

City of Capitola

City Council Meeting Agenda

Thursday, November 09, 2023 – 6:00 PM



City Council Chambers
420 Capitola Avenue, Capitola, CA 95010

Mayor: Margaux Keiser
Vice Mayor: Kristen Brown
Council Members: Yvette Brooks, Joe Clarke, Alexander Pedersen

Regular Meeting of the Capitola City Council – 6 PM

All correspondence received prior to 5:00 p.m. on the Wednesday preceding a Council Meeting will be distributed to Councilmembers to review prior to the meeting. Information submitted after 5 p.m. on that Wednesday may not have time to reach Councilmembers, nor be read by them prior to consideration of an item.

1. Roll Call and Pledge of Allegiance

Council Members Yvette Brooks, Joe Clarke, Alexander Pedersen, Kristen Brown, and Mayor Margaux Keiser.

2. Additions and Deletions to the Agenda

3. Additional Materials

Additional information submitted to the City after distribution of the agenda packet.

A. Correspondence Received - Item 7D

4. Oral Communications by Members of the Public

*Oral Communications allows time for in-person members of the public to address the City Council on any "Consent Item" on tonight's agenda, or on any topic within the jurisdiction of the City that is not on the "General Government/Public Hearings" section of the Agenda. Members of the public may speak for up to three minutes, unless otherwise specified by the Mayor. Individuals may not speak more than once during Oral Communications. All speakers must address the entire legislative body and will not be permitted to engage in dialogue. **A maximum of 30 minutes** is set aside for Oral Communications.*

5. Staff / City Council Comments

Comments are limited to three minutes.

6. Consent Items

All items listed as "Consent Items" will be enacted by one motion in the form listed below. There will be no separate discussion on these items prior to the time the Council votes on the action unless members of the City Council request specific items to be discussed for separate review. Items pulled for separate discussion will be considered following General Government. Note that all Ordinances which appear on the public agenda shall be determined to have been read by title and further reading waived.

A. City Council Meeting Minutes

Recommended Action: Approve minutes from the regular meeting on October 26, 2023.

- B.** City Check Registers
Recommended Action: Approve check registers dated September 29, 2023 and October 13, 2023.
- C.** Cliff Drive Resiliency Project Contract Amendment 1
Recommended Action: Authorize the City Manager to execute Amendment 1 to the Professional Services Agreement with CSW/Stuber-Stroeh Engineering Group, Inc. for professional planning, permitting, and design services for the Cliff Drive Resiliency Project.
- D.** 2023 Holiday Parking
Recommended Action: Authorize the suspension of parking meter and pay station operation to allow free three-hour parking in the Village Parking Meter Zone A (1) from November 23, 2023, through December 25, 2023.
- E.** 1098 38th Avenue Project
Recommended Action: Adopt a resolution authorizing the City Manager to finalize the loan agreement with MidPen Housing to assist with predevelopment activities for a 100% affordable multifamily rental housing development located at 1098 38th Avenue.

7. General Government / Public Hearings

All items listed in “General Government / Public Hearings” are intended to provide an opportunity for public discussion of each item listed. The following procedure pertains to each General Government item: 1) Staff explanation; 2) Council questions; 3) Public comment; 4) Council deliberation; 5) Decision.

- A.** Resolution Against Banning Materials
Recommended Action: Adopt a resolution against banning books and materials in the Santa Cruz Public Library system. **(Continued from October 26, 2023)**
- B.** 2023 Special Event Report
Recommended Action: Receive report on 2023 special events; provide direction regarding changes to specific special event permit conditions; and approve recurring minor and general special events for 2024.
- C.** Capitola Lifeguard Season Overview
Recommended Action: Receive a report on Capitola Lifeguard service season statistics and approve the proposed operation schedule for future summer and fall seasons.
- D.** Citywide Housing Element Adoption
Recommended Action: Adopt a resolution to adopt the Addendum to the General Plan Update Environmental Impact Report and the 6th Cycle Housing Element, and direct staff to submit the Housing Element to the State of California for certification.
- E.** FY 2023-24 City Fee Schedule
Recommended Action: Adopt a resolution amending the fee schedule for Fiscal Year 2023-24. **(Continued from October 26, 2023)**
- F.** Amendments to Title 2: Administration and Personnel
Recommended Action: Introduce, by title only, waiving further reading of the text, an ordinance of the City of Capitola amending Chapters 2.04 and 2.08 of the Capitola Municipal Code. **(Continued from October 26, 2023)**

- 8. Adjournment** - Adjourn to the next regularly scheduled City Council meeting on November 21, 2023, at 6:00 PM.

How to View the Meeting

Meetings are open to the public for in-person attendance at the Capitola City Council Chambers located at 420 Capitola Avenue, Capitola, California, 95010.

Other ways to Watch:

Spectrum Cable Television channel 8

City of Capitola, California YouTube Channel

To Join Zoom Application or Call in to Zoom:

Meeting

link: <https://us02web.zoom.us/j/83328173113?pwd=aVRwcWN3RU03Zzc2dkNpQzRWVXAydz09>

Or dial one of these phone numbers: **1 (669) 900 6833, 1 (408) 638 0968, 1 (346) 248 7799**

Meeting ID: **833 2817 3113**

Meeting Passcode: **678550**

How to Provide Comments to the City Council

Members of the public may provide public comments to the City Council in-person during the meeting. If you are unable to attend in-person, please email your comments to citycouncil@ci.capitola.ca.us and they will be included as a part of the record for the meeting. Please be aware that the City Council will not accept comments via Zoom.

Notice regarding City Council: The City Council meets on the 2nd and 4th Thursday of each month at 6:00 p.m. in the City Hall Council Chambers located at 420 Capitola Avenue, Capitola.

Agenda and Agenda Packet Materials: The City Council Agenda and the complete Agenda Packet are available for review on the City's website: www.cityofcapitola.org and at Capitola City Hall prior to the meeting. Agendas are also available at the Capitola Post Office located at 826 Bay Avenue Capitola. Need more information? Contact the City Clerk's office at 831-475-7300.

Agenda Materials Distributed after Distribution of the Agenda Packet: Pursuant to Government Code §54957.5, materials related to an agenda item submitted after distribution of the agenda packet are available for public inspection at the Reception Office at City Hall, 420 Capitola Avenue, Capitola, California, during normal business hours.

Americans with Disabilities Act: Disability-related aids or services are available to enable persons with a disability to participate in this meeting consistent with the Federal Americans with Disabilities Act of 1990. Assisted listening devices are available for individuals with hearing impairments at the meeting in the City Council Chambers. Should you require special accommodations to participate in the meeting due to a disability, please contact the City Clerk's office at least 24 hours in advance of the meeting at 831-475-7300. In an effort to accommodate individuals with environmental sensitivities, attendees are requested to refrain from wearing perfumes and other scented products.

Si desea asistir a esta reunión pública y necesita ayuda - como un intérprete de lenguaje de señas americano, español u otro equipo especial - favor de llamar al Departamento de la Secretaría de la Ciudad al 831-475-7300 al menos tres días antes para que podamos coordinar dicha asistencia especial o envíe un correo electrónico a jgautho@ci.capitola.ca.us.

Televised Meetings: City Council meetings are cablecast "Live" on Charter Communications Cable TV Channel 8 and are recorded to be rebroadcasted at 8:00 a.m. on the Wednesday following the meetings and at 1:00 p.m. on Saturday following the first rebroadcast on Community Television of Santa Cruz County (Charter Channel 71 and Comcast Channel 25). Meetings are streamed "Live" on the City's website at www.cityofcapitola.org by clicking on the Home Page link "**Meeting Agendas/Videos.**" Archived meetings can be viewed from the website at any time.

Gautho, Julia

From: John <jxmulry@gmail.com>
Sent: Friday, November 3, 2023 3:43 PM
To: City Council
Subject: Fwd: Housing Element Second Attempt

Follow Up Flag: Follow up
Flag Status: Flagged

Hey folks

Remove parking minimums on AFFH. Rezone AFFH sans Mullins so it's viable. Capitola does not have a city attorney, we are top of the list in AMBAG for folks to try builders remedy on.

And can we please have some hospitality. I guarantee you Jamie and others on staff support me on this. It's the only option available to us in the hole we have dug.

When this second HE try also fails I look forward to y'all ignoring my advice based mostly on how other jurisdictions similar to us have passed. Why you ignore it is more an issue of lived experience and the California public education system.

Y'all should listen to Alexander more. He strikes me as the sort of human a neutral outsider who knows better than the rest of y'all would place on our council. Only explanation for why he's there I can think up at least. Maybe he'll tell us all the story someday.

I'm going to miss this.

Begin forwarded message:

From: John <jxmulry@gmail.com>
Date: November 1, 2023 at 10:08:44 AM PDT
To: planningcommission@ci.capitola.ca.us, Julia Gautho <jGautho@ci.capitola.ca.us>, Katie Herlihy <kherlihy@ci.capitola.ca.us>
Subject: Housing Element Second Attempt

Remove parking minimums on AFFH. Rezone AFFH sans Mullins so it's viable. Capitola does not have a city attorney, we are top of the list in AMBAG for folks to try builders remedy on.

