A G E N D A

CITY OF SEASIDE CITY COUNCIL/SUCCESSOR AGENCY TO REDEVELOPMENT AGENCY OF THE CITY OF SEASIDE	JOINT SPECIAL MEETING Council Chamber 440 Harcourt Avenue Thursday, August 16, 2018 5:30 PM

PLEASE TURN OFF YOUR CELL PHONES UPON ENTERING THE MEETING

1. CALL TO ORDER

Ralph Rubio	Mayor/Chair
Dennis Alexander	Mayor Pro Tem/Vice Chair
Jason Campbell	Council/Agency Member
David R. Pacheco	Council/Agency Member
Kayla Jones	Council/Agency Member

2. PLEDGE OF ALLEGIANCE

3. PUBLIC COMMENT

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

4. CLOSED SESSION

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

Negotiator For The City: Craig Malin, City Manager. Under Negotiation: Instructions To Negotiator Will Concern Price, Terms Of Payment Or Both
Property Locations:
1. 1271 Canyon Del Rey
2. Property Located At The Intersection Of Terrace And Broadway

5. CONSENT AGENDA

A. **APPROVAL OF MINUTES AUGUST 2, 2018**

PURPOSE & RECOMMENDATION: To review and approve the minutes as presented.

B. **APPROVE AND FILE SUCCESSOR AGENCY CHECKS**

PURPOSE & RECOMMENDATION: It is requested that the Agency Board approve and file the accounts payable and wired payments made during the period of July 21, 2018 through August 3, 2018. In addition, approval of the payroll and benefits checks, direct deposits and wired payments related to the period of August 2, 2018 is requested. Total Accounts Payable and Payroll for the above referenced period is $446.11.

6. **BUSINESS ITEMS**

A. **CONSIDERATION OF AN AMENDMENT TO THE PURCHASE AND SALE AGREEMENT WITH COASTAL REALTY INVESTORS NO. 4, LLC REGARDING THE PROPERTY LOCATED AT 1271 CANYON DEL REY**

PURPOSE & RECOMMENDATION: This amendment will extend the purchase and sale agreement dated December 15, 2016 between Coastal Realty Investors No. 4, LLC and the Successor Agency to extend the due diligence and entitlement period. The Buyer is investigating options to provide water to the parcel and the extension will allow enough time to complete the analysis of available water, including investigating the use of a well based water distribution system. It is recommended that the Agency Board approve the First Amendment to the Purchase and Sale Agreement.

B. **CONSIDERATION OF A PURCHASE AND SALE AGREEMENT FOR CITY AND AGENCY OWNED PROPERTIES LOCATED AT THE INTERSECTION OF TERRACE AND BROADWAY WITH WEST END PARTNERS, LLC PURSUANT TO THE SUCCESSOR AGENCY'S LONG RANGE PROPERTY MANAGEMENT PLAN**

PURPOSE & RECOMMENDATION: To sell approximately 2.5 acres of land, including two structures, to West End Partners, LLC for $1,000,000 plus yet to be determined amount of water of at least 4 acre feet to be used on the parcel. It is recommended that the Successor Agency and City of Seaside jointly approve the sale of the property pursuant to the Successor Agency's Long Range Property Management Plan (LRPMP).

7. **STUDY SESSION**

A. RECEIVE PRESENTATION FROM CITY OF SEASIDE HOMELESS COMMITTEE ON COMMITTEE DIRECTION, HOUSING FIRST PROGRAM AND RECOMMENDATION FOR CITY BUDGETED FUNDS.

PURPOSE & RECOMMENDATION: The purpose of this item is for City Council to receive a presentation from the City of Seaside Homeless Committee on Committee direction, Housing First Program and recommendations for City budgeted funds.

8. ADJOURNMENT

Next Regularly Scheduled Meeting:
September 6, 2018
Seaside City Hall
5:30 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.

DRAFT MINUTES

CITY OF SEASIDE	JOINT SPECIAL MEETING
CITY COUNCIL/ SUCCESSOR	COUNCIL CHAMBER
AGENCY TO THE	Thursday, August 2, 2018
REDEVELOPMENT AGENCY	5:30 PM

1. **CALL TO ORDER**

Mayor Rubio called the meeting to order at 5:30 PM.

CITY COUNCIL/SUCCESSOR AGENCY TO REDEVELOPMENT AGENCY OF THE CITY OF SEASIDE

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

2. **PLEDGE OF ALLEGIANCE**

Council Member Campbell led the Pledge of Allegiance.

3. **PUBLIC COMMENT**

Mayor Rubio invited comments from the public.

- LisAnne Sawhney spoke to changes in transparency with city records, she complimented the Seaside Creates space and staff outreach efforts and encouraged more cooperation with the City and the School District with regards to facility usage and requested the City consider opportunities to use the space between General Jim Moore and Yosemite Ave as recreation space. She also expressed concerns regarding current lawsuits suggesting the Council set aside funds for strong legal representation for Seaside.

4. **CONSENT AGENDA**

Item 4 was removed from consideration and Items A and B were pulled for discussion.
Mayor Rubio invited comments on the Consent Agenda remainder 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 item C.

RESULT:	**Approved**
AYES:	Ralph Rubio, Dennis Alexander, Jason Campbell, Dave Pacheco, Kayla Jones
NOES:	None

A. APPROVE MINUTES FROM JULY 19, 2018

Mayor Rubio invited comments from the public.

- Lisa Anne Sawhney requested the minutes to be more detailed.

B. APPROVE AND FILE SUCCESSOR AGENCY CHECKS

Mayor Rubio invited comments from the public.

- Lisa Anne Sawhney expressed concern that the financial report does not coincide with the number given on the agenda and requested an explanation.

Deputy City Manager Hodgson indicated the report is a combined report for the Successor Agency and the City explaining the reconciliation process that is necessary. She further explained the large expenditure was the annual debt service payment for the Redevelopment bonds issued in 2003 used to remodel the Auto Mall which was re-funded in 2014 under the Successor Agency. There were no questions from the Council.

On motion by Council Member Jason Campbell and seconded by Mayor Pro Tem Dennis Alexander and passed by the following vote the Agency Board approved the checks as presented.

RESULT:	**Approved**
AYES:	Ralph Rubio, Dennis Alexander, Jason Campbell, Dave Pacheco, Kayla Jones
NOES:	None

C. ACCEPT AND FILE THE CASH AND INVESTMENT REPORT FOR THE CITY OF SEASIDE AND THE SUCCESSOR AGENCY OF THE REDEVELOPMENT AGENCY OF THE CITY OF SEASIDE FOR THE QUARTER ENDING JUNE 30, 2018

Action: Accepted

5. CLOSED SESSION

Mayor Rubio invited public comment on the Closed Session items and had no requests to speak. The City Council adjourned to Closed Session at 5:42 PM.

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

Property Location: Seaside Resort
Development: 1 McClure Way Negotiator for the City: Craig Malin, City Manager. Under Negotiation: Instructions to negotiator will concern price, terms of payment or both.

B. CLOSED SESSION CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION PURSUANT TO GOVERNMENT CODE SECTION 54956.9 (d)(1)

1. City of Seaside vs. Samuel Gaskins
Monterey County Case Number 18CV002113
2. Keep Fort Ord Wild vs. City of Seaside
Monterey County Case Number 18CV002418

C. CLOSED SESSION PURSUANT TO GOVERNMENT CODE SECTION 54956.9 (d)(2)

Conference with legal counsel regarding significant exposure to litigation (two potential case).

6. ADJOURNMENT

The City Council reconvened the meeting at 6:28 PM and there were no announcements made. Having no further business, the meeting was adjourned.

Respectfully submitted,

Lesley Milton-Rerig, City Clerk **Ralph Rubio, Mayor/Chair**

CITY OF SEASIDE
STAFF REPORT

Item No.: 5.B.

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

FROM: Craig Malin, City Manager

BY: Travis Foster, Assistant Finance Director

DATE: August 16, 2018

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

PURPOSE & RECOMMENDATION

It is requested that the Agency Board approve and file the accounts payable and wired payments made during the period of July 21, 2018 through August 3, 2018. In addition, approval of the payroll and benefits checks, direct deposits and wired payments related to the period of August 2, 2018 is requested. Total Accounts Payable and Payroll for the above referenced period is $446.11.

BACKGROUND

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

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

A description of the checks and wires exceeding $10,000.00 is as follows:

- There were no checks over $10,000.00 for the period of July 21, 2018 through August 3, 2018.

  The Checks report is available on the City's website here:
  http://www.ci.seaside.ca.us/194/Check-Draft-Register

FISCAL IMPACT

There is no additional fiscal impact with this action.

ATTACHMENTS

None

Reviewed for Submission to the
City Council by:

____
Craig Malin, City Manager

CITY OF SEASIDE
STAFF REPORT

Item No.: 6.A.

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

FROM: Craig Malin, City Manager

BY: Kurt Overmeyer, Economic Development Manager

DATE: August 16, 2018

SUBJECT: **CONSIDERATION OF AN AMENDMENT TO THE PURCHASE AND SALE AGREEMENT WITH COASTAL REALTY INVESTORS NO. 4, LLC REGARDING THE PROPERTY LOCATED AT 1271 CANYON DEL REY**

PURPOSE & RECOMMENDATION

This amendment will extend the purchase and sale agreement dated December 15, 2016 between Coastal Realty Investors No. 4, LLC and the Successor Agency to extend the due diligence and entitlement period. The Buyer is investigating options to provide water to the parcel and the extension will allow enough time to complete the analysis of available water, including investigating the use of a well based water distribution system. It is recommended that the Agency Board approve the First Amendment to the Purchase and Sale Agreement.

BACKGROUND

In December of 2016 the city entered into a Purchase and Sale Agreement (PSA) with Coastal Realty Investors No. 4 to sell the Successor Agency Land located adjacent to Chili's Restaurant on Canyon Del Rey pursuant to the adopted Long Range Property Management Plan. The developer intends to develop the site, however, there remain unresolved issues due to the Cease and Desist Order against CalAm. As a result, the developer is asking for an 18 month extension to the due diligence period. This extension will allow the developer to investigate several options to serve the site with water. In the event that the parcel cannot be served, the value will be significantly lower than the offer provided by the developer and the renegotiation will be required.

FISCAL IMPACT

ATTACHMENTS

1. CDR Amendment No 1 to PSA 20180611 SP
2. Reimbursement Agreement

Reviewed for Submission to the
City Council by:

____
Craig Malin, City Manager

AMENDMENT NO. 1 TO PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS

This AMENDMENT NO. 1 TO PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS (this "**First Amendment**") is dated for reference purposes June 11, 2018, by and between Successor Agency to the Redevelopment Agency of the City of Seaside ("**Seller**"), and Coastal Realty Investors No. 4, LLC, a California limited liability company, or its assigns ("**Buyer**"). The "**Effective Date**" of this First Amendment shall be the first date that both Parties have received a fully executed copy of this First Amendment.

R E C I T A L S:

A. Buyer and Seller previously entered into that certain Purchase and Sale Agreement and Escrow Instructions dated December 15, 2016 (the "**Purchase Agreement**"), pursuant to which Seller agreed to sell to Buyer and Buyer agreed to purchase from Seller, that certain real property owned by Seller and commonly known as 1271 Canyon Del Rey Boulevard located in the City of Seaside, County of Monterey, State of California and identified as Assessor's Parcel Number ("**APN**") 011-371-005-000, 011-371-021-000 and 011-371-022-000 (the "**Property**").

B. Seller and Buyer now desire to amend the Purchase Agreement pursuant to the terms and conditions set forth below.

A G R E E M E N T:

NOW, THEREFORE, in consideration of the foregoing recitals, the promises and covenants of the Parties in this First Amendment, and other good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge, the Parties agree as follows:

1. Recitals. The recitals above are true and correct and are incorporated herein by this reference.

2. Defined Terms. All initially capitalized terms used, but not defined herein, shall have the same meanings given to such terms in the Agreement.

3. Extension of Due Diligence Period. Section 5.5 of the Agreement is hereby amended and replaced with the following:

> "Buyer may, by written notice and at Buyer's election prior to the expiration of the Due Diligence Period or any extension thereto, extend the Due Diligence Period by up to eighteen months. Within three (3) business days following Buyer's election to exercise each Due Diligence Period Extension, Buyer shall deposit with Escrow Holder the sum of Five Thousand Dollars ($5,000.00) for each one (1) year extension (the "**Due Diligence Period Extension Fee**"), which Due Diligence Period Extension Fee shall be refundable and shall be applied to the Purchase Price at Closing.

4. No Other Modifications. Except as modified herein and by this First Amendment, the Parties hereby confirm that all provisions of the Purchase Agreement shall and do remain in full force and effect.

5. Conflicts. In the event of any inconsistency between this First Amendment and the Purchase Agreement, the terms of this First Amendment shall govern and control.

6. Counterparts. This First Amendment may be executed in multiple counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

7. Facsimile / .pdf Signatures. In order to expedite the transaction contemplated herein, facsimile or .pdf signatures may be used in place of original signatures on this First Amendment. The Parties intend to be bound by the signatures on the facsimile or .pdf document, are aware that the other party will rely on the facsimile or .pdf signatures, and hereby waive any defenses to the enforcement of the terms of this First Amendment based on the form of signature.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have executed this First Amendment as of the date first written above.

BUYER:

COASTAL REALTY INVESTORS NO. 4, LLC,
a California limited liability company

By: ____________________________
Christopher R. Orosco, Member

Date: __________________________

By: ____________________________
Patrick W. Orosco, Member

Date: __________________________

SELLER:

SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF SEASIDE

By:_________________________________

Print Name:__________________________
Executive Director

Date: _______________________________

Attest:

____

Print Name: _________________________
City Clerk

Date: _______________________________

Approved as to Form:

____

REIMBURSEMENT AGREEMENT

This Agreement ("Agreement") is made and entered into this __ day of August, 2018, ("Effective Date") by and between the City of Seaside and ("City") and Coastal Realty Investors No. 4, LLC, a California limited liability company ("Developer").

WHEREAS, Developer has submitted an application to develop, construct, and operate the property described on Exhibit "A" attached hereto and incorporated herein by reference (the "Property"). For purposes of this Agreement, reviewing and processing Developer's applications, including, but not limited to, all activities related to cover costs of the preparation and management of an Environmental Impact Report, and additional costs associated with the entitlement process, development, and construction of the above- referenced project and related uses shall be referred to as the "Project".

WHEREAS, Developer and City expect that the Project will require City to expend considerable resources in working with Developer for approval of the Project, including, but not limited to, processing of Developer's Environmental Impact Report, fiscal analysis, water permits, and management of the Environmental Impact Report and any and all applications, permits, and other entitlements related to the Project.

WHEREAS, City and Developer have agreed that Developer shall be responsible for reimbursing City for all costs and expenses reasonably incurred by City with respect to the Project, including costs of staff time and consultants in accordance with the terms of this Agreement (collectively "Project Costs").

WHEREAS, in the event City approves the Project, City and Developer anticipate that such approval will include a condition, among other things, that Developer defend, indemnify and reimburse City for costs associated with said approval.

NOW, THEREFORE, in consideration of the foregoing promises, and in order to carry on the intent and purpose of applicable codes, ordinances, resolutions and regulations, Developer and City agree as follows:

SECTION 1. <u>THE DEVELOPER DEPOSITS</u>

(a) <u>Deposit</u>. Within five (5) business days of execution of this Agreement Developer shall deposit with City in a manner reasonably satisfactory to City the total amount of Five Thousand and 00/100 Dollars ($5,000.00) hereafter referred to as the "Deposit".

