		Misdemeanors where no bench warrant is issued; Includes Parking Citations. Department Preference; GC §34090 et seq.
PD	908-07	Controlled Substance Inventory Records	3		3	HC E		Department Preference - required for 2 years after inventory or transaction; 21 CFR §1304.4, 1310.4
PD	908-08	Impound Records / Transportation Records	3		3	HC E		Covers various statute of limitations; 3 years is required; 1 year is required for the transportation of dead animals; FA §32003(e), PC §597.1(d); CCP §§336(a), 337 et seq., 3 CCR 1180.15; GC §34090
PD	908-09	Investigations (barking, loose dogs, cruelty, etc.)	R	3	R+3	HC E		Department Preference; GC §34090 et seq.
PD	908-10	Background Checks for Business Licenses: Bingo, Massage Technician & Parlors, Sexually Oriented Business (SOB), Taxis, etc.	5		5	HC E		Department preference; GC §34090
PD	908-11	Field Interview Cards (FI's)	C		C	HC E		All data is entered into the Records Management system; Notes destroyed in the regular course of business; Considered a transitory / preliminary draft not retained in the ordinary course of business; GC §34090 et seq., GC §36252
PD	908-12	Gang Files	50		50	HC E		Department Preference; Grant records are required for 5 years from the date of final payment; 11 CCR 482, GC §34090
PD	908-13	Arrest Report Files	C+15	15	30	HC E		maintained in compliance with mandated destruction for marijuana, sealing orders, etc. Considered active until no contact has been made for 15 years. D H&S §11361.5, PC §851.8(a), CCP §§340.1, GC §34090; W&I §781(d)
PD	908-14	Arson Registrations: Adults	3	P	P	HC E		Pursuant to PC §457.1 et seq.; GC §34090.7
PD	908-15	Arson Registrations: Juveniles released from CA Youth Authority	3	Age 25+5	Age 25+5	HC E		Pursuant to PC §457.1 et seq.; required to register for life; If released from CYA, records are destroyed after age 25 or sealing pursuant to W&I §781; GC §34090.7
PD	908-16	Citations: Marijuana Citations or Report (less than 28.5 grams)	2		2	HC E		GC §34090, H&S §11361.5
PD	908-17	Citations: Misdemeanor Traffic, Parking, or Criminal	3		3	HC E		Department Preference; Statute of Limitations is up to two years; Also See Crime Reports; GC §34090, PC §802
PD	908-18	Crime Reports: Child Abuse or Neglect Investigations Reports - Unsubstantiated or Inconclusive	3	C + 7	C+10	HC E		PC §§11169(a), 11170(a)(3)
PD	908-19	Crime Reports: Felonies - ALL except those otherwise specifically mentioned in this retention schedule	3		10	HC E		Department Preference; Provided there are no outstanding warrants, unrecovered weapons, criminal deaths, they are not historically significant, and it is not classified under PC §800 & 290 and H&S §11850; Stat. of Limit. Is 2 yrs.;
PD	908-20	Crime Reports: Homicide, Falsification of Public Records, Kidnapping, Unsolved Child or Elder Abuse, Sexual Assault & Neglect, Rape, Misuse of Public Funds, Train-wrecking, Treason, Suicide, Fatalities	3	P	P	HC E		Department Preference; Most have no limitations on commencement of action; PC §§261, 286, 288, 288a, 288.5, 289, 289.5, and 799
PD	908-21	Crime Reports: Marijuana less than 28.5 grams	2	18/2	18/2	HC E		Inactive after 18 years old or two years from report. GC §34090, H&S §11361.5

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			Active	Inactive	Total			
PD	908-22	Crime Reports: Misdemeanors, Petty Theft	3		3	HC E		Department Preference; Provided there are no outstanding warrants, unrecovered weapons, criminal deaths, they are not historically significant, and it is not classified under PC §800 & 290 and H&S §11850; Stat. of Limit. Is 2 yrs.; Destroy juvenile marijuana
PD	908-23	Crime Reports: Missing Person Reports (unreturned)	P		P	HC E		Dept. Preference; Also see Crime Reports; GC §34090
PD	908-24	Crime Reports: Sealed Cases ("Factual Innocence")	3		3	HC E		Individual petitions District Attorney; PD concurs that person is factually innocent, then seals record; GC §34090; PC §851.8(a)
PD	908-25	Crime Reports: Sealed Cases (e.g. Juveniles)	3	SL+5	SL+5	HC E		Inactive from Sealing Date by Court plus 5. Statute of Limitations runs up to age of majority + 8 years; Sealing for Juveniles and Wards of the Court retained for 5 years; CCP §§340.1, GC §34090; W&I §781(d)
PD	908-26	Crime Reports: Weapons, Serialized, Lost / Stolen	C		C	HC E		Department Preference; GC §34090
PD	908-27	Department of Justice Validation Lists	2		2	HC E		Information received by DOJ; GC §34090

Resolution 18-XX authorizes the following:

Be it Further Resolved, that with consent of the City Attorney and the City Manager, updates are hereby authorized to be made to the Records Retention Schedule without further action by the City Council of the City of Seaside.

The following individuals have authorized the above changes to the adopted record retention schedule and this document is the most current version.

Don Freeman, City Attorney

Date

Craig Malin, City Manager

Date