And can we please have some hospitality. I understand Kristen sunk our hotel in the Swenson lot early in her reign for whatever reasons but I can not stress enough how much Hospitality would solve our continually worsening over the last 7 years economic woes. I guarantee you Jamie and others on staff support me on this. It's the only option available to us in the hole we have dug.

Gautho, Julia

From: Gautho, Julia
Sent: Thursday, November 9, 2023 11:25 AM
Cc: Samantha Zutler; Burke, Tamar M.; Herlihy, Katie (kherlihy@ci.capitola.ca.us)
Subject: FW: Merlone Geier's Comments on November 3, 2023 Draft Housing Element
Attachments: Ltr to Capitola City Council.pdf

Good Morning, Mayor and City Council,

I have attached correspondence relating to Item 7D on tonight's agenda. This correspondence will be included with the agenda packet and updated for public review shortly.

Julia Gautho

City Clerk - City of Capitola
 831.475.7300 x228

From: "Gray, Matthew S. (Perkins Coie)" <MGray@perkinscoie.com>
Date: November 8, 2023 at 4:53:47 PM PST
To: jgoldstein@ci.capitola.ca.us
Cc: Paul.McDougall@hcd.ca.gov, "Phillips, Eric S." <EPhillips@bwslaw.com>
Subject: Merlone Geier's Comments on November 3, 2023 Draft Housing Element

[EXTERNAL]

Good afternoon, Jamie:

Please see attached for correspondence from Merlone Geier concerning the November 3, 2023 draft of the City of Capitola's Housing Element. We ask that you please distribute the letter to the Councilmembers in advance of tomorrow night's hearing. Please do not hesitate to contact me or Scott McPherson should you wish to discuss.

Thank you,

--Matt

Matthew S. Gray | Perkins Coie LLP

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NOTICE: This communication may contain privileged or other confidential information. If you have received it in error, please advise the sender by reply email and immediately delete the message and any attachments without copying or disclosing the contents. Thank you.



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November 8, 2023

Matthew S. Gray
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BY ELECTRONIC MAIL

- Mayor Margaux Keiser (margauxkeiser@gmail.com)
- Vice Mayor Kristen Brown (thekristenbrown@gmail.com)
- Councilmember Yvette Brooks (ybrooks@ci.capitola.ca.us)
- Councilmember Joe Clarke (JClarke@ci.capitola.ca.us)
- Councilmember Alexander Pedersen (apedersen@ci.capitola.ca.us)

Re: Merlone Geier Partners’ Additional Comments on 2023 - 2031 Draft Capitola Housing Element Update

Dear Mayor Keiser, Vice Mayor Brown, and Councilmembers Brooks Clarke and Pederson:

Our firm represents Merlone Geier Partners (“MGP”), the owner of the majority of the Capitola Mall site (the “Mall”) and more specifically Assessor’s Parcel Numbers 034-261-15; -37;- 38; - 39; and -40 (the “Property”), which are collectively targeted for 679 residential units under the City’s November 3rd draft Housing Element for the 2023-2031 planning cycle (“Draft Housing Element”). These 679 units represent more than fifty percent of the City’s entire Regional Housing Needs Assessment (“RHNA”) allocation. Accordingly, we believe it is necessary for the City of Capitola (“City”) to give due consideration to MGP’s concerns regarding the viability of the City’s strategy for delivering these units. Staff still has not addressed the comments detailed in our letter of August 1, 2023, which is attached here as Exhibit A. As further explained below, the Draft Housing Element assumes without any evidence that the Property can support conversion from commercial to residential use at a density of nearly 29-units per acre. Unless the Draft Housing Element is further revised to require specific zoning modifications, the Property will continue to be used solely for commercial use throughout the 2023-2031 planning cycle.

There is No Evidence in the Draft Housing Element to Support the Assumption that the Property Can be Developed at a Density of 29 Units Per Acre Under Current Development Controls

Both our August 1, 2023 comment letter and comments from the Department of Housing and Community Development’s (“HCD”) dated October 1, 2023 advised the City that the Draft Housing Element must evaluate *realistic* development capacity for nonvacant sites included in the housing sites inventory. Refer to our August 1, 2023, letter for a summary of the Government Code requirements and to HCD’s technical advisory publication describing the acceptable methodologies for performing this analysis.

The Draft Housing Element relies on MGP’s 2019 site redevelopment application and “conversations” with MGP to substantiate its assumption that the Property can support a density of approximately 29 units per acre. This assumption yields a total of 679 units on the 23.42

November 8, 2023
Page 2

acres of land included within the Property. Instead of evaluating whether site development controls, including maximum building heights (whether those heights are 40' or 50' with the possible *discretionary* height increase under City Code Section 17.88) or maximum floor area ratio (FAR) (whether at an FAR of 1.5:1 or the possible *discretionary* FAR of 2:1), the Draft Housing Element merely states that because MGP's 2019 application requested discretionary approvals for a project at a density of 20 units per acre and MGP has previously expressed an interest in developing the Property at 30 units per acre, that the Property thus supports the density projected in the housing sites inventory analysis (i.e., nearly 29 units per acre).

There is a glaring oversight in the City's density assumption. As shown in Exhibit B attached hereto, MGP's 2019 application assumed that building heights would be increased to 75' to achieve a density of even 20 units per acre. This application was ultimately withdrawn, meaning that the City did not increase the height limit beyond 40' or 50' (assuming approval of the discretionary 10' height incentive under City Code Section 17.88). Thus, the Draft Housing Element assumes a height increase that has not been adopted as a zoning amendment or directed as a future zoning amendment as a policy in the Draft Housing Element. The 2019 MGP application is therefore not representative of the Property's realistic development capacity per the requirements of Government Code Section 65533.2. Likewise, "conversations" between MGP and the City about possible redevelopment at 30 units per acre, without any accompanying actions by the City to modify the Property's zoning to achieve that number, are not adequate to satisfy the requirements of Government Code Section 65533.2.

Delaying Identification – Let Alone Implementation – of Necessary Zoning Changes until 2027 Will Not Deliver Housing Within the 2023-2031 Planning Cycle

The Draft Housing Element does not include any policy changes designed to actually deliver housing on the Property within the 2023-2031 planning cycle. While the City could, as MGP suggested, include policies directing an increase in maximum building height and FAR or establish a minimum density consistent with projections in the Draft Housing Element, the draft instead defers any analysis to a future study that will "identify[] strategies to initiate mall redevelopment" to be overseen by a "technical committee." (p. 5-10.) And then, "if by 2027, [it] becomes apparent that redevelopment of the Mall site is not achievable, the City will develop alternative strategies to the 6th Cycle RHNA requirement." (*Ibid.*)

There is no reason to defer identification of strategies to initiate redevelopment of the Property consistent with the Draft Housing Element's proposed densities. The very application that the City relies on to support its density assumptions (MGP's 2019 application) demonstrates that a height increase to 75' – coupled with other modifications to current development controls -- are necessary to achieve even a lower density than the 29-units per acre projected in the Draft Housing Element. The City can – as other jurisdictions have done across the State – adopt a minimum development density that corresponds with the assumptions in the Draft Housing Element. The City's proposed deferral of these decisions to a committee provides no assurance that the City will take the zoning actions necessary to enable over 50% of the City's RHNA allocation.

November 8, 2023
Page 3

Moreover, waiting until 2027 to see if the committee's unspecified strategies work and, if not, to then "develop alternative strategies" is not a strategy. To implement zoning changes in 2027, the City would need to evaluate those changes under the California Environmental Quality Act (Pub. Resources Code, § 21000 et seq., "CEQA"), presumably by preparing and then certifying an environmental impact report. Zoning modifications would need to be approved by ordinance and would be subject to referendum. Even assuming the City were to successfully navigate the legal process to adopt the zoning changes, there would be very little time left within the 2023-2031 planning cycle to build *any* of the units, let alone the several buildings that would contain all 679 units presumed in the Draft Housing Element.

MGP continues to insist that the Draft Housing Element should include the following if the City is to rely on redevelopment of the Property for at least 679 units during the 2023 – 2031 planning cycle:

- Increase maximum building heights to 75' (excluding mechanical features) independent of any kind of discretionary incentive concept as in City Code Section 17.88.
- Increase maximum FAR from 1.5:1 to 2:1 and exclude any structured parking from the calculation. Here too, the increase in FAR should not be dependent on the award of any discretionary incentives as in City Code Section 17.88.
- Establish a minimum density of 29 units per acre.

The Property Will Only be Redeveloped During the Planning Cycle if MGP Is Willing to Participate in that Process

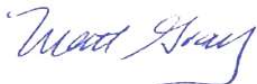
As HCD noted, the Property is nonvacant and already occupied by ongoing commercial users. MGP can continue operating the site as a commercial project, including by extending current leases or signing new leases over time. Conversion of some or all of the Property to residential use requires a substantial investment of capital that would need to be justified by the project's economics. MGP is a leading developer, owner, and operator of mixed-use projects all over the West Coast. MGP – and not a technical committee or any group of consultants that the City might enlist – best understands what is required for an owner to pursue the redevelopment contemplated by the Draft Housing Element.

The zoning changes identified above are essential to any potential redevelopment during the 2023-2031 planning cycle, as those changes would eliminate significant entitlement, development and schedule risk that MGP will not otherwise be willing to assume. That said, if the City were to adopt these minimum changes and certify a corresponding environmental analysis, MGP would evaluate scenarios pursuant to which it would deliver *more* than 679 units to make even greater progress toward the City's RHNA allocation. Again, MGP's willingness to take on this work will depend on the City's implementation of these specific, objective changes to zoning constraints in the near term, rather than deferring possible changes to future studies or analyses by a committee.