(b) <u>Additional Deposits</u>. If City reasonably determines that the Deposit is insufficient to reimburse City for Project Costs, which determination shall be based upon a good faith reasonable estimate of costs and expenses in consultation with Developer, then Developer and City will negotiate in good faith the amount and timing of further deposits to cover the additional Project Costs ("Supplemental Deposits").

(c) <u>Maintenance of Deposit</u>. City shall maintain the Deposit and any Supplemental Deposits (collectively "Developer Deposits") in a dedicated account for the benefit of Developer. Developer acknowledges and agrees that in lieu of paying staff costs for maintenance and tracking of interest Developer elects to waive any interest on the Developer Deposits. City shall at all times maintain records as to the expenditure of the Developer Deposits; provided, however, City shall use the Developer Deposits only as set forth herein.

(d) Withdrawal of Funds. City may draw upon the Developer Deposits to pay for Project Costs (as defined in Section 2. below) as such costs are incurred in accordance with the terms of this Agreement.

SECTION 2. PROJECT COSTS TO BE REIMBURSED

Developer shall be responsible for payment of all direct costs incurred by City as a result of the Project ("Project Costs"). During the term of this Agreement, so long as Developer is fulfilling its obligations hereunder, City shall process Developer's application(s) for the Project until such time as City approves or denies such application(s). Project Costs shall include:

(a) All actual costs of any outside consultants hired to assist City with Project-related activities, including, but not limited to, planning consultants, CEQA consultants, attorneys, and other technical and professional consultants as deemed necessary by City to process Developer's application. City shall notify and consult with Developer regarding any decision to retain such persons, but shall have sole discretion in the selection and tasking of outside consultants.

(b) All actual costs, not specified in SECTION 2.(a) above, expended solely on Project-related activities (i.e. costs of telephone, mileage, supplies, postage, office space, etc.).

(c) Permit fees normally collected by City to process discretionary permit applications for a proposed project. Developer shall be responsible for payment of any fee not expressly abrogated by this Agreement, including, but not limited to, any ministerial fee(s) on required Project permits such as building permits, grading permits, and the like. This Agreement also does not apply to any fees the Developer is required to pay to any entity other than City, any state or federal agency, or any new application or project.

(d) City is required by law to process Developer's Project application. Developer desires that such Project application processing proceed in an efficient and expeditious manner and will voluntarily reimburse City for its expenses in so doing. Therefore, City will set forth a timeline and it will use all reasonable efforts to maintain a budget for its staff and consultants to satisfy milestones on such timeline. City will provide Developer with a timeline and budget which shall be subject to Developer’s reasonable review and which may be updated from time to time.

SECTION 3. PROCESS FOR REIMBURSEMENT OF PROJECT COSTS

(a) Twenty (20) days prior to expiration of each quarter City shall prepare and provide Developer (by regular mail, electronic mail, or facsimile) a written, quarterly summary of all Project Costs charged by City against the Developer Deposits. The written summary shall be supported by appropriate documentation such as timesheets, invoices, and receipts; provided, however, that City shall have the right to redact from such documentation any information that City reasonably determines is privileged, confidential, or not otherwise subject to release pursuant to the California Public Records Act (Government Code §54950 *et seq.).* Developer shall approve or disapprove City's reimbursement of all costs set forth in each such summary within fifteen (15) business days of receipt. If City does not receive a response from Developer within this fifteen-day timeframe the requested reimbursement shall be deemed approved and City shall draw on the Developer Deposits to cover said Project Costs. In the event Developer notifies City in writing within this fifteen-day timeframe that it does not approve said reimbursement City shall not draw on the Developer Deposits to cover said Project Costs until there is resolution of this dispute in accordance with SECTION 10. below.

(b) City shall review billing statements from outside consultants, or may delegate this duty to Developer to assure accuracy and appropriateness of entries. In addition, City shall provide Developer on a quarterly basis (by regular mail, electronic mail or facsimile) a copy of any and all consultant invoices paid directly by City during the preceding quarter.

(c) City will require prompt, monthly billings from any consultants retained or hired hereunder with itemization of services rendered, time spent and billing rates clearly described.

SECTION 4. **TERM**

The term of this Agreement shall commence on the Effective Date and terminate upon the later of: (a) one (1) year from the issuance of a certificate of completion for the last of the Project-related improvements; or (b) one(1) year from the last date that Developer is required to maintain Project-related improvement(s) set forth in any applicable, sale, improvement or development agreement related to the Project. Nothing herein shall be deemed to abrogate Developer's responsibility to pay for ongoing expenses, including mediation/arbitration/litigation expenses, incurred by City as a result of Project-related activities, which activities occurred during the term of this Agreement. Nothing in this Agreement shall be construed to vest any rights to develop the Project or require City approval of the Project.

SECTION 5. TERMINATION

Developer may, at its option, terminate this Agreement at any time upon thirty (30) days prior written notice to City ("Termination Notice") if Developer determines not to proceed with the Project. In the event of termination Developer shall be responsible for the payment of all Project Costs incurred up to and including the date of termination, including any costs that have been irrevocably contracted for. City shall apply the Developer Deposits to any unreimbursed Project Costs through the termination date, and City shall then refund any remaining Developer Deposits funds to Developer within thirty (30) days of the date of termination.

SECTION 6. INDEMNIFICATION

In addition to Project Costs Developer shall defend, indemnify and hold City free and harmless from any and all suits, fees, claims, demands, causes of action, costs, losses, damages, liabilities and expenses (including, but not limited to, an award of attorney's fees, expert witness fees and court costs) incurred by City for any damage(s) arising (directly or indirectly) or resulting directly from the review, processing, consideration, or from the approval of Developer's development application(s) or action taken by City thereon as set forth in the Hold Harmless and Indemnification Agreement attached hereto as Exhibit "B" and incorporated herein by reference. This obligation shall not prevent City from engaging counsel in any such action. Developer will reimburse City for any actual and reasonable costs or fees it may incur in any court or administrative action related to the Project, and shall reimburse City for all adverse fees or costs awarded pursuant to any judgment against City. Developer's obligations pursuant to this SECTION 6 shall survive suspension or termination of this Agreement.

SECTION 7. **TIME IS OF THE ESSENCE**

For the purpose of this Agreement, and for each provision of this Agreement, time is of the essence. City shall make all reasonable efforts to provide timely budgeting and scheduling to Developer, provide consultant statements to Developer, and process the Project pursuant to the schedule.

SECTION 8. NOTICES

All notices called for in this Agreement shall be given in writing by personal delivery, or by first-class mail, postage fully prepaid, return receipt requested, or by overnight mail or overnight private courier. Notice given by personal delivery shall be deemed to be completed upon delivery. Notice given by first-class mail shall be deemed completed five (5) days after deposit into the U.S. Mail. Overnight mail or couriered notices shall be deemed completed the next business day following deposit into the U.S. mail or delivery to a private courier. Mailed or couriered notices shall be addressed as set forth below, but either party may change its contact information by giving written notice thereof to the other in accordance with the provisions of this SECTION 8.

To CITY:
City Manager
City of Seaside
440 Harcourt Avenue
Seaside, CA 93955

To DEVELOPER:
Coastal Realty Investors No. 4, LLC
Attn: Chris Orosco
10 Harris Court, Suite B-1
Monterey, CA 93940

SECTION 9. DEFAULT BY DEVELOPER

If Developer defaults in its obligations to provide and maintain the Developer Deposits required by this Agreement, or to timely pay for any Project Costs as required under this Agreement, then City, at City's option, may suspend consultant activities related to the Project. City shall give Developer written notice of such default at least ten (10) calendar days prior to any suspension of consultant activities to allow Developer time to remedy the default. Subject to SECTION 12 below City may terminate this Agreement and institute legal proceedings with no further notice to Developer if such default is not remedied by Developer within ten (10) calendar days after such notice is given by City of Developer. Upon such termination City shall not be obligated to expend any additional funds on Project-related matters; however, City may, in its discretion, may expend funds after termination of this Agreement as necessary to complete Project-related activities already commenced or for which monetary obligations have already been incurred.

In the event of Developer's default beyond all applicable cure periods, Developer waives any permit review timelines otherwise applicable under any applicable laws with respect to any discretionary approval that may be delayed as a result of Developer's failure to provide City with funds as required under this Agreement to complete environmental review as necessitated by state and federal statutes.

SECTION 10. DISPUTE RESOLUTION

If a dispute arises related to the interpretation or enforcement of, or compliance with, the terms and provisions of this Agreement, City and Developer shall first attempt to resolve it through informal discussions. In the event a dispute cannot be resolved in this manner within twenty-one (21) calendar days after the dispute arises, then City and Developer shall engage in the following Alternative Dispute Resolution procedures:

Mediation. City and Developer agree that any and all disputes, claims, or controversies arising out of or related to this Agreement shall be submitted to the San Jose, California, office of Judicial Arbitration and Mediation Services, Inc. ("JAMS") for mediation, and if the matter is not resolved through mediation then it shall be submitted to JAMS for final binding arbitration pursuant to the arbitration clause set forth below. Either City or Developer may commence mediation by providing JAMS and the other party a written request for mediation setting forth the subject of the dispute and the relief requested. City and Developer will cooperate with JAMS and with one another in selecting a mediator from JAMS' panel of neutrals and in scheduling the mediation proceedings. If the parties cannot agree on the appointment of the mediator or the date of the mediation within thirty {30) calendar days after the written request for mediation then JAMS shall appoint the mediator at its discretion and/or set a mediation date. City and Developer covenant that they will participate in the mediation in good faith, and that they will share equally in its costs. All offers, promises, conduct, and statements, whether oral or written, made in the course of the mediation by any of the parties, their agents, employees, experts and attorneys, and by the mediator and any JAMS employees, are confidential, privileged, and inadmissible for any purpose, including impeachment, in any litigation or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation. Either party may seek equitable relief prior to the mediation to preserve the status quo pending the completion of that process. Except for an action to obtain equitable relief, neither party may commence civil litigation. Either City or Developer may initiate arbitration with respect to matters submitted to mediation by filing a written demand for arbitration at any time following completion of the initial mediation session or sixty (60) calendar days after the date of the written request for mediation, whichever occurs last. Mediation may continue after the commencement of arbitration if City and Developer so desire. Unless otherwise agreed to by City and Developer the mediator shall be disqualified from serving as the arbitrator in the case. The provisions of this section may be enforced by any Court of competent jurisdiction, and the party seeking enforcement shall be entitled to an award of all costs, fees and expenses, including attorney's fees, to be paid by the party against whom enforcement is ordered.

Arbitration. Any dispute, claim, or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this Agreement to arbitrate, not resolved by the mediation process set forth above, shall be determined by arbitration to be held in Monterey County before one arbitrator. Neither party may request an arbitration hearing in conformity with this arbitration section until after the matter has been submitted to mediation in conformity with the mediation section set forth above and the initial mediation session has been completed or sixty (60) calendar days has passed since the date of the initial written request for mediation, whichever occurs last. The arbitration shall be administered by the San Jose, California, office of Judicial Arbitration and Mediation Services, Inc. ("JAMS") pursuant to its Streamlined Arbitration Rules and Procedures, which rules shall govern the commencement of arbitration and the selection of the arbitrator among other things. Judgment on the Arbitrator's Award may be entered in the Monterey County Superior Court or any court having jurisdiction. This section shall not preclude City and Developer from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.

The costs and fees of arbitration (including those fees and expenses set forth in JAMS' fee schedule in effect at the time of commencement of the arbitration) shall be borne equally by City and Developer, and each side shall be responsible for its own attorney's and expert's witness fees.

This dispute resolution process shall be undertaken in good faith. A mediator or arbitrator other than JAMS may be agreed to by City and Developer in writing. By agreeing to this dispute resolution process neither City nor Developer hereby loses or waives its right to assert the operation of any applicable statute of limitations as an affirmative defense. The arbitration award shall be final and binding upon City and Developer and each agrees that it will accept such decision and award as binding and conclusive and will abide thereby.

SECTION 11. **NO WAIVER OF IMMUNITIES**

Nothing in this Agreement shall be construed as a waiver by City of any of the immunities granted to it under federal, state or local law, including the provisions of Sections 818.6, 830.6 and 831.3 of the California Government Code.

SECTION 12. **COMPLETE AGREEMENT**

Except as may otherwise be explicitly set forth herein this Agreement constitutes the final, complete and exclusive statement of the terms hereof between City and Developer related to the subject matter set forth herein. Neither party is relying on any representation or warranty outside those expressly set forth in this Agreement. Any and all amendments to this Agreement shall be in writing, shall be stated as an amendment to this Agreement and shall be executed by both parties.

SECTION 13. UNENFORCEABILITY: SEVERABILITY

If a court of competent jurisdiction holds any Agreement section to be invalid or unenforceable in whole or in part for any reason, the validity and enforceability of the remaining clauses, or portions of them, shall not be affected unless as essential purpose of this Agreement would be defeated by loss of the invalid or unenforceable provision. To that end, this Agreement shall be construed as not containing such clause and the provisions of this Agreement are declared to be severable.

SECTION 14. SUCCESSORS AND ASSIGNS

This Agreement shall bind and benefit City and Developer and its heirs, executors, representatives, assigns, and successors-in-interest, whether voluntary or involuntary. Developer agrees to require any such heirs, executors, representatives, assigns and successors to assume all duties and obligations set forth herein. Developer shall provide City with notice of any transfer or ownership interests in the Project or the subject property.

SECTION 15. **APPLICABLE LAW**

This Agreement shall be construed and enforced in accordance with the laws of the State of California. Every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted, and this Agreement shall be read and enforced as though it were included, and if through mistake or otherwise any provision is not inserted, or is not correctly inserted, upon application of either party this Agreement shall be amended to make the insertion or correction. All references to statutes and regulations shall include all amendments, replacements, and enactments on the subject as of the Effective Date and any later changes that do not materially and substantially alter the positions of City and Developer.

SECTION 16. **NO THIRD PARTY RIGHTS**

This Agreement is not intended to be, and shall not be, construed to create any third party beneficiary rights in any person or entity who is not a party, unless expressly provided herein.

SECTION 17. **NO JOINT VENTURE OR PARTNERSHIP**

The parties specifically acknowledge that each party is an independent entity with respect to the terms contained in this Agreement. None of the terms of this Agreement shall be deemed to create a partnership between the parties in the business of Developer or the affairs of City or otherwise, or cause them to be considered joint venturers or members of any joint enterprise.

SECTION 18. CONSTRUCTION

Each party hereto declares and represents that in entering into this Agreement it has relied, and is relying, solely upon its own judgment, belief and knowledge of the nature, extent, effect and consequence relating thereto. Each party further declares and represents that this Agreement is made without reliance upon any statement or representation not contained herein of any other party or any representative, agent, or attorney of the other party. The parties agree that they are aware they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement and that the decision of whether or not to seek the advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each of the parties. Accordingly, no party shall be deemed to have been the drafter hereof, and the principal of law set forth in Civil Code §1654 that contracts are construed against the drafter shall not apply.

SECTION 19. **COOPERATION**

Developer and City shall cooperate fully in the execution of any and all other documents and in the completion of any additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement. The parties shall act in good faith toward each other and shall act in a fair, diligent and reasonable manner, and neither party shall take any action that will prohibit, impair or impede the other party's exercise or enjoying of its rights and obligations secured through this Agreement. The parties will endeavor to make their principals, staff and consultants available to meet where appropriate to facilitate the efficient processing and review of project application and associated environmental review.