November 8, 2023
Page 4

MGP remains willing to collaborate with the City in its efforts to achieve certification of its 2023-2031 Housing Element. However, we do not believe the Draft Housing Element can or should be certified in its current form for the reasons detailed above. We encourage the City Council to delay action on the Draft Housing Element to incorporate the modifications requested above and to bring the draft back for adoption and subsequent certification by HCD at a later date.

Regards,



Matthew S. Gray

MSG:gjc

cc: Jamie Goldstein, City Manager
Eric Phillips, Burke, Williams & Sorensen LLP
Paul McDougall, HCD

Exhibit A

August 1, 2023, Letter

August 1, 2023

Matthew S. Gray
MGray@perkinscoie.com
D. +1.415.344.7082

Jamie Goldstein
City Manager
City of Capitola
Capitola City Hall
420 Capitola Ave
Capitola, CA 95010

Re: Capitola Housing Element 2023-2031 (May 2023 Draft)

Dear Mr. Goldstein,

Our firm represents Merlone Geier Partners (“MGP”) the owner of Assessor Parcel Numbers 034-261-07; -15; -37;- 38; -39; and -40 (collectively, the “Property”) which comprise approximately 31 acres of the Capitola Mall, and which the City of Capitola (“City”) is relying on to accommodate nearly 64 percent of its Sixth Cycle Regional Housing Needs Allocation (“RHNA”) obligation of 1,336 units. The purpose of this letter is to express MGP’s concerns regarding the May 2023 draft 2023 – 2031 Housing Element (“Draft Housing Element”). In summary, the Draft Housing Element fails to comply with State law, and it must be revised to include policies to address development constraints would undoubtedly prevent development of 853 during the planning cycle as contemplated in the draft.

We note at the outset that MGP has extensive experience as an owner and operator of similarly situated properties all along the West Coast. MGP has successfully redeveloped more than a dozen mall properties for alternative uses, including multi-family residential, and is currently pursuing the redevelopment of several other such projects in Northern California (including in Alameda County, Santa Clara County, and Marin County). Based on this experience, MGP offers the following comments with the goal of informing the Draft Housing Element both so that it conforms with State law and so it can be used to achieve the stated purpose of facilitating actual housing development in Capitola.

The Draft Housing Element Fails to Account for Development Constraints as Required by the Government Code

The Government Code establishes requirements for the evaluation of nonvacant sites included within a housing element, including for purposes of determining realistic development potential. Additional guidance is provided by the California Department of Housing and Community Development (“HCD”), which is summarized in HCD’s Housing Element Site Inventory Guidebook – Government Code Section 65533.2 dated May 2020 (“HCD Guidebook”). As stated by HCD, “a local government [must] calculate the projected residential development capacity of the sites in the housing element that can be realistically achieved” and this must be done using one of two approved methodologies. (HCD Guidebook, p. 19.) First, the agency

may use minimum densities, but only if it has adopted a “local law or regulations that require the development of a site at a minimum density.” (Govt. Code, § 65583.2(c)(1).) Second, where the agency has not established a minimum density, the agency can use “factors” to derive realistic development capacity. Under this scenario, the agency “must describe the methodology used to determine the number of units calculated” based on, among other things, the land use controls that govern the property. (Govt. Code, § 65583.2(c)(2).)

The HCD Guidebook states as follows:

The analysis must consider the imposition of any development standards that impact the residential development capacity of the sites identified in the inventory. When establishing realistic unit capacity calculations, ***the jurisdiction must consider the cumulative impact of standards such as maximum lot coverage, height, open space, [and] parking*** . . . The analysis should consider any development standards or the cumulative effect of development standards that would limit the achievable density on a site. For example, if a mixed-use zone requires commercial on the ground floor and has a height limit of three stories along with lot coverage and other development standards, the density that actually can be achieved on the site might be less than the maximum allowable density.

(HCD Guidebook, p. 20; emphasis added.)

The Draft Housing Element lists the Property as part of the Sites Inventory in Appendix D. Each of the parcels is identified as “nonvacant” and the City projects a *minimum* of 853 units on the site in the aggregate during the 2023-2031 planning period. (Draft Housing Element, p. 4-28.) These units are anticipated to be built under the Property’s current regional commercial (C-R) zoning without any zoning amendments. (*Ibid.*) The calculation of 853 units is derived solely from purported “conversations” between MGP and City staff in which “an overall minimum residential density of 29 dwelling units/acre” was discussed. The City then multiplies this conjectural 29-units per acre number by the 29.4 acres that the City believes comprise the Property, to establish a minimum development capacity of 853 units.

The City’s calculation of the Property’s development capacity fails to satisfy the requirements of Government Code Section 65583.2(c). As the City notes in the Draft Housing Element, the Property is not subject to any regulation that establishes a minimum residential density. Therefore, realistic development capacity must be evaluated under Government Code Section 65583(c)(2), which requires an evaluation of applicable land use controls. Further, per Section 65583(c)(1), the City must “demonstrate how the number of units for the site . . . will be accommodated.” The Draft Housing Element does not include an evaluation of how General Plan, C-R zoning, or other Municipal Code provisions limit development on the Property. There is no evaluation of applicable height, floor area ratio, setback, ground-floor commercial use requirements or other limitations that affect the delivery of housing. The City’s assumption that the Property can accommodate 29 units per acre or a minimum of 853 units under applicable

development controls is not based on substantial evidence that satisfies Government Code requirements.

The Property's Zoning Must be Modified to Accommodate a Minimum of 853 Units on the Developable Portions of the Site.

MGP evaluated the site to determine whether a minimum of 853 residential units can be developed as part of a mixed-use project during the 2023-2031 Housing Element cycle. Consistent with State law for nonvacant commercial sites, MGP quantified the portion of the Property that can be redeveloped during the planning cycle. This analysis reflects the following:

- **Property subject to long-term leases:** Certain MGP-owned property, including existing buildings and portions of the MGP-owned surface parking area, are subject to leases in favor of commercial tenants that extend through the 2023-2031 planning cycle. Of the 1,369,690 square feet of the Property that MGP owns, 442,771 square feet including the Kohl's building, portions of the existing central mall, and parking fields servicing Target and Macy's are subject to leases and therefore must be excluded, bringing the developable area down to 926,919 square feet. The areas encumbered by leases and which are ineligible for redevelopment are shown on Exhibit 1 attached hereto, including the cross-hatched areas shown as areas "A" through "D" on the Exhibit.
- **Retained retail:** As MGP understands from its experience on similar projects, successful mixed-use retail and residential projects require a critical mass of retail to achieve a sense of a place. Preservation of a certain amount of the existing retail structures is also necessary from an economic perspective due to land economics and to sustain a portion of existing sales tax revenues flowing to the City. Further, the General Plan and the 41st Avenue / Capitola Mall Re-Visioning Plan call for preservation of retail as part of any redevelopment. As such, we assume that fifty percent of the existing MGP-owned retail building area (excluding Kohl's which is already excluded due to the lease constraint) will be retained for retail. This amounts to 149,660 square feet. Parking spaces must also be preserved to service the retained retail space. We assume an industry-standard four spaces per 1,000 square feet of retail will be required to attract tenants. Accordingly, we assume 300,000 square feet of surface area would be set aside to build 600 parking spaces of 500 square feet each.

In light of the above site constraints 477,259 square feet of MGP-owned portions of the Property is subject to redevelopment during the 2023-2031 Housing Element cycle. This requires a minimum density of approximately 80 units per acre to achieve a minimum of 853 residential units during the planning period.

Modifications to the Property's zoning are required if the City intends to make a good faith effort to comply with State law requirements. Specifically, the following changes to the C-R zoning controls are necessary to achieve a minimum density of 80 units per acre on the 477,529 square feet of land eligible for redevelopment and facilitate at least 853 residential units during the Housing Element cycle:

- Maximum building height should be increased from 40 feet to 75 feet, not counting building mechanical features.
- Maximum FAR should be increased from 1.5:1 to 2:1 and should exclude any structured parking from the calculation.
- the prohibition on ground-floor residential use should be eliminated. The prohibition of ground-floor residential provides a further site constraint and obstacle to achieving the desired minimum number of residential units.

Development “Incentives” under Municipal Code Section 17.88 Do Not Constitute Development Controls for Purposes of Calculating Realistic Minimum Development Capacity

Section 17.88 of the Municipal Code authorizes the City Council to grant “incentives” that could partially alleviate the zoning constraints outlined above, namely by marginally increasing maximum height and FAR. These potential incentives should not be misconstrued as if they represent prevailing site controls that permit the minimum development capacity of the Property.

First, an applicant is not entitled to the incentives even if the applicant agrees to provide one of the “benefits” listed in Section 17.88.040(A)(1) – (11). The operative language states: “the public benefit provided shall be of sufficient value as determined by the planning commission to justify deviation from the standards of the zoning district that currently applies to the property.” As such, the Planning Commission must make a subjective determination that the “value” of the benefit is sufficient, which determination is then provided to the City Council in the form of a recommendation. There is no methodology prescribed in the Code for how the Planning Commission determines that the value of an offered public benefit is sufficient to justify an incentive as applied to a given project. Similarly, the City Council must find that the proposal provides a “substantial benefit” to the community. This is a subjective determination, particularly given that the Code contains a list of eligible project benefits under Section 17.88(A).