SECTION 20. **REPRESENTATIONS OF AUTHORITY**

Each party signing this Agreement represents and warrants to the other party that all necessary legal prerequisites to that party's execution of this Agreement have been satisfied and that the signatory has been authorized to sign this Agreement and bind the party on whose behalf the signatory signs.

SECTION 21. **NO PROMISE OR REPRESENTATION**

Developer and City agree that nothing in this Agreement is to be construed as a representation, promise, or commitment on the part of City to give special treatment to, or exercise its discretion favorably for, the Project or Developer.

SECTION 22. **ELECTRONIC DELIVERY**

Signature pages to this Agreement may be delivered by electronic means, such as a .pdf attachment to an email and, when so delivered, shall be considered and effective as original signatures for all purposes.

SECTION 23 **ASSIGNMENT/ASSUMPTION**

Should Developer assign its rights and obligations under its Purchase and Sale Agreement for the Property dated as of December 15, 2016, or should Developer nominate another party to acquire and take title to the Property at the Closing thereunder, then Developer's rights and obligations under this Agreement shall automatically and immediately be deemed assigned to and assumed by such assignee/nominee.

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

CITY OF SEASIDE

DEVELOPER
Coastal Realty Investors No. 4, LLC

By: ________________________
Its: ________________________
____

APPROVED AS TO FORM:

____
City Attorney

EXHIBIT A TO REIMBURSEMENT AGREEMENT

DESCRIPTION OF THE PROPERTY

1271 Canyon Del Rey Boulevard

Parcel Data:

APN: 011-371-005-000
MP 2 Noche Buena RO
Sub L 4J Laguna Grande
X Land btwn Laguna Grande
X Del Rey Blvd A TR FRNTG
70 FT as DESC IN VOL 1468 PG 12

APN: 011-371-021-000

APN: 011-371-022-000

EXHIBIT B TO REIMBURSEMENT AGREEMENT

HOLD HARMLESS AND INDEMNIFICATION AGREEMENT

A. This HOLD HARMLESS AND INDEMNIFICATION AGREEMENT ("Agreement") dated_August __, 2018 is made by Coastal Realty Investors No. 4, LLC, a California limited liability company, ("Indemnitor/Developer"), in favor of the CITY OF SEASIDE, California, a municipal corporation ("City").

RECITALS

B. Indemnitor/Developer is proposing to develop and operate the property described more particularly on Exhibit 1 attached hereto and made a part hereof (the "Project").

C. Indemnitor/Developer seeks approvals from the City which may include, but shall not be limited to, a general plan amendment, specific plan approval, zone text and map amendment, development and disposition agreement, subdivision maps, grading permits, building permits, and review pursuant to the California Environmental Quality Act ("CEQA") (collectively the "Entitlements"). If some or all of the Entitlements are approved, the City will be exposed to a risk of litigation challenging the granting of Entitlements and related actions, including but not limited to a challenge to the environmental determination for the Project prepared pursuant to CEQA or determined to be exempt from CEQA.

D. The City, as a condition of entering into the Exclusive Negotiation Agreement for the Project has required that Indemnitor/Developer indemnify City from matters as set forth herein, although the City reserves its full authority to approve, deny or conditionally approve any further Entitlements that may be requested after the effective date of this Agreement.

NOW, THEREFORE, in consideration of the foregoing Recitals, and for other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, Indemnitor/Developer and City agree as follows.

AGREEMENT

1. <u>Recitals</u>. The above Recitals to this Agreement are declared by the parties to be

true and correct in all material aspects and are hereby incorporated into this Agreement as if fully set forth below.

2. Indemnification. Indemnitor/Developer shall fully defend, indemnify and hold harmless City, its officials, officers, employees, consultants, contractors, legal counsel, and agents ("Indemnified Parties"), from and against any and all claims, suits, causes of action, fines, penalties, proceedings, damages, injuries or losses of any name, kind or description, specifically including attorney's fees, ("Liabilities"), arising in any way out of the City's approval of any Entitlement related to the Project or any other action of the City related to the Project as more particularly described in Section A. under "Recitals" of this Agreement. Applicant's indemnification obligation shall include, but not be limited to, actions to attack, set aside, void, or annul the City's approval of the Project and related actions, and Liabilities premised on, related to, or invoking Planning and Zoning Law or CEQA, including those arising out of the City's decisions related to the Project's CEQA documents. Indemnitor/Developer shall reimburse the City for any actual and reasonable court costs and attorney's fees that the City may be required by a court to pay as a result of such Actions. City may, at its sole and absolute discretion, and subject to Section 3 below: (a) participate in the defense of any such Action undertaken by Indemnitor/Developer, or (b) retain separate counsel whose actual and reasonable attorneys' fees and costs shall be paid by Indemnitor/Developer. Such participation in the defense of such Action or the retention of separate counsel by the City shall not relieve Indemnitor/Developer of its obligations under this Agreement.

3. Notification of Action and Coordination of Defense. The City shall promptly provide written notice to Indemnitor/Developer of any Action. City shall take all necessary and reasonable steps to provide such notice to Indemnitor/Developer in a timely fashion and in a manner that will not result in any substantial prejudice to Indemnitor's/Developer's ability to defend the relevant Action. Such notice will contain a copy of any relevant pleading filed in connection with the relevant Action. City acknowledges that Indemnitor/Developer desires to provide the defense of any Action in a cost efficient manner. City and Indemnitor/Developer shall coordinate and cooperate in their defense activities, whether the City is participating in defense undertaken by Indemnitor/Developer or is retaining separate counsel. As used in this Agreement cooperation does not include either party hereto having to take any action or make any decision that it does not believe, in the exercise of its good faith judgment, is in its own best interest. Unless expressly provided to the contrary, nothing in this Agreement shall be construed in a manner that requires either party to exercise its discretion in a particular manner. The parties will further coordinate their activities, to the extent reasonable and feasible, in a manner that will preserve attorney-client privilege and work-product privilege with respect to any legal research or other work product prepared in connection with the Action; provided, however, that neither party hereto will have a right to or interest in any reports or other attorney client privileged materials prepared by it or its counsel in connection with any Action.

4. Payment of City's Costs. To the extent City incurs costs from participating in the defense of, or in retaining separate counsel for, an Action covered by paragraph 2 above, Indemnitor/Developer shall remit payment to City within thirty (30) days of receipt after a written request therefor accompanied by an invoice and written documentation substantiating such costs. City shall bill Indemnitor/Developer monthly for such fees, costs and expenses, and shall provide written documentation substantiating in reasonable detail the fees, costs, and expenses for which the City is requesting payment pursuant to this Agreement, but may redact from such invoices or documentation attorney-client privileged information as it, in its sole discretion, deems appropriate. Indemnitor's/Developer's indemnification obligations shall not be limited to the amount of any insurance coverage that may be available to Indemnitor/Developer, and shall not otherwise be restricted or confined by the presence or absence of any policy of insurance held by City or Indemnitor/Developer.

5. Settlement of Actions. No settlement of any Action shall be binding on the City unless City approves the settlement in writing. No settlement of any Action in which Indemnitor/Developer is a Respondent or Defendant shall be binding on Indemnitor/Developer unless Indemnitor/Developer approves the settlement in writing.

6. Survival. The obligations of Indemnitor/Developer pursuant to this Agreement shall continue to be the liability and obligation of Indemnitor/Developer, binding upon Indemnitor/Developer until the final resolution of all Actions covered by this Agreement, and shall survive the completion, partial completion, or abandonment of the Project, including if required approvals from other permitting agencies are not granted.

7. Discharge. No dissolution, liquidation, insolvency, bankruptcy or other matter with respect to Indemnitor/Developer shall affect this Agreement or any of Indemnitor's/Developer's obligations hereunder.

8. Severability. Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be valid and enforceable to the fullest extent permitted by law. If any provision of this Agreement, or the application of any such provision to any person or circumstance, shall, to any extent, be held to be invalid, illegal or unenforceable under applicable law, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is invalid, illegal or unenforceable, shall not be affected thereby.

9. Notice to Parties. All notices and demands or other communications hereunder shall be in writing, and shall be deemed to have been sufficiently given or served for all purposes when presented personally or sent by generally recognized overnight delivery service, with

postage prepaid, addressed to Indemnitor/Developer or City, as applicable, at the addresses stated below, or at such other address of which either Indemnitor/Developer or City may hereafter notify the other in writing:

Indemnitor/Developer:	Coastal Realty Investors No. 4, LLC Attn: Chris Orosco 10 Harris Court, Suite B-1 Monterey, CA 93940
City:	City of Seaside 440 Harcourt Avenue Seaside, CA 93955

Each notice or demand so given or served shall be deemed given and effective, (a) if personally delivered, on the day of actual delivery or refusal and (b) if sent by generally recognized overnight delivery service, on the next business day. Notwithstanding the foregoing, service of any notice of default provided or required by law shall, if mailed as required by law, shall be deemed given and effective on the date of mailing.

10. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the law of the State of California, without regard to principles of conflicts of law.

11. Changes and Modifications. This Agreement cannot be changed or modified, except by a written instrument signed by Indemnitor/Developer and City.

12. Legal Construction. This Agreement shall be given a fair and reasonable construction in accordance with theintentions of the parties and without regard for or aid from any canons requiring construction against the party drawing this Agreement. The parties intend that this Agreement be interpreted and construed to provide the fullest protection possible under law to the City. As used in this Agreement, (a) the terms "herein", "hereto," "hereof" or "hereunder" or similar terms used in this Agreement refer to this Agreement as a whole and not to any particular provision and (b) the word "including" shall mean "including, without limitation". Unless otherwise stated, all references herein to Sections are references to Sections of this Agreement.

13. Attorney's Fees And Court Venue. Should either party to this Agreement bring legal action against the other, (formal judicial proceeding, mediation or arbitration), the case shall be handled in Monterey County, California, and the party prevailing in such action shall be entitled to a reasonable attorney's fee which shall be fixed by the judge, mediator or arbitrator hearing the case and such fee shall be included in the judgment, together with all costs.

14. Successors and Assigns. The covenants, agreements and obligations of Indemnitor/Developer hereunder shall be binding upon Indemnitor/Developer and Indemnitor's/Developer's respective heirs, executors, administrators, legal representatives, successors, and assigns, and the rights, remedies and benefits of the Indemnified Parties hereunder shall inure to the benefit of the Indemnified Parties and their respective successors and assigns.

15. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same document.

16. Electronic Delivery. Signature pages to this Agreement may be delivered by electronic means, such as a .pdf attachment to an email and, when so delivered, shall be considered and effective as original signatures for all purposes.

17. Assignment/Assumption. Should Indemnitor/Developer assign its rights and obligations under its Purchase and Sale Agreement for the Project dated as of December 15, 2016, or should Indemnitor/Developer nominate another party to acquire and take title to the Property at the Closing thereunder, then Indemnitor/Developer's rights and obligations under this Agreement shall automatically and immediately be deemed assigned to and assumed by such assignee/nominee.

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement as of the date first above written

City:

CITY OF SEASIDE
a municipal corporation

By______________________________

Name:.____________________________

Title:____________________________

Indemnitor/Developer:

COASTAL REALTY INVESTORS NO. 4, LLC

By______________________________

Name:.____________________________

Title:_____________________________

APPROVED AS TO FORM:

____
City Attorney

EXHIBIT 1

TO HOLD HARMLESS AND INDEMNIFICATION AGREEMENT

DESCRIPTION OF THE PROPERTY

1271 Canyon Del Rey Boulevard

Parcel Data:

APN: 011-371-005-000
MP 2 Noche Buena RO
Sub L 4J Laguna Grande
X Land btwn Laguna Grande
X Del Rey Blvd A TR FRNTG
70 FT as DESC IN VOL 1468 PG 12

APN: 011-371-021-000

APN: 011-371-022-000

CITY OF SEASIDE
STAFF REPORT

Item No.: 6.B.

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

FROM: Craig Malin, City Manager

BY: Kurt Overmeyer, Economic Development Manager

DATE: August 16, 2018

SUBJECT: **CONSIDERATION OF A PURCHASE AND SALE AGREEMENT FOR CITY AND AGENCY OWNED PROPERTIES LOCATED AT THE INTERSECTION OF TERRACE AND BROADWAY WITH WEST END PARTNERS, LLC PURSUANT TO THE SUCCESSOR AGENCY'S LONG RANGE PROPERTY MANAGEMENT PLAN**

PURPOSE & RECOMMENDATION

To sell approximately 2.5 acres of land, including two structures, to West End Partners, LLC for $1,000,000 plus yet to be determined amount of water of at least 4 acre feet to be used on the parcel. It is recommended that the Successor Agency and City of Seaside jointly approve the sale of the property pursuant to the Successor Agency's Long Range Property Management Plan (LRPMP).

BACKGROUND

In December of 2016, the Successor Agency entered into a Purchase and Sale Agreement (PSA) with West End Partners, LLC pursuant to the agencies long range property management plan. The developer investigated several opportunities but were unable to find a suitable tenant and let the contract expire. As a result, the City's contracted real-estate brokerage relisted the property and solicited offers. In this second round, the City received four offers that ranged from $600,000 to $1,000,000. The highest bid happened to come from the previous development company, West End Partners, which had been able to secure an anchor tenant just a few days after allowing the previous contract to expire. This bid included an offer of $1,000,000 for the sale of the property as well as an additional offer to provide four acre feet of privately held water to the property.

The developer will propose a project and complete all entitlements required during the due diligence period. This will include developing a proposal, receiving all planning and architectural approvals, CEQA analysis, and any other approvals required during the due diligence phase. Once this is complete, the developer will be required to close escrow. The developer intends to create a project that will maximize the value of the property under the current market conditions and are working towards a project proposal already.

The developer will also be required to enter into an indemnity agreement as well as a reimbursement agreement which will protect the City in the event of a lawsuit or other challenge. The reimbursement agreement requires that the developer deposit $20,000 into a reimbursement account to pay for staff time and any consultants required to complete the entitlement process. If the costs of entitlements exceed the initial deposit, the developer will be required to add additional funds to the account.

FISCAL IMPACT

The sale of this land will result in $1,000,000 in net fiscal benefit to the successor agency and will be distributed by formula to the various taxing entities.

ATTACHMENTS

1. Seaside Broadway Terrace Purchase and Sale Agreement
2. Reimbursement and Indemnity Agreement

Reviewed for Submission to the
City Council by:

Craig Malin, City Manager

PURCHASE AND SALE AGREEMENT

AND

ESCROW INSTRUCTIONS

by and between the

Successor Agency to the Redevelopment Agency of the City of Seaside
("**Seller**")

and

West End Partners, LLC, a California limited liability company
("**Buyer**")

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TO BE UPDATED UPON COMPLETION OF AGREEMENT

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PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS

This PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS (this "**Agreement**") is dated as of August __, 2018 (the "**Effective Date**") and is entered into by and between West End Partners, LLC, a California limited liability company, or its assignee ("**Buyer**") and the Successor Agency to the Redevelopment Agency of the City of Seaside ("**Seller**").

RECITALS

A. Seller is the owner of the land in the City of Seaside, County of Monterey, State of California, more particularly described on **Exhibit A** attached hereto and made a part hereof, commonly known as Broadway Avenue & Terrace Street, Assessor's Parcel Numbers 012-191-001, 002, 003, 004, 013, 016, 017, 021, 023, 024, 025, 028 and 029 together with all improvements thereon, with all easement rights and appurtenances thereto (collectively, the "**Property**").