Second, to obtain an incentive, the applicant must agree to provide public benefits in excess of the types of development exactions that the City could otherwise require by law as a condition of development approval. Section 17.88.020 states that the City may grant incentives only when the “community benefits offered are not otherwise required by the zoning code or any other provision of local, state, or federal law.” Similarly, the Council must find that the offered public benefit “exceeds the minimum requirements of the zoning code or any other provision of state or federal law.” The City cannot lawfully require an applicant to provide the public benefits under Section 17.88.040 to obtain the incentives under Section 17.88.050 as a condition of a development approval in another form, e.g., a variance or condition of use permit, since requiring a public benefit with no relationship to the proposed incentive (as opposed to, e.g., requiring setbacks to offset aesthetic or shadow impacts associated with a building height increase) would constitute an unconstitutional condition. (See *Nollan v. California Coastal Commission*, 483 U.S. 825 (1987) (there must be a nexus between a permit condition imposed on the specific regulatory interest advanced by the condition); *Dolan v. City of Tigard*, 512 U.S.

374 (1994) (requiring proportionality between the condition imposed and the impact to be addressed by the condition); *California Building Association v. City of San Jose* 61 Cal.4th 435, 492 (government may not impose a condition on the receipt of a benefit that requires the individual to give up a constitutional right, including the right to demand compensation for a taking of his or her property).) It cannot be assumed that MGP will agree to provide such benefits as a condition of obtaining only partial relief from the zoning standards that will otherwise prevent the development of the minimum 853 units.

Assuming that MGP Chooses to Negotiate a Development Agreement, the Development Agreement Cannot Substitute for Addressing Development Constraints in the Draft Housing Element

The Draft Housing Element incorrectly assumes that any development constraints applicable to the Property will be addressed through a development agreement rather than through zoning amendments. Specifically, the draft states:

The City intends to establish a Development Agreement (DA) that would serve as an added layer to the existing Regional Commercial (C-R) zone that would set forth specific development regulations for the mall site project area to guide future development of residential uses while providing for the redevelopment of retail and commercial uses.

(Draft Housing Element, p. 4-28.)

This is flawed for two reasons. First, the City cannot unilaterally “establish” a development agreement governing the Property. MGP, in its discretion, would choose to apply for a development agreement and the parties would then negotiate the terms at arm’s length each in their sole discretion. (See Govt. Code, §§ 65864 *et seq.*; see also Municipal Code Chapter 18.04.030(E) (“A development agreement is a contract that is negotiated and voluntarily entered into by city and applicant and may contain any additional or modified conditions, terms or provisions agreed upon by the parties”).) The development agreement would then need to be approved at the City Council’s discretion at the conclusion of the project approval process. (Municipal Code, § 18.04.040(F).) Second, a development agreement is not a mechanism for amending the site development controls that pertain to a particular property. Rather, the development agreement vests the applicant’s rights to complete the project in accordance with “the rules, regulations, and official policies in force at the time of execution of the agreement.” (Govt. Code, § 65866(a).) Therefore, without a prior or concurrent modification of the site controls, any development agreement would only vest MGP’s right to develop the Property in accordance with the C-R zoning constraints described above.

The Draft Housing Element should be amended to incorporate procedures for modifying C-R zoning provisions rather than assuming that a future development agreement will serve that purpose. As outlined above, MGP cannot be compelled to enter into a development agreement. The City should not assume that delaying State-mandated zoning changes in the Housing Element will bring MGP to the table for future development agreement negotiations. This

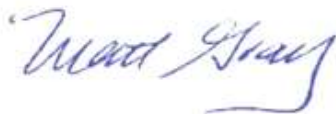
approach does not satisfy Government Code Section 65583(c)(1)'s mandate for the City to demonstrate how it will accommodate its RHNA obligation, particularly given that the development agreement would not on its own address the current site development constraints.

Proposed Affordable Housing Projections for the Property Are Not Realistic

Appendix D of the Draft Housing Element indicates that of the 853 units allocated to the Property, 65 percent of those units would be reserved for low or moderate-income households. While we understand that the City is challenged to find suitable locations to accommodate affordable units within its jurisdiction, it is not realistic to assume that the Property (or any property for that matter) can be redeveloped with only 299 out of 853 units (35 percent) not being subject to income-based restrictions. The Property is currently developed with viable commercial uses, and even for the former Sears building, the site can be repositioned as needed to attract other commercial users. It would be economically infeasible to terminate the current regional commercial land uses and instead devote the Property to a predominantly affordable housing project.

In addition, saddling MGP-owned properties with such a disproportionately high amount of the City's share of below-market-rate development obligations violates the City's legal obligations to treat similarly situated properties equally. Moreover, the infeasibility of providing such a disproportionately high amount of affordable housing within any market rate development proposal, coupled with the City's obligations under the No Net Loss Law to not approve projects providing less than the proscribed amount of affordable housing (unless the affordable units are replanned for another site), would result in an unconstitutional taking of MGP's property without just compensation. The Draft Housing Element should therefore be revised to reflect more reasonable assumptions for affordable housing at the Property.

We look forward to reviewing the next draft of the housing element and remain willing to engage with the City throughout the update process.



Matthew S. Gray

MSG:gjc

Exhibit 1

(attached)

CLARES STREET

CAPITOLA ROAD

41ST AVENUE

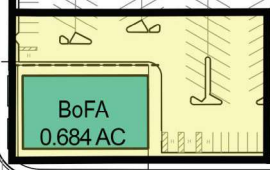
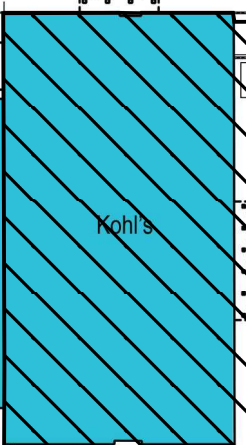
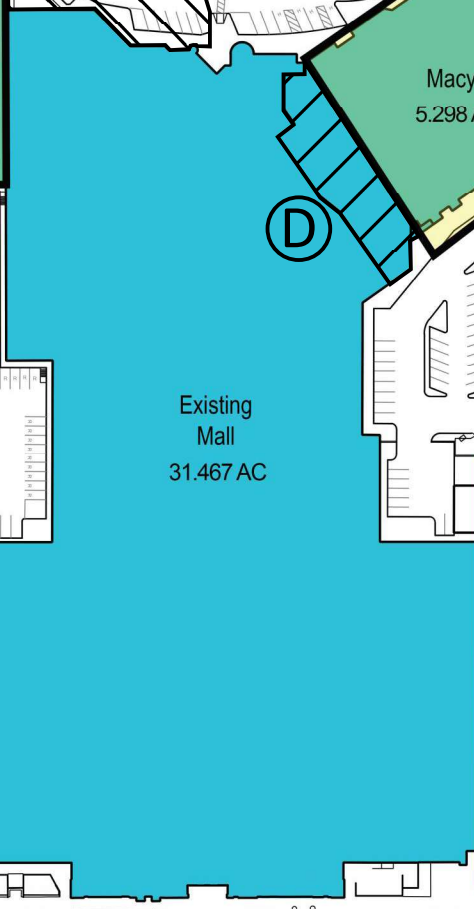
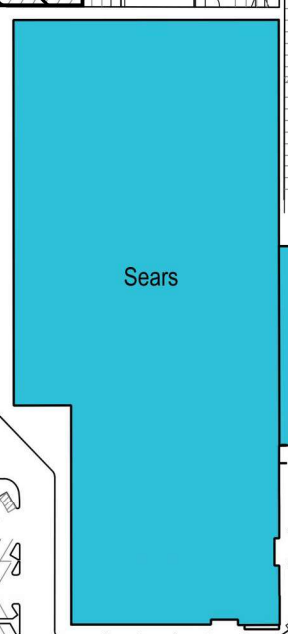
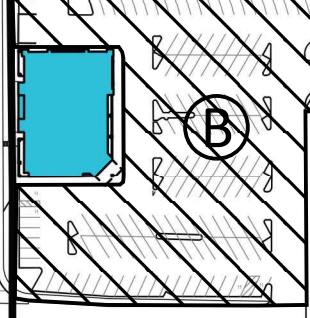
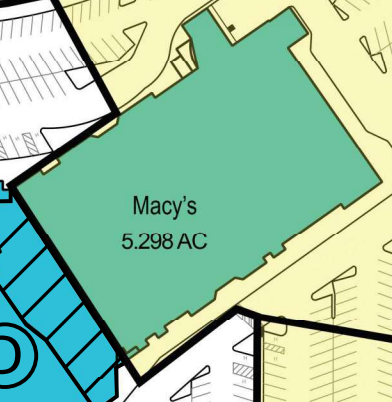
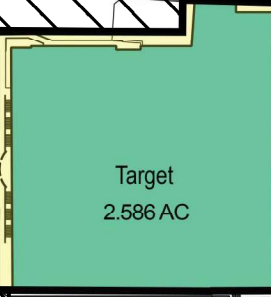
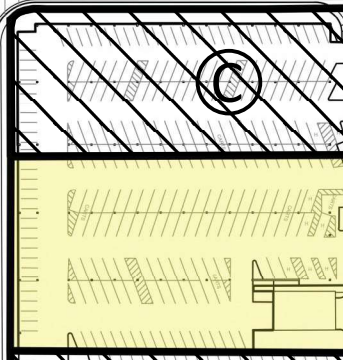
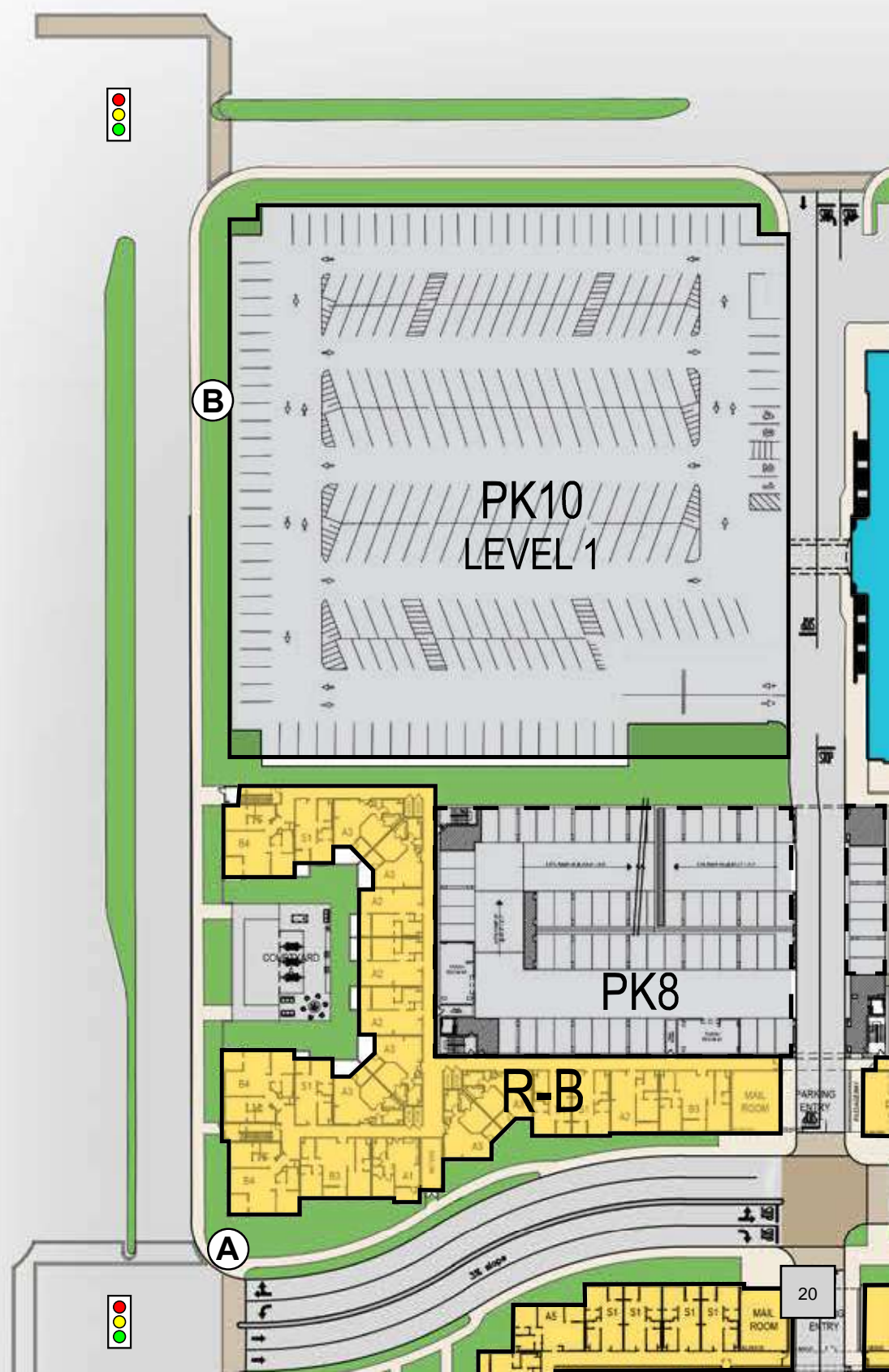


Exhibit B

MGP's 2019 Application Site Plan







Parking Garage
TOP OF PARAPET +81' - 1"
TOP OF PARAPET +78' - 1"

TOP OF PARAPET +24' - 0"
TOP OF PODIUM +20' - 0"

+00' - 0"

Parking Garage
⊕ TOP OF PARAPET +85'

Residential
⊕ TOP OF PARAPET +56' - 1"

⊕ TOP OF PARAPET +24' - 0"
⊕ TOP OF PODIUM +20' - 0"

⊕ +00' - 0"

⊕ TOP OF PARAPET +78' - 1"

⊕ TOP OF PARAPET +24' - 0"
⊕ TOP OF PODIUM +20' - 0"

⊕ +00' - 0"



Gautho, Julia

From: Molly Ording <mollyording@yahoo.com>
Sent: Thursday, November 9, 2023 12:47 PM
To: City Council
Subject: Approval Housing Element!

Dear Members of Capitola City Council:

I was hoping to be able to attend your meeting and urge your approval of the 6th RHNA cycle for the City of Capitola! I am unfortunately unable to attend tonite but want to urge your support for this as presented and long studied and commented upon. I am proud to live in a community that has so thoroughly vetted much needed future housing opportunities and is reporting on these to the state in a timely manner!!

Thank you to ALL for all your hard work in, hopefully, finalizing this portion of the process! We look forward to seeing the fruits of your prodigious labors becoming much needed housing opportunities and realities in the near future! Many thanks to ALL!

Most sincerely,
Molly & Mickey Ording
218 Monterey Avenue
Capitola, Ca. 95020

Sent from my iPhone

Capitola City Council Agenda Report

Meeting: November 9, 2023

From: City Manager Department

Subject: City Council Meeting Minutes



Recommended Action: Approve minutes from the regular meeting on October 26, 2023.

Background: Attached for Council review and approval are the draft minutes from the regular City Council meeting on October 26, 2023.

Attachments:

1. 10/26/2023 Minutes

Report Prepared By: Julia Gautho, City Clerk

Approved By: Jamie Goldstein, City Manager

City of Capitola

City Council Meeting Minutes

Thursday, October 26, 2023 – 6:00 PM



City Council Chambers
420 Capitola Avenue, Capitola, CA 95010

Mayor: Margaux Keiser
Vice Mayor: Kristen Brown
Council Members: Yvette Brooks, Joe Clarke, Alexander Pedersen

Closed Session – 5 PM

- i. CONFERENCE WITH REAL PROPERTY NEGOTIATORS (Gov't Code § 54956.8)
Property: Monterey Park, APN: 036-15-102
City Negotiator: Jamie Goldstein, City Manager
Negotiating Parties: Soquel Union Elementary School District
Under Negotiation: Transfer of Real Property

Regular Meeting of the Capitola City Council – 6 PM

1. **Roll Call and Pledge of Allegiance** – *The meeting was called to order at 6:00 PM. In attendance: Council Members Brooks, Clarke, Pedersen, Vice Mayor Brown, and Mayor Keiser.*
2. **Additions and Deletions to the Agenda** – *None*
3. **Presentations** – *None*
4. **Report on Closed Session** – *The City Council met and discussed one item on the Closed Session agenda. No reportable action was taken.*
5. **Additional Materials**
 - A. *Four emails were received relating to Item 9A.*
6. **Oral Communications by Members of the Public**
 - *Carin Hanna, resident, thanked Public Works staff for their work.*
 - *Justin Fia, resident, voiced opposition to Consent Item 8B.*
 - *TJ Welch, resident, requested that Consent Item 8B be pulled for discussion.*
 - *James Whitman, resident, voiced opposition to Consent Item 8B and provided pamphlet materials on local government to the City Council.*
 - *Gorin Klepich, resident, discussed graffiti at Jade Street Park.*
 - *Ben Vernazza, resident, spoke about the Coastal Rail Trail Segment 9.*
 - *John Mulry, resident, voiced opposition to Consent Item 8B.*
 - *Speaker provided comments.*
 - *Speaker provided comments.*
7. **Staff / City Council Comments**
 - *Council Member Brooks reminded the community of the Adaptive Family Fall Festival on October 28th.*
 - *Council Member Pedersen reminded the community of the Capitola Village Halloween Parade on October 29th.*

- *Mayor Keiser thanked Assemblymember Dawn Addis for the contribution of \$1M for the Community Center Renovations, recognized the Police Department for their work with neighboring jurisdictions on recent arrests, and thanked Public Works staff for their work.*

8. Consent Items

- A. City Council Meeting Minutes
Recommended Action: Approved minutes from the regular meeting on October 12, 2023.
- B. Resolution Against Banning Materials
Recommended Action: Adopt a resolution against banning books and materials in the Santa Cruz Public Library system. **(Pulled for discussion by Council Member Clarke, continued to November 9, 2023.)**
- C. CalRecycle Grant Programs
Recommended Action: Adopted Resolution No. 4342 authorizing the application for grant funds from the California Department of Resources, Recycling, and Recovery (CalRecycle).