B. Buyer desires to purchase the Property from Seller.

AGREEMENT

NOW, THEREFORE, in consideration of the terms and conditions of this Agreement and for other valuable consideration, the receipt of which is hereby acknowledged, Buyer and Seller agree as follows:

1. Purchase and Sale. Subject to and in accordance with the terms and conditions hereinafter set forth, Seller agrees to sell Property to Buyer, and Buyer agrees to purchase the Property from Seller.

2. Opening and Closing of Escrow. Within three (3) business days after the Effective Date, the parties shall open an escrow ("**Escrow**") with Old Republic Title Company, Monterey ("**Escrow Holder**" and "**Title Company**"), at 503 Abrego St, Monterey, CA 93940 Attn: Heather Tremper, Escrow Officer; Phone: (831) 372-7378 Email: htremper@ortc.com; and shall deliver a copy of this fully executed Agreement to said Escrow Holder. "**Close of Escrow**" shall be the date that a grant deed conveying title to the Property to Buyer, is recorded in the Official Records of the Monterey County Recorder's Office. Subject to receipt of the Disposition Approvals (defined in Section 16), Close of Escrow shall occur on or before the date that is thirty (30) days after the expiration of the Due Diligence Period, as defined in Section 6.1 below.

3. Purchase Price; Deposit; Liquidated Damages.

3.1 Purchase Price.

(a) The purchase price for the Property to be paid by Buyer is the sum of One Million Dollars ($1,000,000.00) ("**Purchase Price**").

(b) Buyer shall deposit with Escrow Holder concurrent with opening Escrow, the sum of Fifty Thousand Dollars ($50,000.00) (the "**Deposit**"). On the Close of Escrow, the

Deposit shall be applied toward the Purchase Price. In the event this Agreement is terminated by Buyer under Section 6.6 below, as a result of the failure of a closing condition in favor of Buyer pursuant to Section 15, as a result of a default by Seller, or as a result of a failure to obtain the Disposition Approvals pursuant to Section 15, in which event the Deposit shall be refunded to Buyer.

Notwithstanding anything in this Agreement to the contrary, Buyer agrees and acknowledges that One Hundred Dollars ($100) of the Deposit (the "**Independent Consideration**") shall be paid to Seller and deemed nonrefundable as consideration for the rights and privileges granted to Buyer herein, including any and all rights granted to Buyer to terminate this Agreement during certain periods hereunder. The Independent Consideration shall be immediately released by Escrow Holder to Seller and shall not be considered part of the "**Deposit**" hereunder.

(c) Buyer acknowledges that Seller must order an appraisal of the Property (the "**Property Appraisal**") as part of the Disposition Approvals process and that the effective date of the Property Appraisal must be within one hundred eighty (180) days of the Closing. Accordingly, Buyer shall inform Seller in writing of the anticipated Closing Date and Seller shall provide Buyer with the estimated cost to obtain such Property Appraisal (the "**Appraisal Cost**"), which cost shall be competitive and commercially reasonable. A sum equal to the Appraisal Cost shall be released by Escrow Holder to Seller upon written request, a copy of which request shall be concurrently delivered to Buyer. The appraised value of the Property as set forth in the Property Appraisal must be equal to or less than the Purchase Price to be paid by Buyer for the Property. If the appraised value of the Property is greater than the Purchase Price, then Buyer shall have the option, in its sole discretion, to either (i) increase the Purchase Price to the appraised value and proceed with the Closing or (ii) terminate this Agreement, in which event the Deposit shall be promptly refunded to Buyer. If Closing occurs more than six (6) months after the initial Property Appraisal expires, then Seller shall request an updated Property Appraisal, the cost for which shall be paid from the Deposit and released by Escrow Holder upon written demand from Seller with a copy of such demand concurrently delivered to Buyer.

3.2 <u>Liquidated Damages</u>.

IF BUYER FAILS TO COMPLETE THE PURCHASE OF THE PROPERTY AS HEREIN PROVIDED BY REASON OF DEFAULT OF BUYER, IT IS AGREED THAT THE DEPOSIT THEN HELD BY ESCROW HOLDER SHALL BE NON-REFUNDABLE AND SELLER SHALL BE ENTITLED TO SUCH DEPOSIT, WHICH AMOUNT SHALL BE ACCEPTED BY SELLER AS LIQUIDATED DAMAGES AND NOT AS A PENALTY AND AS SELLER'S SOLE AND EXCLUSIVE REMEDY. IT IS AGREED THAT SAID AMOUNT CONSTITUTES A REASONABLE ESTIMATE OF THE DAMAGES TO SELLER PURSUANT TO CALIFORNIA CIVIL CODE SECTION 1671 <u>ET SEQ</u>. BUYER AND SELLER AGREE THAT IT WOULD BE IMPRACTICAL OR IMPOSSIBLE TO PRESENTLY PREDICT WHAT MONETARY DAMAGES SELLER WOULD SUFFER UPON BUYER'S FAILURE TO COMPLETE ITS PURCHASE OF THE PROPERTY. BUYER DESIRES TO LIMIT THE MONETARY DAMAGES FOR

WHICH IT MIGHT BE LIABLE HEREUNDER AND BUYER AND SELLER DESIRE TO AVOID THE COSTS AND DELAYS THEY WOULD INCUR IF A LAWSUIT WERE COMMENCED TO RECOVER DAMAGES OR OTHERWISE ENFORCE SELLER'S RIGHTS. IF FURTHER INSTRUCTIONS ARE REQUIRED BY ESCROW HOLDER TO EFFECTUATE THE TERMS OF THIS SECTION, BUYER AND SELLER AGREE TO EXECUTE THE SAME. THE PARTIES ACKNOWLEDGE THIS PROVISION BY PLACING THEIR INITIALS BELOW:

______________________	______________________
SELLER'S INITIALS	**BUYER'S INITIALS**

4. Reimbursement Agreement

4.1 Buyer shall reimburse Seller for its actual out-of-pocket costs and expenses (including legal fees and costs) incurred in preparing, reviewing and processing the CEQA Documents (as defined in Section 4.2 below) (the "**Reimbursable Costs**") at the rates as set forth on **Exhibit E** attached hereto. Concurrently with its execution of this PSA, Buyer shall deposit with Escrow Holder the sum of Twenty Thousand and No/100 Dollars ($20,000.00) (the "**Reimbursement Funds**"). The Reimbursement Funds may be requested from time to time by Seller for Reimbursable Costs not otherwise paid or reimbursed by Buyer. Seller may request disbursement of Reimbursement Funds from Escrow Holder by providing written instructions to Escrow Holder (each a "**Disbursement Request**") and shall concurrently provide to Buyer a copy of such Disbursement Request, which Disbursement Request shall include evidence of the Reimbursement Costs incurred by Seller for which Seller is requesting disbursement. Within five (5) days after receipt of such Disbursement Request, Escrow Holder shall disburse to Seller from the Reimbursement Funds the amount set forth in the Disbursement Request if Buyer has not objected to such disbursement within such 5-day period (a "**Disbursement Objection**"). Any Disbursement Objection shall: (A) be reasonable and made in good faith, (B) be in writing and delivered concurrently to Escrow Holder and Seller, and (C) state with reasonable specificity the basis for such objection and what Seller shall be required to do in order for Buyer to withdrawal its Disbursement Objection. Any Disbursement Request requested by Seller in excess of the Reimbursement Funds shall be mutually agreed upon between Buyer and Seller in writing (the "**Excess Reimbursement Costs**"). Buyer shall deposit the amount of any such Excess Reimbursement Costs (the "**Excess Reimbursement Funds**") with Escrow Holder within ten (10) days following mutual approval of the Excess Reimbursement Costs. Any remaining amount of the Reimbursement Funds shall be delivered to Buyer (along with a final accounting of Seller's application of the Reimbursement Funds) within thirty (30) business days after the earlier of: (i) the Close of Escrow, or (ii) the termination of this PSA. The provisions of this Section shall survive the expiration or earlier termination of this PSA. Notwithstanding anything to the contrary in this PSA, express or implied, Seller shall have the right in its sole and absolute discretion to cease preparing, reviewing and processing the CEQA Documents (as defined in Section 4.2 below) in the event that Seller determines that the Reimbursement Funds then on deposit with Escrow Holder are not sufficient to pay for all of the projected/established Reimbursable Costs projected/estimated by Seller.

4.2 Seller and Buyer acknowledge that all applicable requirements of the California Environmental Quality Act ("**CEQA**") must be met in order to develop the Property and that this may require an environmental impact report, supplemental environmental impact report and/or other reports or analyses for CEQA purposes (collectively, the "**CEQA Documents**"). Buyer will, at its cost, fully cooperate with Seller in Seller's preparation of the CEQA Documents as the lead agency for the CEQA Documents.

5. Title Insurance.

5.1 Within five (5) business days after the opening of Escrow, Seller and Buyer shall cause Title Company to furnish Buyer with an updated title report for the Property, together with copies of all documents referenced therein as exceptions to title (collectively, the "**Title Report**").

5.2 Buyer shall have until the expiration of the Due Diligence Period, or any extension thereof under section 6.5 below, to deliver to Seller and Escrow Holder written notice (the "**Preliminary Title Notice**") of Buyer's approval, conditional approval or disapproval of the title exceptions disclosed in the Title Report (excluding the standard printed exceptions in the form of title policy and taxes and assessments which are liens not yet due and payable) and any matters shown by a survey conducted by Buyer at Buyer's cost. All matters not timely disapproved by Buyer will be deemed approved (all such exceptions which are approved or deemed approved by Buyer being referred to herein as the "**Permitted Title Exceptions**"). All such exceptions disapproved by Buyer are referred to herein as "**Disapproved Exceptions**". Notwithstanding anything to the contrary, in no event shall any exception related to the Disposition Approvals or Monetary Liens be deemed Permitted Title Exceptions regardless of whether or not included Buyer's Preliminary Title Notice. As used herein, "**Monetary Liens**" mean all monetary liens or encumbrances recorded against the Property regardless of whether the same arise before or after the Inspection Period; provided, however, Monetary Liens shall not include non-delinquent real estate taxes and assessments, or monetary liens, encumbrances, or obligations imposed in connection with any act or omission on the part of Buyer or any of Buyer's agents, employees, contractors or subcontractors.

5.3 Seller shall have ten (10) days after receipt of Buyer's Preliminary Title Notice to commit to cause any such Disapproved Exceptions to be released of record, or commit to cause the Title Company to endorse over such Disapproved Exceptions pursuant to an endorsement or endorsements reasonably acceptable to Buyer, or elect not to remove or endorse over Disapproved Exceptions. If Seller fails to deliver its response notice within said ten (10) days, Seller shall be deemed to have elected not to eliminate or endorse over all matters disapproved or conditionally approved by Buyer.

5.4 If Seller elects not to commit to remove (or is deemed not to commit to remove) and elects not to cause the Title Company to endorse over (or is deemed to elect not to cause Title Company to endorse over), a Disapproved Exception (other than Monetary Liens as to which Seller's obligation to remove is absolute), Buyer shall have the option, to be exercised within five (5) business days after Seller's notice to elect to terminate this Agreement, in which case the Deposit shall be returned to Buyer. If (or if no notice is given, then within five business days after the end of the 10-day period) Buyer fails to timely deliver the termination notice, Buyer shall be deemed to have elected take title subject to the Disapproved Exceptions.

5.5 Buyer's fee title to the Property shall be insured at the Close of Escrow by an CLTA Standard Coverage Owner's Policy of Title Insurance in the amount of the Purchase Price, issued by Title Company (or, at the option of Buyer, an ALTA policy if Buyer performs an ALTA survey at Buyer's cost during the period described in Section 5.2 above and requires an ALTA Extended Coverage Owner's Policy of Title Insurance) and containing only the Permitted Title Exceptions. Under no circumstances shall the Title Policy to be issued to Buyer at Closing contain an exception relating to the Disposition Approvals (as defined in Section 16).

5.6 Seller shall not encumber the Property during the period from the Effective Date to the earlier of Close of Escrow or the date of the termination of this Agreement.

6. Due Diligence; Right of Entry.

6.1 Within one (1) business day after the Effective Date, Seller shall deliver to Buyer the documents described on **Exhibit D**. Seller hereby grants Buyer and its agents, employees, contractors and subcontractors designated in writing by Buyer to Seller (collectively "**Representatives**") the right to enter on the Property until the date that is one hundred eighty (180) days after the Effective Date (the "**Due Diligence Period**") for the purpose of inspecting the physical condition of the Property, including soils, title, survey, zoning, water availability, engineering and entitlement and permitting requirements, development potential, geological matters and the environmental condition of the Property, including toxic or hazardous substances and other contamination, subject to scheduling and coordination with the Seller. All such investigations shall be at Buyer's expense. All work performed by Buyer and its Representatives will be performed diligently and in a manner consistent with the standards of care, diligence and skill exercised by recognized consulting firms for similar services, and in accordance with professional standards and the requirements of any governmental agency or entity and all applicable laws, and shall not disturb, or otherwise violate the rights of tenants. Seller shall use commercially reasonable efforts to cooperate with Buyer's investigations and to provide Buyer and its Representatives access to the Property upon forty-eight (48) hours' notice.

6.2 Buyer and its Representatives shall promptly notify the Seller of any discovery, spill, release, or discharge of any Hazardous Substances, as defined in **Exhibit C**, on, under or about the Property which is discovered, encountered, or results from or is related to the Buyer's or its Representatives' access to and/or use of the Property under this Agreement.

6.3 In connection with the inspections of the Property by Buyer and its Representatives (including, without limitation, any survey), Buyer shall, at its own cost and expense, take any necessary action to keep the Property, and any improvements and personalty thereon, in good order and repair and safe condition to the extent that such Property, improvements or personalty were in such condition prior to its entry, and the whole of the Property, in a clean, sanitary and orderly condition, including, without limitation, ensuring that any holes, ditches or other indentations, as well as any mounds or other inclines created by any excavation by Buyer or its Representatives are regraded, resurfaced and compacted. If any portion of the Property or an adjacent property, including improvements and fixtures, suffers damage or alteration by reason of the access and activities of Buyer or its Representatives on the Property, Buyer shall, at its own cost and expense, promptly repair all such damage and restore the Property or adjacent property to as good a condition as before such damage or alteration occurred, or if it cannot be repaired, Buyer shall replace such damaged or altered property to the extent possible.

6.4 Prior to entering the Property, Buyer shall provide Seller with reasonable evidence that Buyer has reasonable insurance covering Buyer's activities on the Property. In any event, Buyer shall defend, protect, indemnify, and hold free and harmless Seller and its employees, agents, and representatives, and their successors, and assigns (individually as "**Indemnitee**" and collectively, "**Indemnitees**"), free and harmless from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever (collectively, the "**Claims**"), including fees of accountants, attorneys, expert witnesses, or other professionals, and all costs associated therewith, arising or claimed to arise, directly or indirectly, out of, in connection with, resulting from, or related to any act, failure to act, error, or omission of Buyer or any of its Representatives arising or claimed to arise, directly or indirectly, out of, in connection with, resulting from, or related to entry upon the Property pursuant to this Section (but in no event shall Buyer be responsible to defend, protect, indemnify or hold Seller harmless due to Buyer's mere discovery of contamination or other conditions adversely affecting the value of the Property).