Council Member Clarke pulled Item 8B for discussion.

Motion to approve Items 8A and 8C: Council Member Brooks

Seconded: Vice Mayor Brown

Voting Yea: Council Members Brooks, Clarke, Pedersen, Vice Mayor Brown, Mayor Keiser

9. General Government / Public Hearings

- A. Coastal Rail Trail Segments 10 and 11
Recommended Action: Provided direction to staff on a comment letter on the Environmental Impact Report and Consolidated Coastal Permit Request for the Coastal Rail Trail Segments 10 and 11.

Community Development Director Herlihy presented the staff report.

Public Comments:

- **Leslie Nielsen, resident, spoke in support of Design Option A.**
- **Carin Hanna, resident, spoke in opposition to the Consolidated Coastal Development Process.**
- **Barry Scott, resident, spoke in support of replacing the trestle.**
- **Matt Ferrel, Friends of Rail Trail, spoke in support of the Rail Trail.**
- **A representative from Trail Now spoke in support of preserving the trestle.**
- **Tina Andriana, resident, spoke in support of the Ultimate Trail design.**
- **Dennis Norton, resident, spoke in support of increased bicycle transportation through the Village.**
- **Molly Ording, resident, spoke in support of the Ultimate Trail design.**
- **Rosemary Sarka, Roaring Camp Railroads, voiced doubt about the feasibility of the Interim Trail Design.**
- **John Mulry, Strong Towns Santa Cruz, spoke in support of making Monterey Avenue a one-way street.**
- **Paula Bradley, resident, spoke against the Interim Trail.**
- **Johanna Lighthill, County resident, voiced safety concerns about the Ultimate Trail design.**
- **Jean Brocklebank, resident, voiced concern about residents residing in mobile home parks if the Ultimate Trail is approved.**
- **Speaker provided comments.**

- **Speaker provided comments.**

Council Member comments included a discussion of what the Planning Commission’s role will be during the approval process for this project, impacts to the wildlife through Segment 11, an overview of the timeline for the Consolidated Coastal Development Permit, and clarification on communication to mobile home residents.

Motion to direct staff to prepare a comment letter on the EIR and authorization for the Community Development Director to consolidate the CDP with the County: Council Member Brooks

Seconded: Vice Mayor Brown

Voting Yea: Council Members Brooks, Pedersen, Vice Mayor Brown, Mayor Keiser

Voting Nay: Council Member Clarke

B. Chief’s Advisory Committee

Recommended Action: Received a report about the formation of the Police Chief’s Advisory Committee, reviewed the application and selection process, and provided direction to staff.

Police Chief Dally presented the staff report.

Public Comments:

- **Linda Smith, resident, spoke in support of the Capitola Police Department and the re-recruitment efforts proposed by staff.**
- **John Mulry, resident, spoke in support of the Police Chief’s Advisory Committee.**
- **Speaker provided comments.**

The City Council thanked initial applicants for their interest, encouraged staff to support and inform Spanish speaking applicants during the re-recruitment process, requested that staff remove the “technical skill” requirements for new applicants, encouraged staff to engage young adults or a representative from the youth community, and directed staff to accept applications from Aptos and Soquel and Live Oak, with priority for applicants with strong ties to Capitola.

C. FY 2023-24 City Fee Schedule

Recommended Action: Adopt a resolution amending the fee schedule for Fiscal Year (FY) 2023-24. **(Continued to November 9, 2023.)**

D. Amendments to Title 2: Administration and Personnel

Recommended Action: Introduce, by title only, waiving further reading of the text, an ordinance of the City of Capitola amending Chapters 2.04 and 2.08 of the Capitola Municipal Code. **(Continued to November 9, 2023.)**

10. Adjournment – Adjourned at 8:58 PM to the next regularly scheduled City Council meeting on November 9, 2023, at 6:00 PM.

ATTEST:

Margaux Keiser, Mayor

Julia Gautho, City Clerk

Capitola City Council

Agenda Report

Meeting: November 9, 2023
From: Finance Department
Subject: City Check Registers



Recommended Action: Approve check registers dated September 29, 2023 and October 13, 2023.

Account: City Main				
Date	Starting Check #	Ending Check #	Payment Count	Amount
9/29/2023	104342	104428	96	\$ 619,093.57
10/13/2023	104429	104522	100	\$ 1,248,804.27

The main account check register dated September 15, 2023, ended with check #104341.

Account: Payroll				
Date	Starting Check/EFT #	Ending Check/EFT #	Payment Count	Amount
9/29/2023	5848	5852	114	\$ 211,364.00
10/13/2023	23345	23446	117	\$ 200,979.26

The payroll account check register dated September 15, 2023, ended with check #5847.

Following is a list of payments issued for more than \$10,000 and descriptions of the expenditures:

Check/EFT	Issued to	Dept	Description	Amount
104352	Bear Electrical Solutions Inc.	PW	Stockton Ave & Escalona solar pedestrian crossing	\$ 22,293.35
104354	Burke Williams and Sorensen LLP	CM	August Legal Services	\$ 27,668.71
104393	Pacific Gas & Electric	PW	September Utilities	\$ 14,407.17
104396	Plumber's Paradise	PW	Elkay water bottle filling stations (4)	\$ 21,188.00
104407	Santa Cruz County Sheriff	PD	FY23/24 SART Program Contribution	\$ 11,870.00
104409	Santa Cruz Regional 911	PD	FY23/24 Second quarter operating contribution & First half capital/debt service	\$ 183,318.25
104413	Soquel Creek Water District	PW	August Water & Irrigation	\$ 21,494.02
1600	CalPERS Health Insurance	CM	October health insurance	\$ 67,820.29

1601	CalPERS Member Services Division	CM	PERS contributions PPE 9/16/23	\$ 63,528.21
1602	Employment Development Department	CM	State Taxes PPE 9/16/23	\$ 12,343.05
1603	Internal Revenue Service	CM	Federal taxes & Medicare PPE 9/16/23	\$ 39,432.61
1607	Wells Fargo Bank	Fin	August Credit Card Charges	\$ 17,857.93
104442	Boone Low Ratliff Architects Inc	PW	Community Center renovation design services	\$ 31,025.15
104445	Capitola-Soquel Chamber of Commerce	Fin	October-June TOT	\$ 27,067.05
104449	Cushman Contracting Corp Escrow	PW	September Wharf Project retainer	\$ 39,259.42
104450	Cushman Contracting Corporation	PW	September Wharf Resiliency and Public Access	\$ 745,928.98
104466	Hope Rehabilitation Services	PW	Litter abatement services	\$ 10,800.00
104476	Long Beach BMW Motorcycles	PD	2023 BMW R1250RT-P Motorcycle	\$ 33,751.49
104479	MBASIA	CM	Liability claims – Deductible recovery invoices	\$ 23,294.61
104487	Moffatt and Nichol	PW	Stockton Ave Bridge Repairs & Capitola Wharf & Beach Project Services	\$ 57,976.05
104495	Pavement Engineering Inc	PW	Capitola Rd. improvement project & management services	\$ 22,215.00
104501	Santa Cruz County Auditor-Controller	Fin	September citation processing	\$ 10,153.00
1609	CalPERS Member Services Division	CM	PERS contributions PPE 9/30/23	\$ 64,449.56
1610	Employment Development Department	CM	State Taxes PPE 9/30/23	\$ 11,424.11
1611	Internal Revenue Service	CM	Federal taxes & Medicare PPE 9/30/23	\$ 37,068.03

Attachments:

1. 9-29-23 Check Register
2. 10-13-23 Check Register

Report Prepared By: Luis Ruiz, Accountant I

Reviewed By: Julia Gautho, City Clerk; Jim Malberg, Finance Director

Approved By: Jamie Goldstein, City Manager

City main account checks dated September 19, 2023, numbered 104342 to 104428 totaling \$409,084.62, 9 EFTs totaling \$210,008.95, 4 payroll checks totaling \$1,319.36, 1 voided payroll EFT totaling \$115.44, and 109 payroll EFTs totaling \$209,929.20, for a grand total of \$830,457.57, have been reviewed and authorized for distribution by the City Manager.

As of September 19, 2023, the unaudited cash balance is \$3,362,958.10.

**CASH POSITION - CITY OF CAPITOLA
September 29, 2023**

	9/29/2023
General Fund	\$ (4,853,244.31)
Payroll Payables	\$ 2,964.73
Contingency Reserve Fund	\$ 2,192,345.66
Facilities Reserve Fund	\$ 432,714.09
Capital Improvement Fund	\$ 4,465,438.74
Stores Fund	\$ 55,034.18
Information Technology Fund	\$ 183,503.46
Equipment Replacement	\$ 671,899.51
Self-Insurance Liability Fund	\$ (135,884.81)
Workers' Comp. Ins. Fund	\$ 17,300.79
Compensated Absences Fund	\$ 330,886.06
TOTAL UNASSIGNED GENERAL FUNDS	\$ 3,362,958.10

The Emergency Reserve Fund balance is \$1,461,505.54 (not included above).

The PERS Contingency Fund balance is \$1,154,274.68 (not included above).

10/2/23

Jamie Goldstein, City Manager Date

9/29/23

Jim Malberg, City Treasurer Date

City Checks Issued September 29, 2023

Item 6 B.