Within ninety (90) days of the effective date, Buyer shall submit to Seller a completed development application including a bubble diagram of the site, maximum development densities, parking space counts, structure heights and architectural comparisons photos.

Buyer Agrees to make good-faith efforts to maximize development densities within the existing zoning of the property utilizing all available state density bonuses, including the Transit Oriented Development density bonus.

6.5 Buyer may, by written notice and at Buyer's election prior to the expiration of the Due Diligence Period or any extension thereto, extend the Due Diligence Period by up to two (2) ninety (90) day periods (each a "**Due Diligence Period Extension**" and collectively the "**Due Diligence Period Extensions**"). Within three (3) business days following Buyer's election to exercise each Due Diligence Period Extension, Buyer shall deposit with Escrow Holder the sum of Ten Thousand Dollars ($10,000.00) (the "**Due Diligence Period Extension Fee**"), which Due Diligence Period Extension Fee shall be non-refundable but shall be applied to the Purchase Price at Closing.

6.6 Given that no specific entitlements or development approvals are being conveyed with the sale of the Property, it is Buyer's intention to use the Due Diligence Period to (among other things) obtain all possible entitlements required to develop the Property (with the possible exception of water connections), including any CEQA approvals, including the release of the Categorical Exemption. Buyer and Seller shall work in good faith to determine what developments are appropriate for and on the Property and to timely and diligently process approval of such developments to their mutual agreement and satisfaction during the Due Diligence Period.

In the event that Buyer determines that any condition or matter affecting the Property is unacceptable to Buyer in Buyer's sole and absolute discretion, or if Buyer and Seller cannot agree on the terms government Buyer's proposed development of the Property, Buyer may cancel Escrow by written notice to Seller and Escrow Holder and receive a full refund of the Deposit prior to the expiration of the Due Diligence Period.

7. <u>Deposit of Documents and Funds in Escrow</u>.

7.1 Seller and Buyer, as applicable, hereby covenant and agree to deliver to Escrow Holder at least one (1) business day prior to Close of Escrow the following instruments, documents, and funds, the delivery of each of which shall be a condition of the Close of Escrow.

7.2 Seller shall deliver:

(a) A Grant Deed in the form attached hereto as <u>**Exhibit B**</u> duly executed and acknowledged by Seller;

(b) A Withholding Exemption Certificate Form 593-C as contemplated by California Revenue and Taxation Code §18662 (the "**Withholding Affidavit**") duly executed by Seller;

(c) A Certification of Non-Foreign Status in accordance with Internal Revenue Code Section 1445 duly executed by Seller;

(d) Such proof of Seller's authority and authorization to enter into this transaction as the Title Company may require in order to issue the Title Policy; and

(e) An owner's affidavit and such other customary documents which may be requested by Escrow Holder or Title Company.

7.3 Buyer shall deliver:

(a) The Purchase Price (less the Deposit) together with such funds as are required to pay for costs and expenses payable by Buyer hereunder; and

(b) A preliminary change of ownership report ("**PCOR**") and such other customary documents which may be requested by Escrow Holder or Title Company.

8. <u>Authorization to Record Documents and Disburse Funds</u>. Escrow Holder is hereby authorized to record the documents and disburse the funds and distribute the documents called for hereunder upon the Close of Escrow, provided each of the following conditions has then been fulfilled:

8.1 The Title Company can issue the Title Policy, with a liability in the amount of the Purchase Price, showing fee title to the Property vested in Buyer, subject only to the Permitted Title Exceptions.

8.2 Seller and Buyer shall have deposited in Escrow the documents and funds required pursuant to Section 7.

9. Prorations; Charges. The following items are to be prorated as of Close of Escrow: (i) taxes; (ii) assessments (on a per square foot basis); and (iii) any utilities charges. Buyer shall pay (i) fifty percent (50%) of the escrow fees and charges of Escrow Holder, (ii) the cost of all endorsements to the Title Policy and any extended coverage, and (iii) Buyer's share of the charges prorated under this Agreement. Seller shall pay: (i) fifty percent (50%) of the escrow fees and charges of Escrow Holder; (ii) the cost of the premium for CLTA coverage under the Title Policy; (iii) all recording charges, if any; and (iv) any documentary transfer taxes. If the Escrow shall fail to close for any reason other than Seller's default, Buyer shall pay any applicable Escrow cancellation charges.

10. Condemnation; Destruction. All risk of loss with respect to the Property shall remain with Seller until after the Close of Escrow and delivery of possession of the Property to Buyer. If at any time prior to the Close of Escrow, the Property, or any portion thereof, is damaged by fire or other casualty or taken or appropriated through eminent domain or similar proceedings, or is condemned for any public or quasi-public use, Buyer may terminate this Agreement. If Buyer terminates this Agreement, Seller shall be entitled to receive all insurance proceeds payable to Buyer or Seller or all condemnation proceeds actually paid for that portion of the property taken. If Buyer elects to maintain this Agreement in full force and effect, then upon Close of Escrow, Buyer shall be entitled to receive all insurance proceeds payable to Seller or all condemnation proceeds actually paid for that portion of the Property taken or, if such proceeds have been paid to Seller, Buyer shall receive a credit against the Purchase Price equal to the amount of proceeds actually paid to Seller. Buyer shall not be entitled to any reduction in the Purchase Price.

11. Default.

11.1 Notice of Default. With respect to a default by either party hereunder, neither party will be in default under this Agreement unless and until the other party gives the defaulting party written notice specifying the default or defaults and if such default or defaults have not been cured within five (5) business days from the defaulting party's receipt of such notice. In the event of a breach or default under this Agreement by either Seller or Buyer, if such default is not cured with in the five (5) business day grace period, then the non-defaulting party shall have the right to terminate this Agreement and the Escrow for the purchase and sale of the Property by delivering written notice thereof to the defaulting party and to Escrow Holder.

11.2 Remedies. If Buyer is the non-defaulting party and elects to terminate this Agreement, then Buyer shall thereupon promptly receive a refund of the Deposit. Seller and Buyer mutually agree that the Property is of a special and unique character which gives it a peculiar value, and that Buyer cannot be reasonably or adequately compensated in damages in an action at law in the event Seller breaches its obligation to sell the Property to Buyer. Therefore, Seller expressly agrees that Buyer shall be entitled to injunctive and other equitable relief (including the right to specifically enforce Seller's obligation to sell the Property to Buyer) in the event of such breach, in addition to any other rights or remedies which Buyer may possess, including, without limitation, the right to record a notice of pendency of action against any of the

Property and/or to terminate this Agreement, have the Deposit returned and pursue an action for damages. If Buyer is the defaulting party and Seller elects to terminate this Agreement, then Seller shall be entitled, as its sole and exclusive remedy, to retain the Deposit as liquidated damages pursuant to Section 3.2, above.

12. As Is; Release. Buyer is acquiring the Property "AS IS, WHERE IS" without any representation or warranty of Seller, implied or statutory, as to the nature or condition of or title to the Property or its fitness for Buyer's intended use of same (except as expressly set forth herein). Buyer is familiar with the Property. Buyer is relying solely upon its own, independent inspections, investigations and analysis of the Property as it deems necessary or appropriate in so acquiring the Property from Seller, including, without limitation, an analysis of any and all matters concerning the condition of the Property and its suitability for Buyer's intended purposes, and a review of all applicable laws, ordinances, rules and governmental regulations (including, but not limited to, those relative to building, zoning and land use) affecting the development, use, occupancy or enjoyment of the Property.

BUYER ACKNOWLEDGES AND AGREES THAT, SELLER HAS NOT MADE, DOES NOT MAKE AND SPECIFICALLY NEGATES AND DISCLAIMS ANY REPRESENTATIONS, WARRANTIES, PROMISES, COVENANTS, AGREEMENTS OR GUARANTIES OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, PAST, PRESENT OR FUTURE, OF, AS TO, CONCERNING OR WITH RESPECT TO THE PROPERTY OR ANY MATTER RELATED THERETO, INCLUDING, WITHOUT LIMITATION, THE HABITABILITY, MERCHANTABILITY, MARKETABILITY, PROFITABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE PROPERTY, AND COMPLIANCE WITH ANY ENVIRONMENTAL LAWS OR THE PRESENCE, ABSENCE, CONDITION OR STATUS OF ANY HAZARDOUS MATERIALS. BUYER ACKNOWLEDGES AND AGREES THAT TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE SALE OF THE PROPERTY AS PROVIDED FOR HEREIN IS MADE ON AN "AS IS" CONDITION AND BASIS WITH ALL FAULTS, AND THAT SELLER HAS NO OBLIGATIONS TO MAKE REPAIRS, REPLACEMENTS OR IMPROVEMENTS OR REMEDIATE ANY HAZARDOUS MATERIALS.

BY INITIALING BELOW, THE BUYER ACKNOWLEDGES THAT (i) THIS SECTION 12 HAS BEEN READ AND FULLY UNDERSTOOD, (ii) THE BUYER HAS HAD THE CHANCE TO ASK QUESTIONS OF ITS COUNSEL ABOUT ITS MEANING AND SIGNIFICANCE, AND (iii) THE BUYER HAS ACCEPTED AND AGREED TO THE TERMS SET FORTH IN THIS SECTION 12.

____
BUYER'S INITIALS

Buyer waives and releases as of the Close of Escrow any and all claims it may have against Seller relating to the physical condition of the Property (including, without limitation, the presence or release hazardous materials or substances). To the extent of such waiver and release, Buyer expressly waives its rights, if any, under California Civil Code Section 1542 which provides:

"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."

____
Buyer's Initials

13. Notices. All notices, requests and demands to be made hereunder to the parties hereto shall be made in writing to the addresses set forth below and shall be given by any of the following means: (a) personal service; (b) certified or registered mail, postage prepaid, return receipt requested; or (c) nationally recognized courier or delivery service. Such addresses may be changed by notice to the other parties given in the same manner as provided herein. Any notice, demand or request sent pursuant to either clauses (a) or (c) hereof shall be deemed received upon the actual delivery thereof, and, if sent pursuant to clause (b) shall be deemed received five (5) days following deposit in the mail. Refusal to accept delivery of any notice, request or demand shall be deemed to be delivery thereof. If any party hereto is not an individual, notice may be given to any officer, general partner or principal thereof.

Buyer:
West End Partners, LLC,
Attn: Chris Orosco
10 Harris Court, Suite B-1
Monterey, CA 93940
(831) 649-0220 (main office)

Email: corosco@oroscogroup.com

with copies to:

speverini@oroscogroup.com and

chad.gallagher@msrlegal.com

Buyer Broker:
Christopher Orosco
Orosco & Associates, Inc.
10 Harris Court, Suite B-1
Monterey, CA 93940

Seller:
Successor Agency to the
Redevelopment Agency of the City of Seaside
440 Harcourt Avenue
Seaside, California 93955
Attn.: Executive Director

Seller Broker: Carpenter/Robbins Commercial Real Estate, Inc.
2000 Crow Canyon Place, Suite 130
San Ramon, CA 94583
Attn: John Robbins/Alyce Rados

Escrow Holder: Old Republic Title Company
503 Abrego St
Monterey, CA 93940
Attn: Heather Tremper

14. Broker's Commissions. Carpenter/Robbins Commercial Real Estate, Inc., is the real estate broker for Seller in this transaction. Orosco & Associates, Inc. is the real estate broker for the Buyer in this transaction. Seller shall pay to Carpenter/Robbins Commercial Real Estate, Inc. at Close of Escrow a commission of 3% of the Purchase Price and to Orosco & Associates, Inc. at Close of Escrow a commission fee of 3% of the Purchase Price. There are no other amounts owned for real estate commissions. Buyer and Seller shall hold each other harmless from any claim asserted by a real estate or other broker claiming through Buyer or Seller, respectively, for a commission in connection with this transaction. Seller acknowledges that Christopher R. Orosco is a licensed real estate broker in the State of California and may be acting as a principal in this transaction.

15. Closing Conditions.

15.1 Conditions to Buyer's Obligations: Buyer will have no obligation to purchase the Property and close escrow unless each of the following conditions precedent have been satisfied or waived by Buyer:

(a) Seller shall have complied and at Closing will be in compliance with each its covenants and obligations in this Agreement;

(b) Each of the representations and warranties of Seller in this Agreement will be materially true and correct as of the Closing Date; and

(c) The Disposition Approvals have been received.

Subject to Section 11, if any of the conditions precedent in favor of Buyer set forth in Section 15.1 are neither satisfied nor waived by Buyer by the Closing Date, Buyer (at its option) may terminate this Agreement by giving a notice of termination to Seller on or before all of the applicable conditions have been satisfied. In such case, (i) the Escrow shall terminate (ii) Buyer will have no further obligation to purchase the Property from Seller, (iii) Seller will have no further obligation to sell the Property to Buyer, and (iv) the parties will have no further obligation to one another, except as otherwise expressly provided herein. In the event of such a termination, the Deposit shall be returned to Buyer (except for the Independent Consideration which was previously released to Seller).

15.2 Conditions to Seller's Obligations: Seller will have no obligation to sell the Property and close escrow unless each of the following conditions precedent have been satisfied or waived by Seller:

(a) Buyer shall have complied and at Closing will be in compliance with each of its covenants and obligations in this Agreement;

(b) Each of the representations and warranties of Buyer in this Agreement will be materially true and correct as of the Closing Date; and

(c) The Disposition Approvals have been received.

Subject to Section 11, if any of the conditions precedent in favor of Seller set forth in Section 15.2 are neither satisfied nor waived by Seller by the Closing Date, Seller (at its option) may terminate this Agreement by giving a notice of termination to Buyer on or before all of the applicable conditions have been satisfied. In such case, the parties' rights and obligations shall be governed by Section 3.2.

16. Disposition Approvals. Immediately after the Effective Date, Seller shall submit this Agreement for approval by the Oversight Board of the Successor Agency to the Seaside Redevelopment Agency ("**OB**"). Buyer and Seller acknowledge that Oversight Board approval is a condition of closing. Buyer and Seller acknowledge and agree that as a condition to Closing, either (i) the California Department of Finance ("**DOF**") must fail to request review of the OB decision approving this transaction within the period permitted by law; (ii) or if such review is timely requested, the DOF's approval of the OB decision must be obtained (the OB approval and DOF approval (or deemed approval pursuant to clauses (i) or (ii) shall be referred to herein as the "**Disposition Approvals**"). If the Disposition Approvals are not received by the date that is one (1) year after the Effective Date, then notwithstanding anything to the contrary herein, Buyer may elect by written notice to terminate this Agreement at any time from and after such one-year anniversary until the Disposition Approvals are obtained and in the event of any such termination, Seller shall reimburse Buyer for all verifiable out-of-pocket costs incurred by Buyer in connection with its due diligence investigations and all legal costs incurred in connection with this Agreement.

17. Representations and Warranties.

17.1 Representations and Warranties of Seller. Seller makes the following representations and warranties to Buyer:

(a) Seller is a General Law City, duly organized, validly existing and in good standing under the laws of the State of California and is duly qualified to do business in the State of California. Seller has the right, power and authority to enter into this Agreement and to perform its obligations hereunder, and the person(s) executing this Agreement on behalf of Seller have the right, power and authority to do so, provided the Disposition Approvals are obtained.

(b) The Property is, to actual current knowledge of the Executive Director of the Seller, not in violation, nor has been nor is currently under investigation for violation of any Environmental Laws, including, but not limited to, soil and groundwater conditions, the Property has not been subject to a deposit of any Hazardous Substances, neither Seller nor, to the best of Seller's knowledge, any third party has used, generated, manufactured, stored or disposed in, at, on, under or about the Property or transported to or from the Property any Hazardous Substance, and there has been no discharge, release or, to the best of Seller's knowledge, migration of any Hazardous Substance from, into, on, under or about the Property; and there is not now, nor, to the best of Seller's knowledge, has there ever been on or in the Property underground storage tanks or surface impoundments, any asbestos-containing materials or any polychlorinated biphenyls used in hydraulic oils, electrical transformers or other equipment.

(c) Within one (1) business day after the Effective Date, Seller will have disclosed or made available to Buyer all information in Seller's possession or known to Seller concerning the Property.

(d) To the best of Seller's knowledge, there are no liens (including without limitation, mechanics liens), claims, encumbrances, easements, covenants, conditions, restrictions or other matters of record affecting title to the Property which are not disclosed in the Preliminary Report, and except as disclosed in the Title Report, there are no special assessments (whether from an assessment district, facilities district, or otherwise) against the Property nor has Seller received any written notice of any special assessments being contemplated. Seller is not aware of any other assessment districts or areas which are being formed or contemplated.

All representations, warranties and covenants of Seller in this Agreement are made as of the date of this Agreement and as of the Closing and shall survive the Closing. It shall be a material default hereunder if Seller is unable to make such representations and warranties truthfully as of the Closing Date.

17.2 Representations and Warranties of Buyer. Buyer makes the following representations, warranties and covenants to Seller:

(a) Buyer is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of California and is duly qualified to do business in the State of California. Buyer has the right, power and authority to enter into this Agreement and to perform its obligations hereunder, and the person(s) executing this Agreement on behalf of Buyer have the right, power and authority to do so.

(b) Buyer's affiliate, DBO Development No. 30, a California limited liability company ("DBO Development"), owns water allocation credits from the Monterey Peninsula Water Management District, which water allocation credits may be utilized in connection with development of the Property. Upon Buyer's acquisition of the Property, Buyer agrees to obtain such water credits from DBO Development necessary for Buyer to develop the Property as intended.

(c) All representations and warranties of Buyer in this Agreement are made as of the date of this Agreement and as of the Closing, and shall survive the Closing and the recordation of the Grant Deed. It shall be a material default if Buyer is unable to make such representations and warranties truthfully as of the Closing Date.

18. Standard Instructions. Each party agrees to execute Escrow Holder's supplemental reasonable standard instructions as may be necessary or proper in order to consummate the transactions contemplated by this Agreement; provided, however, in the event of a material conflict between the terms hereof and the terms of such standard instructions, the terms hereof shall control.

19. Time is of the Essence. Subject to Section 11, the parties hereto agree that time is of the essence with respect to each term, condition and covenant hereof.

20. Successors and Assigns. The provisions of this Agreement are expressly binding upon, and shall inure to the benefit of, the parties hereto and their successors in interest and assigns.

21. Entire Agreement. This Agreement, together with all exhibits hereto, integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties or their predecessors in interest with respect to all or any part of the subject matter hereof. Notwithstanding the foregoing, the Temporary Construction Easement shall survive the Close of Escrow.

22. Severability. Invalidation of any of the terms, conditions, covenants, or other provisions contained herein by judgment or court order shall in no way affect any of the other terms, conditions, covenants, or provisions hereof, and the same shall remain in full force and effect.

23. Amendments. Any amendments to this Agreement shall be effective only when duly executed by Seller and Buyer and deposited with Escrow Holder.

24. Attorneys' Fees. In the event that suit is brought for the enforcement of this Agreement or as the result of any alleged breach thereof, the prevailing party or parties in such suit shall be entitled to recover their reasonable attorneys' fees, costs, and expenses from the losing party or parties, and any judgment or decree rendered in such proceedings shall include an award thereof.

25. No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of Seller and Buyer and no other parties are intended to be direct or incidental beneficiaries of this Agreement.

26. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

27. Counterparts. This Agreement may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. In order to expedite the transaction contemplated herein, facsimile

and/or .pdf signatures may be used in place of original signatures on this Agreement. Seller and Buyer intend to be bound by the signatures on the electronically transmitted document, are aware that the other Party will rely on such signatures, and hereby waive any defenses to the enforcement of the terms of this Agreement based on the form of signature.

28. Assignment of Agreement. Buyer may assign or transfer its rights and obligations under this Agreement without first obtaining the prior written consent of Seller.

29. Tax Deferred Exchange. Each party reserves the right to structure this transaction as a tax deferred exchange for the benefit of that party, and the other party agrees to cooperate with the exchanging party to effect the completion of such exchange, at no cost or liability to the other party. Said exchange may be completed either as a concurrent exchange or a delayed exchange, in either case pursuant to Section 1031 of the Internal Revenue Code of 1986, as amended, and the rules and regulations promulgated thereunder. In the event of a delayed exchange, the Closing Date hereunder shall not be delayed. In no event shall either party be required to take title to any other property, other than Buyer taking title to the Property, and in no event shall any parties' rights or obligations hereunder be altered by the other party's exchange. Either party structuring this transaction as a tax-deferred exchange hereby agrees to indemnify, defend and hold the other harmless from and against any and all claims, causes of action, suits, damages, liabilities, costs or expenses (including, without limitation, reasonable attorneys' fees) arising out of their exchange.

[Signatures on the following page.]

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

BUYER:

WEST END PARTNERS, LLC,
a California limited liability company

By: ____________________________
Christopher R. Orosco, Member

By: ____________________________
Patrick W. Orosco, Member

SELLER:

SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF SEASIDE

By:__________________________________

Print Name:___________________________
Executive Director

Attest:

____

Print Name: ___________________________
City Clerk

Approved as to Form:

____

LIST OF EXHIBITS

EXHIBIT A

LEGAL DESCRIPTION OF THE LAND

Broadway Avenue and Terrace Street:
1104, 1116 & 1128 Olympia;
1125, 1137, 1173, 1193 Broadway

Parcel One

APN: 012-191-001
Del Monte Heights Map 6
Lot 28 & 29 BLK 24

Parcel Two
APN: 012-191-001

Del Monte Heights Map 6
Lot 30 & 31 BLK 24

Parcel Three
APN: 012-191-003
Del Monte Heights Map 6
Lot 32 & 33 BLK 24

Parcel Four
APN: 012-191-004
Del Monte Heights Map 6
Lot 34 & 35 BLK 24

Lot Five
APN: 012-191-013
Del Monte Heights Map 6
Lot 1 & 2 BLK 24

Parcel Six
APN: 012-191-016
Del Monte Heights Map 6
Lot 7 & 8 BLK 24

Parcel Seven
APN: 012-191-017
Del Monte Heights

Lot 9, 10 & 11 BLK 24

Parcel Eight
APN: 012-191-021
Del Monte Heights Map 6
Lot 23, 24 & 25 BLK 24

Parcel Nine
APN: 012-191-023
Del Ponte Heights Map 6
Lot 12, 13 & 14 BLK 24

Parcel Ten
APN: 012-191- 024
Del Monte Heights Map 6
Lot 15, 16 & 17BLK 24

Parcel Eleven
APN: 012-191-025
Del Monte Heights Map 6
Lot 3, 4, 5 & 6 BLK 24

Parcel Twelve
APN: 012-191-028
Del Monte Heights Map 6
Lot 18 & 19 BLK 24

Parcel Thirteen
APN: 012-191-029
Del Monte Heights Map 6
Lot20,21 & 22

Legal Description to added prior to execution

EXHIBIT B

FORM OF GRANT DEED

RECORDING REQUESTED BY,
AND WHEN RECORDED RETURN TO
(AND SEND TAX STATEMENTS TO):

____
____
____
Attn: ____________________

[SPACE ABOVE FOR RECORDER'S USE ONLY]

This document is exempt from the
payment of a recording fee pursuant to
Government Code Section 27383

GRANT DEED

THE UNDERSIGNED GRANTOR DECLARES AS FOLLOWS:

FOR VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, the Successor Agency to the Redevelopment Agency of the City of Seaside (the "Grantor") hereby grants to _____________________ ("Grantee") the land in the City of Seaside, County of Monterey, State of California, more particularly described on **Exhibit A** attached hereto and all improvements thereon and all rights and appurtenances relating thereto (the "Property").

That the documentary transfer tax is $___________ ($1.10 per $1000 of consideration/purchase price); property is in the City of Seaside, County of Monterey.

IN WITNESS WHEREOF, Grantor has executed this Grant Deed as of the date set forth below.

Dated: ______, 20__

SUCCESSOR AGENCY TO THE REDEVELOPMENT AGENCY OF THE CITY OF SEASIDE

By: ___________________________
Print Name: ____________________
Executive Director

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
County of Monterey)

On ____________________, before me, ____________________________, a Notary Public, personally appeared ______________________________, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature __________________________________

EXHIBIT C

CERTAIN DEFINITIONS

Environmental Condition means any condition of the Property that exists prior to or after the Closing Date, with respect to the air, land, soil, surface, subsurface strata, surface water, ground water, storm water or sediments.

Environmental Laws means all federal, state, local, or municipal laws, rules, orders, regulations, statutes, ordinances, codes, decrees, or requirements of any government authority regulating, relating to, or imposing liability or standards of conduct concerning any Hazardous Substance (as later defined), or pertaining to occupational health or industrial hygiene (and only to the extent that the occupational health or industrial hygiene laws, ordinances, or regulations relate to Hazardous Substances on, under, or about the Property), occupational or environmental conditions on, under, or about the Property, as now or may at any later time be in effect, including without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA) [42 USCS §§ 9601 et seq.]; the Resource Conservation and Recovery Act of 1976 (RCRA) [42 USCS §§ 6901 et seq.]; the Clean Water Act, also known as the Federal Water Pollution Control Act (FWPCA) [33 USCS §§ 1251 et seq.]; the Toxic Substances Control Act (TSCA) [15 USCS §§ 2601 et seq.]; the Hazardous Materials Transportation Act (HMTA) [49 USCS §§ 1801 et seq.]; the Insecticide, Fungicide, Rodenticide Act [7 USCS §§ 136 et seq.]; the Superfund Amendments and Reauthorization Act [42 USCS §§ 6901 et seq.]; the Clean Air Act [42 USCS §§ 7401 et seq.]; the Safe Drinking Water Act [42 USCS §§ 300f et seq.]; the Solid Waste Disposal Act [42 USCS §§ 6901 et seq.]; the Surface Mining Control and Reclamation Act [30 USCS §§ 1201 et seq.]; the Emergency Planning and Community Right to Know Act [42 USCS §§ 11001 et seq.]; the Occupational Safety and Health Act [29 USCS §§ 655 and 657]; the California Underground Storage of Hazardous Substances Act [H & S C §§ 25280 et seq.]; the California Hazardous Substances Account Act [H & S C §§ 25300 et seq.]; the California Hazardous Waste Control Act [H & S C §§ 25100 et seq.]; the California Safe Drinking Water and Toxic Enforcement Act [H & S C §§ 24249.5 et seq.]; the Porter-Cologne Water Quality Act [Wat C §§ 13000 et seq.] together with any amendments of or regulations promulgated under the statutes cited above and any other federal, state, or local law, statute, ordinance, or regulation now in effect or later enacted that pertains to occupational health or industrial hygiene, and only to the extent that the occupational health or industrial hygiene laws, ordinances, or regulations relate to Hazardous Substances on, under, or about the Property, or the regulation or protection of the environment, including ambient air, soil, soil vapor, groundwater, surface water, or land use.

Hazardous Substances includes without limitation:

(a) Those substances included within the definitions of hazardous substance, hazardous waste, hazardous material, toxic substance, solid waste, or pollutant or contaminant in CERCLA, RCRA, TSCA, HMTA, or under any other Environmental Law;

(b) Those substances listed in the United States Department of Transportation (DOT) Table [49 CFR 172.101], or by the Environmental Protection Agency (EPA), or any successor agency, as hazardous substances [40 CFR Part 302];

(c) Other substances, materials, and wastes that are or become regulated or classified as hazardous or toxic under federal, state, or local laws or regulations; and

(d) Any material, waste, or substance that is

(i) a petroleum or refined petroleum product,

(ii) asbestos,

(iii) polychlorinated biphenyl,

(iv) designated as a hazardous substance pursuant to 33 USCS § 1321 or listed pursuant to 33 USCS § 1317,

(v) a flammable explosive, or

(vi) a radioactive material.

EXHIBIT D

LIST OF DOCUMENTS DELIVERED TO BUYER

Property Information Sheet

Sellers Mandatory Disclosure Form

JCP-LGS Property Information Disclosure Report

EXHIBIT E

RATE SCHEDULE

[Rate schedule to be attached.]

REIMBURSEMENT AGREEMENT

This Agreement ("Agreement") is made and entered into this __ day of August, 2018, ("Effective Date") by and between the City of Seaside and ("City") and West End Partners, LLC, a California limited liability company ("Developer").

WHEREAS, Developer has submitted an application to develop, construct, and operate the property described on Exhibit "A" attached hereto and incorporated herein by reference (the "Property"). For purposes of this Agreement, reviewing and processing Developer's applications, including, but not limited to, all activities related to cover costs of the preparation and management of an Environmental Impact Report, and additional costs associated with the entitlement process, development, and construction of the above- referenced project and related uses shall be referred to as the "Project".

WHEREAS, Developer and City expect that the Project will require City to expend considerable resources in working with Developer for approval of the Project, including, but not limited to, processing of Developer's Environmental Impact Report, fiscal analysis, water permits, and management of the Environmental Impact Report and any and all applications, permits, and other entitlements related to the Project.

WHEREAS, City and Developer have agreed that Developer shall be responsible for reimbursing City for all costs and expenses reasonably incurred by City with respect to the Project, including costs of staff time and consultants in accordance with the terms of this Agreement (collectively "Project Costs").

WHEREAS, in the event City approves the Project, City and Developer anticipate that such approval will include a condition, among other things, that Developer defend, indemnify and reimburse City for costs associated with said approval.

NOW, THEREFORE, in consideration of the foregoing promises, and in order to carry on the intent and purpose of applicable codes, ordinances, resolutions and regulations, Developer and City agree as follows:

SECTION 1. THE DEVELOPER DEPOSITS

(a) Deposit. Within five (5) business days of execution of this Agreement Developer shall deposit with City in a manner reasonably satisfactory to City the total amount of Ten Thousand and 00/100 Dollars ($10,000.00) hereafter referred to as the "Deposit".

(b) Additional Deposits. If City reasonably determines that the Deposit is insufficient to reimburse City for Project Costs, which determination shall be based upon a good faith reasonable estimate of costs and expenses in consultation with Developer, then Developer and City will negotiate in good faith the amount and timing of further deposits to cover the additional Project Costs ("Supplemental Deposits").

(c) Maintenance of Deposit. City shall maintain the Deposit and any Supplemental Deposits (collectively "Developer Deposits") in a dedicated account for the benefit of Developer. Developer acknowledges and agrees that in lieu of paying staff costs for maintenance and tracking of interest Developer elects to waive any interest on the Developer Deposits. City shall at all times maintain records as to the expenditure of the Developer Deposits; provided, however, City shall use the Developer Deposits only as set forth herein.

(d) Withdrawal of Funds. City may draw upon the Developer Deposits to pay for Project Costs (as defined in Section 2. below) as such costs are incurred in accordance with the terms of this Agreement.