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
104342	09/18/2023			ANTHONY MAY	\$2,750.00
	Invoice	Date	Description		Amount
	CCFIN	08/24/2023	Tree stump art - Final installment 1315 - Public Art Fee Fund		\$2,750.00
104343	09/29/2023			2THRIVE MEDIA dba LOCO CANOPIES	\$5,146.41
	Invoice	Date	Description		Amount
	6784	07/31/2023	Logo canopies, back walls, flags, & table covers		\$5,146.41
104344	09/29/2023			A TOOL SHED	\$440.00
	Invoice	Date	Description		Amount
	1650423-5	08/23/2023	Excavator rental		\$440.00
104345	09/29/2023			AA AUTO COLLISION CENTER	\$5,427.35
	Invoice	Date	Description		Amount
	10103	09/11/2023	2018 Ford Explorer Police Interceptor repairs		\$5,427.35
104346	09/29/2023			AFLAC	\$1,646.36
	Invoice	Date	Description		Amount
	308155	09/26/2023	September supplemental insurance 1001 - Payroll Payables		\$1,646.36
104347	09/29/2023			ALLSAFE LOCK COMPANY	\$26.60
	Invoice	Date	Description		Amount
	958335	09/19/2023	Keys		\$26.60

City Checks Issued September 29, 2023

Item 6 B.

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
104348	09/29/2023			AMAZON CAPITAL SERVICES	\$3,133.35
	Invoice	Date	Description		Amount
	1GGN-1RDK-KHH6	09/17/2023	Waders (7)		\$381.43
	1TM1-JQ3R-K7RT	09/17/2023	Padded speaker bag varyy case, speaker stand, power cord		\$108.81
	1GGN-1RDK-K9NW	09/17/2023	Microphone case, air horns		\$168.89
	1J4Q-CNJ6-DWGD	09/15/2023	Full brim hard hats (6)		\$154.74
	1J4Q-CNJ6-DGDY	09/15/2023	Stops rust turbo spray paint		\$104.51
	17WQ-RDC9-14MK	09/13/2023	Drying rack		\$21.79
	17WQ-RDC9-11XX	09/13/2023	Raptor black spray truck bed liner kit, swabs, treatment wipes		\$281.55
	1RND-RQV1-7KPK	09/19/2023	iPad Case		\$68.62
	1DX7-H7DJ-49WJ	09/14/2023	Whiteboard set, dry erase boards, uno card game		\$173.41
	1LQW-M6WH-14HP	09/13/2023	Cricut Maker 3 - smart cutting machine, cricut tape, case, pre		\$539.51
	11MT-FDJQ-L6FK	09/17/2023	Afterschool supplies		\$176.19
	1HLH-GR1T-CH7K	09/20/2023	iPhone charger		\$21.78
	13W3-4KDK-1DCM	09/19/2023	iPhone case		\$26.11
	1FCF-9KFP-4MV6	09/18/2023	Stylus pen, OtterBox iPad case		\$63.20
	1DLJ-YWKQ-1CFN	09/19/2023	Classification File Folders and Wall Clock		\$100.24
	1J4Q-CNJ6-3RWW	09/14/2023	ROLATAPE Measuring Wheels		\$103.05
	1K3C-D61D-DT3Q	09/21/2023	Firearm Magazine Pouch		\$32.36
	1M9J-DMHH-H6HF	09/13/2023	Evidence and Property Supplies		\$26.49
	1K4C-HTLH-HPLD	09/21/2023	Credit Memo for 1CKM-M6MJ-C1YP		(\$43.59)
	1YV6-6VNP-7LL7	09/25/2023	Otterbox iPhone Cases (2)		\$49.29
	1RX7-QNK3-9T3R	09/26/2023	Insulated Steel Toe Boots (2)		\$377.69
	1FT4-63NM-77L7	09/26/2023	Work boots		\$197.28
			1000 - General Fund	\$3,036.17	
			2211 - ISF - Information Technology	\$97.18	
104349	09/29/2023			ARTHUR S. DOVER MD	\$657.00
	Invoice	Date	Description		Amount
	AD092723	09/27/2023	Annual Flu Shots		\$657.00
104350	09/29/2023			AT&T/CALNET 3	\$245.92
	Invoice	Date	Description		Amount
	000020530831	09/13/2023	September telephone service		\$245.92
			1000 - General Fund	\$187.70	
			2211 - ISF - Information Technology	\$58.22	
104351	09/29/2023			AT&T/CALNET 3	\$2,786.85
	Invoice	Date	Description		Amount
	000020531499	09/13/2023	September T-1 access		\$2,786.85

City Checks Issued September 29, 2023

Item 6 B.

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
104352	09/29/2023			BEAR ELECTRICAL SOLUTIONS INC.	\$22,293.35
	Invoice	Date	Description		Amount
	20164	09/20/2023	Stockton Ave & Escalona solar pedestrian crossing		\$21,500.00
	20112	08/28/2023	August traffic signal maintenance services - response		\$146.55
	20113	08/28/2023	August traffic signal maintenance services - routine		\$646.80
			1000 - General Fund		\$21,500.00
			1310 - Gas Tax		\$793.35
104353	09/29/2023			BENEFIT COORDINATORS CORP.	\$5,545.00
	Invoice	Date	Description		Amount
	B09XCM	09/01/2023	September dental & vision insurance		\$5,545.00
			1001 - Payroll Payables		
104354	09/29/2023			BURKE WILLIAMS AND SORENSEN LLP	\$27,668.71
	Invoice	Date	Description		Amount
	307857	09/21/2023	August fee issues legal services		\$973.50
	307858	09/21/2023	August public records act request legal services		\$189.00
	307850	09/21/2023	August City Attorney services		\$8,442.90
	307849	09/21/2023	August labor and employment legal services		\$3,010.00
	307851	09/21/2023	August Capitola Mall project legal services		\$992.00
	307852	09/21/2023	August litigation legal services		\$3,105.26
	307853	09/21/2023	August planning legal services		\$9,477.00
	307854	09/21/2023	August police legal services		\$426.05
	307855	09/21/2023	August Public Works legal services		\$324.00
	307856	09/21/2023	August BHR lawsuit legal fees		\$729.00
104355	09/29/2023			CAPITOLA PEACE OFFICERS ASSOCIATION	\$1,047.00
	Invoice	Date	Description		Amount
	POA092223	09/22/2023	POA & gym dues PPE 9/16/23		\$1,047.00
			1001 - Payroll Payables		
104356	09/29/2023			CARIN HANNA	\$4,845.43
	Invoice	Date	Description		Amount
	CH091923	09/19/2023	BIA website, mailchimp, storage, mail, office, gardening, S&E		\$4,845.43
			1321 - BIA - Capitola Village-Wharf BIA		
104357	09/29/2023			CENTRAL FIRE PROTECTION DISTRICT	\$115.00
	Invoice	Date	Description		Amount
	9659	09/18/2023	Plan Review for 1400 Wharf Road- APN: 03407201, 0340721		\$115.00
			1200 - Capital Improvement Fund		
104358	09/29/2023			CINTAS CORPORATION	\$233.66
	Invoice	Date	Description		Amount
	5175507936	09/14/2023	First Aid Replenishment		\$233.66

City Checks Issued September 29, 2023

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
104359	09/29/2023			COMMUNITY PRINTERS	\$262.20
	Invoice	Date	Description		Amount
	35377011	09/26/2023	Dispa signs (5)		\$262.20
104360	09/29/2023			CSG Consultants Inc.	\$5,837.00
	Invoice	Date	Description		Amount
	B231483	09/01/2023	August building plan review services		\$5,837.00
104361	09/29/2023			ENTENMANN-ROVIN CO.	\$237.92
	Invoice	Date	Description		Amount
	0176282-IN	09/12/2023	520 and 534 Badges		\$237.92
104362	09/29/2023			ENVIRONMENTAL INNOVATIONS INC.	\$2,200.00
	Invoice	Date	Description		Amount
	2219	09/14/2023	August CalRecycle Annual Report, Outreach		\$2,200.00
104363	09/29/2023			EQUITABLE	\$3,023.25
	Invoice	Date	Description		Amount
	1455580	08/11/2023	September LTD, STD, AD&D, life insurance		\$3,023.25
			1001 - Payroll Payables		
104364	09/29/2023			ESMERALDA GONZALEZ	\$537.79
	Invoice	Date	Description		Amount
	EG090823	09/08/2023	Women Leaders in Law Enforcement Training Conference R		\$194.45
	EG091823	09/18/2023	Wellness Funded Expense - under desk treadmill		\$343.34
			1000 - General Fund	\$194.45	
			1300 - SLESF - Supl Law Encf	\$343.34	
104365	09/29/2023			EWING IRRIGATION	\$38.10
	Invoice	Date	Description		Amount
	20488374	09/01/2023	Burlap trash square		\$38.10
104366	09/29/2023			FERGUSON ENTERPRISES LLC #795	\$723.22
	Invoice	Date	Description		Amount
	0750387-1	09/12/2023	Valves (4)		\$203.73
	0800596	09/12/2023	Paste flux, pipe thread compound, wrench, tube and compres		\$110.90
	0782896	09/20/2023	Toilet seat (15)		\$408.59
104367	09/29/2023			FIRST ALARM	\$307.31
	Invoice	Date	Description		Amount
	777938	09/15/2023	Community Center quarterly intrusion system monitoring		\$307.31
104368	09/29/2023			FLYERS ENERGY LLC	\$134.82
	Invoice	Date	Description		Amount
	CFS-3570020	09/15/2023	Card processing		\$134.82

City Checks Issued September 29, 2023

Item 6 B.