SECTION 2. PROJECT COSTS TO BE REIMBURSED

Developer shall be responsible for payment of all direct costs incurred by City as a result of the Project ("Project Costs"). During the term of this Agreement, so long as Developer is fulfilling its obligations hereunder, City shall process Developer's application(s) for the Project until such time as City approves or denies such application(s). Project Costs shall include:

(a) All actual costs of any outside consultants hired to assist City with Project-related activities, including, but not limited to, planning consultants, CEQA consultants, attorneys, and other technical and professional consultants as deemed necessary by City to process Developer's application. City shall notify and consult with Developer regarding any decision to retain such persons, but shall have sole discretion in the selection and tasking of outside consultants.

(b) All actual costs, not specified in SECTION 2.(a) above, expended solely on Project-related activities (i.e. costs of telephone, mileage, supplies, postage, office space, etc.).

(c) Permit fees normally collected by City to process discretionary permit applications for a proposed project. Developer shall be responsible for payment of any fee not expressly abrogated by this Agreement, including, but not limited to, any ministerial fee(s) on required Project permits such as building permits, grading permits, and the like. This Agreement also does not apply to any fees the Developer is required to pay to any entity other than City, any state or federal agency, or any new application or project.

(d) City is required by law to process Developer's Project application. Developer desires that such Project application processing proceed in an efficient and expeditious manner and will voluntarily reimburse City for its expenses in so doing. Therefore, City will set forth a timeline and it will use all reasonable efforts to maintain a budget for its staff and consultants to satisfy milestones on such timeline. City will provide Developer with a timeline and budget which shall be subject to Developer’s reasonable review and which may be updated from time to time.

SECTION 3. PROCESS FOR REIMBURSEMENT OF PROJECT COSTS

(a) Twenty (20) days prior to expiration of each quarter City shall prepare and provide Developer (by regular mail, electronic mail, or facsimile) a written, quarterly summary of all Project Costs charged by City against the Developer Deposits. The written summary shall be supported by appropriate documentation such as timesheets, invoices, and receipts; provided, however, that City shall have the right to redact from such documentation any information that City reasonably determines is privileged, confidential, or not otherwise subject to release pursuant to the California Public Records Act (Government Code §54950 *et seq.).* Developer shall approve or disapprove City's reimbursement of all costs set forth in each such summary within fifteen (15) business days of receipt. If City does not receive a response from Developer within this fifteen-day timeframe the requested reimbursement shall be deemed approved and City shall draw on the Developer Deposits to cover said Project Costs. In the event Developer notifies City in writing within this fifteen-day timeframe that it does not approve said reimbursement City shall not draw on the Developer Deposits to cover said Project Costs until there is resolution of this dispute in accordance with SECTION 10. below.

(b) City shall review billing statements from outside consultants, or may delegate this duty to Developer to assure accuracy and appropriateness of entries. In addition, City shall provide Developer on a quarterly basis (by regular mail, electronic mail or facsimile) a copy of any and all consultant invoices paid directly by City during the preceding quarter.

(c) City will require prompt, monthly billings from any consultants retained or hired hereunder with itemization of services rendered, time spent and billing rates clearly described.

SECTION 4. **TERM**

The term of this Agreement shall commence on the Effective Date and terminate upon the later of: (a) one (1) year from the issuance of a certificate of completion for the last of the Project-related improvements; or (b) one(1) year from the last date that Developer is required to maintain Project-related improvement(s) set forth in any applicable, sale, improvement or development agreement related to the Project. Nothing herein shall be deemed to abrogate Developer's responsibility to pay for ongoing expenses, including mediation/arbitration/litigation expenses, incurred by City as a result of Project-related activities, which activities occurred during the term of this Agreement. Nothing in this Agreement shall be construed to vest any rights to develop the Project or require City approval of the Project.

SECTION 5. **TERMINATION**

Developer may, at its option, terminate this Agreement at any time upon thirty (30) days prior written notice to City ("Termination Notice") if Developer determines not to proceed with the Project. In the event of termination Developer shall be responsible for the payment of all Project Costs incurred up to and including the date of termination, including any costs that have been irrevocably contracted for. City shall apply the Developer Deposits to any unreimbursed Project Costs through the termination date, and City shall then refund any remaining Developer Deposits funds to Developer within thirty (30) days of the date of termination.

SECTION 6. INDEMNIFICATION

In addition to Project Costs Developer shall defend, indemnify and hold City free and harmless from any and all suits, fees, claims, demands, causes of action, costs, losses, damages, liabilities and expenses (including, but not limited to, an award of attorney's fees, expert witness fees and court costs) incurred by City for any damage(s) arising (directly or indirectly) or resulting directly from the review, processing, consideration, or from the approval of Developer's development application(s) or action taken by City thereon as set forth in the Hold Harmless and Indemnification Agreement attached hereto as Exhibit "B" and incorporated herein by reference. This obligation shall not prevent City from engaging counsel in any such action. Developer will reimburse City for any actual and reasonable costs or fees it may incur in any court or administrative action related to the Project, and shall reimburse City for all adverse fees or costs awarded pursuant to any judgment against City. Developer's obligations pursuant to this SECTION 6 shall survive suspension or termination of this Agreement.

SECTION 7. **TIME IS OF THE ESSENCE**

For the purpose of this Agreement, and for each provision of this Agreement, time is of the essence. City shall make all reasonable efforts to provide timely budgeting and scheduling to Developer, provide consultant statements to Developer, and process the Project pursuant to the schedule.

SECTION 8. NOTICES

All notices called for in this Agreement shall be given in writing by personal delivery, or by first-class mail, postage fully prepaid, return receipt requested, or by overnight mail or overnight private courier. Notice given by personal delivery shall be deemed to be completed upon delivery. Notice given by first-class mail shall be deemed completed five (5) days after deposit into the U.S. Mail. Overnight mail or couriered notices shall be deemed completed the next business day following deposit into the U.S. mail or delivery to a private courier. Mailed or couriered notices shall be addressed as set forth below, but either party may change its contact information by giving written notice thereof to the other in accordance with the provisions of this SECTION 8.

To CITY:
City Manager
City of Seaside
440 Harcourt Avenue
Seaside, CA 93955

To DEVELOPER:
West End Partners, LLC
Attn: Chris Orosco
10 Harris Court, Suite B-1
Monterey, CA 93940

SECTION 9. DEFAULT BY DEVELOPER

If Developer defaults in its obligations to provide and maintain the Developer Deposits required by this Agreement, or to timely pay for any Project Costs as required under this Agreement, then City, at City's option, may suspend consultant activities related to the Project. City shall give Developer written notice of such default at least ten (10) calendar days prior to any suspension of consultant activities to allow Developer time to remedy the default. Subject to SECTION 12 below City may terminate this Agreement and institute legal proceedings with no further notice to Developer if such default is not remedied by Developer within ten (10) calendar days after such notice is given by City of Developer. Upon such termination City shall not be obligated to expend any additional funds on Project-related matters; however, City may, in its discretion, may expend funds after termination of this Agreement as necessary to complete Project-related activities already commenced or for which monetary obligations have already been incurred.

In the event of Developer's default beyond all applicable cure periods, Developer waives any permit review timelines otherwise applicable under any applicable laws with respect to any discretionary approval that may be delayed as a result of Developer's failure to provide City with funds as required under this Agreement to complete environmental review as necessitated by state and federal statutes.

SECTION 10. <u>DISPUTE RESOLUTION</u>

If a dispute arises related to the interpretation or enforcement of, or compliance with, the terms and provisions of this Agreement, City and Developer shall first attempt to resolve it through informal discussions. In the event a dispute cannot be resolved in this manner within twenty-one (21) calendar days after the dispute arises, then City and Developer shall engage in the following Alternative Dispute Resolution procedures:

<u>Mediation</u>. City and Developer agree that any and all disputes, claims, or controversies arising out of or related to this Agreement shall be submitted to the San Jose, California, office of Judicial Arbitration and Mediation Services, Inc. ("JAMS") for mediation, and if the matter is not resolved through mediation then it shall be submitted to JAMS for final binding arbitration pursuant to the arbitration clause set forth below. Either City or Developer may commence mediation by providing JAMS and the other party a written request for mediation setting forth the subject of the dispute and the relief requested. City and Developer will cooperate with JAMS and with one another in selecting a mediator from JAMS' panel of neutrals and in scheduling the mediation proceedings. If the parties cannot agree on the appointment of the mediator or the date of the mediation within thirty {30) calendar days after the written request for mediation then JAMS shall appoint the mediator at its discretion and/or set a mediation date. City and Developer covenant that they will participate in the mediation in good faith, and that they will share equally in its costs. All offers, promises, conduct, and statements, whether oral or written, made in the course of the mediation by any of the parties, their agents, employees, experts and attorneys, and by the mediator and any JAMS employees, are confidential, privileged, and inadmissible for any purpose, including impeachment, in any litigation or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation. Either party may seek equitable relief prior to the mediation to preserve the status quo pending the completion of that process. Except for an action to obtain equitable relief, neither party may commence civil litigation. Either City or Developer may initiate arbitration with respect to matters submitted to mediation by filing a written demand for arbitration at any time following completion of the initial mediation session or sixty (60) calendar days after the date of the written request for mediation, whichever occurs last. Mediation may continue after the commencement of arbitration if City and Developer so desire. Unless otherwise agreed to by City and Developer the mediator shall be disqualified from serving as the arbitrator in the case. The provisions of this section may be enforced by any Court of competent jurisdiction, and the party seeking enforcement shall be entitled to an award of all costs, fees and expenses, including attorney's fees, to be paid by the party against whom enforcement is ordered.

<u>Arbitration.</u> Any dispute, claim, or controversy arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this Agreement to arbitrate, not resolved by the mediation process set forth above, shall be determined by arbitration to be held in Monterey County before one arbitrator. Neither party may request an arbitration hearing in conformity with this arbitration section until after the matter has been submitted to mediation in conformity with the mediation section set forth above and the initial mediation session has been completed or sixty (60) calendar days has passed since the date of the initial written request for mediation, whichever occurs last. The arbitration shall be administered by the San Jose, California, office of Judicial Arbitration and Mediation Services, Inc. ("JAMS") pursuant to its Streamlined Arbitration Rules and Procedures, which rules shall govern the commencement of arbitration and the selection of the arbitrator among other things. Judgment on the Arbitrator's Award may be entered in the Monterey County Superior Court or any court having jurisdiction. This section

shall not preclude City and Developer from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction.

The costs and fees of arbitration (including those fees and expenses set forth in JAMS' fee schedule in effect at the time of commencement of the arbitration) shall be borne equally by City and Developer, and each side shall be responsible for its own attorney's and expert's witness fees.

This dispute resolution process shall be undertaken in good faith. A mediator or arbitrator other than JAMS may be agreed to by City and Developer in writing. By agreeing to this dispute resolution process neither City nor Developer hereby loses or waives its right to assert the operation of any applicable statute of limitations as an affirmative defense. The arbitration award shall be final and binding upon City and Developer and each agrees that it will accept such decision and award as binding and conclusive and will abide thereby.

SECTION 11. **NO WAIVER OF IMMUNITIES**

Nothing in this Agreement shall be construed as a waiver by City of any of the immunities granted to it under federal, state or local law, including the provisions of Sections 818.6, 830.6 and 831.3 of the California Government Code.

SECTION 12. **COMPLETE AGREEMENT**

Except as may otherwise be explicitly set forth herein this Agreement constitutes the final, complete and exclusive statement of the terms hereof between City and Developer related to the subject matter set forth herein. Neither party is relying on any representation or warranty outside those expressly set forth in this Agreement. Any and all amendments to this Agreement shall be in writing, shall be stated as an amendment to this Agreement and shall be executed by both parties.

SECTION 13. UNENFORCEABILITY: SEVERABILITY

If a court of competent jurisdiction holds any Agreement section to be invalid or unenforceable in whole or in part for any reason, the validity and enforceability of the remaining clauses, or portions of them, shall not be affected unless as essential purpose of this Agreement would be defeated by loss of the invalid or unenforceable provision. To that end, this Agreement shall be construed as not containing such clause and the provisions of this Agreement are declared to be severable.

SECTION 14. SUCCESSORS AND ASSIGNS

This Agreement shall bind and benefit City and Developer and its heirs, executors, representatives, assigns, and successors-in-interest, whether voluntary or involuntary. Developer agrees to require any such heirs, executors, representatives, assigns and successors to assume all duties and obligations set forth herein. Developer shall provide City with notice of any transfer or ownership interests in the Project or the subject property.

SECTION 15. **APPLICABLE LAW**

This Agreement shall be construed and enforced in accordance with the laws of the State of California. Every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted, and this Agreement shall be read and enforced as though it were included, and if through mistake or otherwise any provision is not inserted, or is not correctly inserted, upon application of either party this Agreement shall be amended to make the insertion or correction. All references to statutes and regulations shall include all amendments, replacements, and enactments on the subject as of the Effective Date and any later changes that do not materially and substantially alter the positions of City and Developer.

SECTION 16. **NO THIRD PARTY RIGHTS**

This Agreement is not intended to be, and shall not be, construed to create any third party beneficiary rights in any person or entity who is not a party, unless expressly provided herein.

SECTION 17. **NO JOINT VENTURE OR PARTNERSHIP**

The parties specifically acknowledge that each party is an independent entity with respect to the terms contained in this Agreement. None of the terms of this Agreement shall be deemed to create a partnership between the parties in the business of Developer or the affairs of City or otherwise, or cause them to be considered joint venturers or members of any joint enterprise.

SECTION 18. CONSTRUCTION

Each party hereto declares and represents that in entering into this Agreement it has relied, and is relying, solely upon its own judgment, belief and knowledge of the nature, extent, effect and consequence relating thereto. Each party further declares and represents that this Agreement is made without reliance upon any statement or representation not contained herein of any other party or any representative, agent, or attorney of the other party. The parties agree that they are aware they have the right to be advised by counsel with respect to the negotiations, terms and conditions of this Agreement and that the decision of whether or not to seek the advice of counsel with respect to this Agreement is a decision which is the sole responsibility of each of the parties. Accordingly, no party shall be deemed to have been the drafter hereof, and the principal of law set forth in Civil Code §1654 that contracts are construed against the drafter shall not apply.

SECTION 19. **COOPERATION**

Developer and City shall cooperate fully in the execution of any and all other documents and in the completion of any additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of this Agreement. The parties shall act in good faith toward each other and shall act in a fair, diligent and reasonable manner, and neither party shall take any action that will prohibit, impair or impede the other party's exercise or enjoying of its rights and obligations secured through this Agreement. The parties will endeavor to make their principals, staff and consultants available to meet where appropriate to facilitate the efficient processing and review of project application and associated environmental review.

SECTION 20. **REPRESENTATIONS OF AUTHORITY**

Each party signing this Agreement represents and warrants to the other party that all necessary legal prerequisites to that party's execution of this Agreement have been satisfied and that the signatory has been authorized to sign this Agreement and bind the party on whose behalf the signatory signs.

SECTION 21. **NO PROMISE OR REPRESENTATION**

Developer and City agree that nothing in this Agreement is to be construed as a representation, promise, or commitment on the part of City to give special treatment to, or exercise its discretion favorably for, the Project or Developer.

SECTION 22. **ELECTRONIC DELIVERY**

Signature pages to this Agreement may be delivered by electronic means, such as a .pdf attachment to an email and, when so delivered, shall be considered and effective as original signatures for all purposes.

SECTION 23 **ASSIGNMENT/ASSUMPTION**

Should Developer assign its rights and obligations under its Purchase and Sale Agreement for the Property dated as of December 15, 2016, or should Developer nominate another party to acquire and take title to the Property at the Closing thereunder, then Developer's rights and obligations under this Agreement shall automatically and immediately be deemed assigned to and assumed by such assignee/nominee,

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

CITY OF SEASIDE

DEVELOPER
West End Partners, LLC

By: ________________________
Its: ________________________
____

APPROVED AS TO FORM:

____
City Attorney

EXHIBIT A TO REIMBURSEMENT AGREEMENT

LEGAL DESCRIPTION OF THE LAND

Broadway Avenue and Terrace Street:
1104, 1116 & 1128 Olympia;
1125, 1137, 1173, 1193 Broadway

Parcel One

APN: 012-191-001
Del Monte Heights Map 6
Lot 28 & 29 BLK 24

Parcel Two
APN: 012-191-001

Del Monte Heights Map 6
Lot 30 & 31 BLK 24

Parcel Three
APN: 012-191-003
Del Monte Heights Map 6
Lot 32 & 33 BLK 24

Parcel Four
APN: 012-191-004
Del Monte Heights Map 6
Lot 34 & 35 BLK 24

Lot Five
APN: 012-191-013
Del Monte Heights Map 6
Lot 1 & 2 BLK 24

Parcel Six
APN: 012-191-016
Del Monte Heights Map 6
Lot 7 & 8 BLK 24

Parcel Seven
APN: 012-191-017
Del Monte Heights
Lot 9, 10 & 11 BLK 24

Parcel Eight
APN: 012-191-021
Del Monte Heights Map 6
Lot 23, 24 & 25 BLK 24

Parcel Nine
APN: 012-191-022
Del Ponte Heights Map 6
Lot 26 & 27 BLK 24

Parcel Ten
APN: 012-191-023
Del Ponte Heights Map 6
Lot 12, 13 & 14 BLK 24

Parcel Eleven
APN: 012-191- 024
Del Monte Heights Map 6
Lot 15, 16 & 17BLK 24

Parcel Twelve
APN: 012-191-025
Del Monte Heights Map 6
Lot 3, 4, 5 & 6 BLK 24

Parcel Thirteen
APN: 012-191-028
Del Monte Heights Map 6
Lot 18 & 19 BLK 24

Parcel Fourteen
APN: 012-191-029
Del Monte Heights Map 6
Lot20,21 & 22

EXHIBIT B TO REIMBURSEMENT AGREEMENT

HOLD HARMLESS AND INDEMNIFICATION AGREEMENT

A. This HOLD HARMLESS AND INDEMNIFICATION AGREEMENT ("Agreement") dated August __, 2018 is made by West End Partners, LLC, a California limited liability company, ("Indemnitor/Developer"), in favor of the CITY OF SEASIDE, California, a municipal corporation ("City").

RECITALS

B. Indemnitor/Developer is proposing to develop and operate the property described more particularly on Exhibit 1 attached hereto and made a part hereof (the "Project").

C. Indemnitor/Developer seeks approvals from the City which may include, but shall not be limited to, a general plan amendment, specific plan approval, zone text and map amendment, development and disposition agreement, subdivision maps, grading permits, building permits, and review pursuant to the California Environmental Quality Act ("CEQA") (collectively the "Entitlements"). If some or all of the Entitlements are approved, the City will be exposed to a risk of litigation challenging the granting of Entitlements and related actions, including but not limited to a challenge to the environmental determination for the Project prepared pursuant to CEQA or determined to be exempt from CEQA.

D. The City, as a condition of entering into the Exclusive Negotiation Agreement for the Project has required that Indemnitor/Developer indemnify City from matters as set forth herein, although the City reserves its full authority to approve, deny or conditionally approve any further Entitlements that may be requested after the effective date of this Agreement.

NOW, THEREFORE, in consideration of the foregoing Recitals, and for other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, Indemnitor/Developer and City agree as follows.

AGREEMENT

1. Recitals. The above Recitals to this Agreement are declared by the parties to be

true and correct in all material aspects and are hereby incorporated into this Agreement as if fully set forth below.

2. Indemnification. Indemnitor/Developer shall fully defend, indemnify and hold harmless City, its officials, officers, employees, consultants, contractors, legal counsel, and agents ("Indemnified Parties"), from and against any and all claims, suits, causes of action, fines, penalties, proceedings, damages, injuries or losses of any name, kind or description, specifically including attorney's fees, ("Liabilities"), arising in any way out of the City's approval of any Entitlement related to the Project or any other action of the City related to the Project as more particularly described in Section A. under "Recitals" of this Agreement. Applicant's indemnification obligation shall include, but not be limited to, actions to attack, set aside, void, or annul the City's approval of the Project and related actions, and Liabilities premised on, related to, or invoking Planning and Zoning Law or CEQA, including those arising out of the City's decisions related to the Project's CEQA documents. Indemnitor/Developer shall reimburse the City for any actual and reasonable court costs and attorney's fees that the City may be required by a court to pay as a result of such Actions. City may, at its sole and absolute discretion, and subject to Section 3 below: (a) participate in the defense of any such Action undertaken by Indemnitor/Developer, or (b) retain separate counsel whose actual and reasonable attorneys' fees and costs shall be paid by Indemnitor/Developer. Such participation in the defense of such Action or the retention of separate counsel by the City shall not relieve Indemnitor/Developer of its obligations under this Agreement.

3. Notification of Action and Coordination of Defense. The City shall promptly provide written notice to Indemnitor/Developer of any Action. City shall take all necessary and reasonable steps to provide such notice to Indemnitor/Developer in a timely fashion and in a manner that will not result in any substantial prejudice to Indemnitor's/Developer's ability to defend the relevant Action. Such notice will contain a copy of any relevant pleading filed in connection with the relevant Action. City acknowledges that Indemnitor/Developer desires to provide the defense of any Action in a cost efficient manner. City and Indemnitor/Developer shall coordinate and cooperate in their defense activities, whether the City is participating in defense undertaken by Indemnitor/Developer or is retaining separate counsel. As used in this Agreement cooperation does not include either party hereto having to take any action or make any decision that it does not believe, in the exercise of its good faith judgment, is in its own best interest. Unless expressly provided to the contrary, nothing in this Agreement shall be construed in a manner that requires either party to exercise its discretion in a particular manner. The parties will further coordinate their activities, to the extent reasonable and feasible, in a manner that will preserve attorney-client privilege and work-product privilege with respect to any legal research or other work product prepared in connection with the Action; provided, however, that neither party hereto will have a right to or interest in any reports or other attorney client privileged materials prepared by it or its counsel in connection with any Action.

4. Payment of City's Costs. To the extent City incurs costs from participating in the defense of, or in retaining separate counsel for, an Action covered by paragraph 2 above, Indemnitor/Developer shall remit payment to City within thirty (30) days of receipt after a written request therefor accompanied by an invoice and written documentation substantiating such costs. City shall bill Indemnitor/Developer monthly for such fees, costs and expenses, and shall provide written documentation substantiating in reasonable detail the fees, costs, and expenses for which the City is requesting payment pursuant to this Agreement, but may redact from such invoices or documentation attorney-client privileged information as it, in its sole discretion, deems appropriate. Indemnitor's/Developer's indemnification obligations shall not be limited to the amount of any insurance coverage that may be available to Indemnitor/Developer, and shall not otherwise be restricted or confined by the presence or absence of any policy of insurance held by City or Indemnitor/Developer.

5. Settlement of Actions. No settlement of any Action shall be binding on the City unless City approves the settlement in writing. No settlement of any Action in which Indemnitor/Developer is a Respondent or Defendant shall be binding on Indemnitor/Developer unless Indemnitor/Developer approves the settlement in writing.

6. Survival. The obligations of Indemnitor/Developer pursuant to this Agreement shall continue to be the liability and obligation of Indemnitor/Developer, binding upon Indemnitor/Developer until the final resolution of all Actions covered by this Agreement, and shall survive the completion, partial completion, or abandonment of the Project, including if required approvals from other permitting agencies are not granted.

7. Discharge. No dissolution, liquidation, insolvency, bankruptcy or other matter with respect to Indemnitor/Developer shall affect this Agreement or any of Indemnitor's/Developer's obligations hereunder.

8. Severability. Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be valid and enforceable to the fullest extent permitted by law. If any provision of this Agreement, or the application of any such provision to any person or circumstance, shall, to any extent, be held to be invalid, illegal or unenforceable under applicable law, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is invalid, illegal or unenforceable, shall not be affected thereby.

9. Notice to Parties. All notices and demands or other communications hereunder shall be in writing, and shall be deemed to have been sufficiently given or served for all purposes when presented personally or sent by generally recognized overnight delivery service, with

postage prepaid, addressed to Indemnitor/Developer or City, as applicable, at the addresses stated below, or at such other address of which either Indemnitor/Developer or City may hereafter notify the other in writing:

Indemnitor/Developer:	West End Partners, LLC Attn: Chris Orosco 10 Harris Court, Suite B-1 Monterey, CA 93940
City:	City of Seaside 440 Harcourt Avenue Seaside, CA 93955

Each notice or demand so given or served shall be deemed given and effective, (a) if personally delivered, on the day of actual delivery or refusal and (b) if sent by generally recognized overnight delivery service, on the next business day. Notwithstanding the foregoing, service of any notice of default provided or required by law shall, if mailed as required by law, shall be deemed given and effective on the date of mailing.

10. Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the law of the State of California, without regard to principles of conflicts of law.

11. Changes and Modifications. This Agreement cannot be changed or modified, except by a written instrument signed by Indemnitor/Developer and City.

12. Legal Construction. This Agreement shall be given a fair and reasonable construction in accordance with theintentions of the parties and without regard for or aid from any canons requiring construction against the party drawing this Agreement. The parties intend that this Agreement be interpreted and construed to provide the fullest protection possible under law to the City. As used in this Agreement, (a) the terms "herein", "hereto," "hereof" or "hereunder" or similar terms used in this Agreement refer to this Agreement as a whole and not to any particular provision and (b) the word "including" shall mean "including, without limitation". Unless otherwise stated, all references herein to Sections are references to Sections of this Agreement.

13. Attorney's Fees And Court Venue. Should either party to this Agreement bring legal action against the other, (formal judicial proceeding, mediation or arbitration), the case shall be handled in Monterey County, California, and the party prevailing in such action shall be entitled to a reasonable attorney's fee which shall be fixed by the judge, mediator or arbitrator hearing the case and such fee shall be included in the judgment, together with all costs.

14. Successors and Assigns. The covenants, agreements and obligations of Indemnitor/Developer hereunder shall be binding upon Indemnitor/Developer and Indemnitor's/Developer's respective heirs, executors, administrators, legal representatives, successors, and assigns, and the rights, remedies and benefits of the Indemnified Parties hereunder shall inure to the benefit of the Indemnified Parties and their respective successors and assigns.

15. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same document.

16. Electronic Delivery. Signature pages to this Agreement may be delivered by electronic means, such as a .pdf attachment to an email and, when so delivered, shall be considered and effective as original signatures for all purposes.

Assignment/Assumption. Should Indemnitor/Developer assign its rights and obligations under its Purchase and Sale Agreement for the Project dated as of December 15, 2016, or should Indemnitor/Developer nominate another party to acquire and take title to the Property at the Closing thereunder, then Indemnitor/Developer's rights and obligations under this Agreement shall automatically and immediately be deemed assigned to and assumed by such assignee/nominee

IN WITNESS WHEREOF, the parties hereto have executed and delivered this Agreement as of the date first above written

City:	Indemnitor/Developer:
CITY OF SEASIDE a municipal corporation	**WEST END PARTNERS, LLC**
By______________________________	By______________________________
Name:.____________________________	Name:.____________________________
Title:____________________________	Title:____________________________

APPROVED AS TO FORM:

____

City Attorney

EXHIBIT 1

TO HOLD HARMLESS AND INDEMNIFICATION AGREEMENT

LEGAL DESCRIPTION OF THE LAND

Broadway Avenue and Terrace Street:
1104, 1116 & 1128 Olympia;
1125, 1137, 1173, 1193 Broadway

Parcel One

APN: 012-191-001
Del Monte Heights Map 6
Lot 28 & 29 BLK 24

Parcel Two
APN: 012-191-001

Del Monte Heights Map 6
Lot 30 & 31 BLK 24

Parcel Three
APN: 012-191-003
Del Monte Heights Map 6
Lot 32 & 33 BLK 24

Parcel Four
APN: 012-191-004
Del Monte Heights Map 6
Lot 34 & 35 BLK 24

Lot Five
APN: 012-191-013
Del Monte Heights Map 6
Lot 1 & 2 BLK 24

Parcel Six
APN: 012-191-016
Del Monte Heights Map 6
Lot 7 & 8 BLK 24

Parcel Seven
APN: 012-191-017
Del Monte Heights
Lot 9, 10 & 11 BLK 24

Parcel Eight
APN: 012-191-021
Del Monte Heights Map 6
Lot 23, 24 & 25 BLK 24

Parcel Nine
APN: 012-191-022
Del Ponte Heights Map 6
Lot 26 & 27 BLK 24

Parcel Ten
APN: 012-191-023
Del Ponte Heights Map 6
Lot 12, 13 & 14 BLK 24

Parcel Eleven
APN: 012-191- 024
Del Monte Heights Map 6
Lot 15, 16 & 17BLK 24

Parcel Twelve
APN: 012-191-025
Del Monte Heights Map 6
Lot 3, 4, 5 & 6 BLK 24

Parcel Thirteen
APN: 012-191-028
Del Monte Heights Map 6
Lot 18 & 19 BLK 24

Parcel Fourteen
APN: 012-191-029
Del Monte Heights Map 6
Lot20,21 & 22

CITY OF SEASIDE
STAFF REPORT

Item No.: 7.A.

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

FROM: Craig Malin, City Manager

BY: Brian Dempsey, Fire Chief

DATE: August 16, 2018

SUBJECT: **RECEIVE PRESENTATION FROM CITY OF SEASIDE HOMELESS COMMITTEE ON COMMITTEE DIRECTION, HOUSING FIRST PROGRAM AND RECOMMENDATION FOR CITY BUDGETED FUNDS.**

PURPOSE & RECOMMENDATION

The purpose of this item is for City Council to receive a presentation from the City of Seaside Homeless Committee on Committee direction, Housing First Program and recommendations for City budgeted funds.

BACKGROUND

Historic Background

The Homeless Committee was created by the City Council on November 2, 2017. Staff immediately began the recruitment effort for commissioners and the inaugural meeting of the Committee took place on April 12, 2018.

Mission Statement:

To plan, advocate, support and collaborate with those affected by homelessness.

Inaugural Fiscal Year 2018-19 Work Plan:

A. Understand the different types of homeless statuses, the different states of homelessness and the different influencing factors of homelessness and prioritize the type of homeless service to target.

B. Understand the types of organizations that are currently providing services for homelessness in our community and find ways to leverage opportunities. Include service providers and a listing of services that are provided, also identify if there are designated areas for homeless to sleep.

C. Identify and make a recommendation to the City Council for the expenditure of $30,000 budgeted for FY 17-18 funds, potentially including identification of services that could be augmented instead of created.

D. Seek ways to conduct a direct survey of those that are homeless and or collaborate with others that may already have that data.

The committee would like to share their findings to date and seek future direction from Council for use of City Budgeted Funds and the Housing First Program concept.

FISCAL IMPACT

None

ATTACHMENTS

None

Reviewed for Submission to the
City Council by:

Craig Malin, City Manager