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
104369	09/29/2023			FRED C. BEYERS	\$180.00
	Invoice	Date	Description		Amount
	FB082223#2	08/22/2023	Softball official services		\$180.00
104370	09/29/2023			GALLS LLC	\$450.52
	Invoice	Date	Description		Amount
	025610260	09/08/2023	Duty Belt		\$27.37
	025611577	09/08/2023	Duty Boots		\$191.37
	025611578	09/08/2023	Duty Boots		\$185.92
	025623520	09/10/2023	Operator Belt		\$45.86
104371	09/29/2023			GEORGE McMENAMIN	\$1,063.92
	Invoice	Date	Description		Amount
	GM091423	09/14/2023	Bay St. & Peery Park maintenance		\$1,063.92
104372	09/29/2023			HEALTH EDUCATION SERVICES	\$1,369.97
	Invoice	Date	Description		Amount
	29592	09/14/2023	Philips FRx/HS1 battery (7)		\$1,369.97
			2211 - ISF - Information Technology		
104373	09/29/2023			HINDERLITER DELLAMAS AND ASSOCIATES	\$1,200.00
	Invoice	Date	Description		Amount
	SIN031794	09/24/2023	District sales tax auditing services Q1		\$600.00
	SIN031805	09/24/2023	District sales tax auditing services Q1		\$600.00
104374	09/29/2023			HOME DEPOT CREDIT SERVICES	\$1,598.57
	Invoice	Date	Description		Amount
	6622805	09/13/2023	Sakrete play sand		\$45.58
	6521127	09/13/2023	Strip acetone, sander pad, gloves, auto plug, stripping pad		\$166.38
	4513048	09/15/2023	Lumber, paint, strips, gloss		\$181.64
	7615120	09/22/2023	Batteries		\$40.05
	8624179	09/21/2023	Paint, duct tape		\$36.25
	6613240	09/13/2023	Light bulbs		\$24.50
	4521562	09/15/2023	Lumber		\$61.46
	9623963	09/20/2023	LED lights, electric tape		\$135.05
	8512418	09/11/2023	Porch kit, padlocks, buckets		\$105.65
	0614286	09/19/2023	Bucket, PVC cap, PVC tee, PVC ball valve, nozzle, succulen		\$50.55
	8015130	09/21/2023	braided rope, screw eyes		\$190.62
	6521105	09/13/2023	Cutting oil, couplings		\$23.64
	1646092	08/29/2023	Hole cover plate		\$6.52
	8520819	09/11/2023	Markers, deburring tool, reamer, pipe cutter		\$140.61
	8635007	09/11/2023	Faucet supply line		\$7.86
	8512348-2	09/11/2023	Soap dispenser, faucet supply line, vinyl tube, misc plumbing		\$85.29
	6613151	09/13/2023	Insert nut		\$6.00
	7613024	09/12/2023	Hex nuts		\$12.26
	5624058	08/15/2023	Sandpaper, gloves		\$53.74
	4624168	08/16/2023	Survival tool, adapters, cap, nail puller, wing nut test plugs		\$123.93
	3031316	08/17/2023	Crescent wrench, drain bladder, patcher, sponge		\$100.99

City Checks Issued September 29, 2023

Item 6 B.

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
104375	09/29/2023			HOSE SHOP	\$53.32
	Invoice	Date	Description		Amount
	453447	08/15/2023	Run tee, str adapter, brass stem		\$53.32
104376	09/29/2023			HUMBOLDT PETROLEUM LLC	\$8.50
	Invoice	Date	Description		Amount
	INV-094691	09/15/2023	Carwash Closing Date 9/15/2023		\$8.50
104377	09/29/2023			JACKIE YEUNG	\$196.39
	Invoice	Date	Description		Amount
	JY090823	09/08/2023	Driver Awareness Instructor Training Reimbursement (POST		\$76.57
	JY091523	09/15/2023	Driver Awareness Instructor Training Week 2 Reimbursemer		\$119.82
104378	09/29/2023			KBA Document Solutions LLC	\$366.28
	Invoice	Date	Description		Amount
	55Y1399996	09/19/2023	Monthly copier usage charges - City Hall 2211 - ISF - Information Technology		\$366.28
104379	09/29/2023			KUSTOM CULTURE DESIGN	\$2,116.78
	Invoice	Date	Description		Amount
	5545	09/19/2023	Afterschool t-shirts, hoodies, jackets		\$2,116.78
104380	09/29/2023			LABORMAX STAFFING	\$2,464.88
	Invoice	Date	Description		Amount
	26-330851	09/15/2023	Public works seasonal labor 9/9 - 9/15		\$1,379.66
	26-332535	09/22/2023	Public works seasonal labor 9/16-9/22/23		\$1,085.22
104381	09/29/2023			LEWIS TREE SERVICE INC.	\$3,775.00
	Invoice	Date	Description		Amount
	09232-I	09/21/2023	Prune trees @ 316 Park Ave		\$3,775.00
104382	09/29/2023			LINDE GAS & EQUIPMENT INC.	\$235.99
	Invoice	Date	Description		Amount
	38392366	09/22/2023	Acetylene rental		\$235.99

City Checks Issued September 29, 2023

Item 6 B.

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
104383	09/29/2023			LIUNA PENSION FUND	\$1,120.00
	Invoice	Date	Description		Amount
	FP5448	10/01/2023	September LIUNA pension dues		\$1,120.00
			1001 - Payroll Payables		
104384	09/29/2023			MICHAEL KILROY	\$909.09
	Invoice	Date	Description		Amount
	MK092723	09/27/2023	Wellness Funded Expense - indoor cycle trainer, kettlebells		\$909.09
104385	09/29/2023			MICHELLE DAVEY-OUSE	\$156.00
	Invoice	Date	Description		Amount
	MDO091723	09/17/2023	Instructor payment		\$78.00
	MDO092423	09/24/2023	Instructor payment		\$78.00
104386	09/29/2023			MID COUNTY AUTO SUPPLY	\$257.80
	Invoice	Date	Description		Amount
	M-2296161	09/11/2023	Ultra metallic brake pad		\$53.73
	M-2296160	09/11/2023	Serpentine belt		\$28.87
	M-2307317	09/20/2023	Starter		\$175.20
104387	09/29/2023			MISSION LINEN SUPPLY	\$587.46
	Invoice	Date	Description		Amount
	520038294	09/13/2023	Corp. Yard linen service		\$113.78
	520038293	09/13/2023	Fleet towels, uniform cleaning		\$34.50
	519603335	07/05/2023	Fleet towels, uniform cleaning		\$34.50
	519949263	08/30/2023	Fleet towels, uniform cleaning		\$34.50
	520084816	09/20/2023	Fleet towels, uniform cleaning		\$34.50
	520084817	09/20/2023	Corp. Yard linen service		\$140.78
	520067893	09/18/2023	Community Center mop and mat service		\$81.12
	519949264	08/30/2023	Corp. Yard linen service		\$113.78
104388	09/29/2023			NAPA AUTO PARTS	\$52.35
	Invoice	Date	Description		Amount
	6841-117994	09/15/2023	Shop towels, carburetor cleaner		\$52.35
104389	09/29/2023			NOAH SHERIN	\$1,355.74
	Invoice	Date	Description		Amount
	NS071523	09/25/2023	Intermediate Traffic Inv Training (POST) reimbursement		\$1,355.74
104390	09/29/2023			NORTH BAY FORD	\$118.13
	Invoice	Date	Description		Amount
	290284	09/12/2023	Switch assembly		\$118.13
104391	09/29/2023			O'REILLY AUTO PARTS	\$205.96
	Invoice	Date	Description		Amount
	2763-383015	09/12/2023	Wrench sets, socket sets		\$89.34
	2763-384495	09/19/2023	Body mount		\$116.62

City Checks Issued September 29, 2023

Item 6 B.

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
104392	09/29/2023			OUTDOOR SUPPLY HARDWARE	\$1,125.48
	Invoice	Date	Description		Amount
	I17634	09/19/2023	Labels, bulk fasteners, USB cable, caulk		\$39.35
	I17868	09/19/2023	Compression pipe union		\$5.00
	I17145	09/18/2023	Spray paint, rust stop, flap disc, sandpaper		\$56.29
	I15163	09/14/2023	Rustoleum		\$17.42
	I15023	09/14/2023	Ripping chisel, ripping hammer, bulk fasteners		\$149.13
	I14557	09/13/2023	Bucket, primer, paint, pliers, screwdrivers, misc tools & suppl		\$300.59
	I11604	09/07/2023	Acid brush, gravel, push broom		\$80.63
	I14221	09/12/2023	WD-40, duct tape, bulk fasteners		\$80.53
	I18717	09/21/2023	Wrecking bars		\$54.48
	I06142	08/28/2023	Painters tape, paint, caulk, brush, air plant		\$72.62
	I07184	08/30/2023	Water pressure guage		\$11.98
	I14629	09/13/2023	Ratchet tiedown		\$38.14
	I14741	09/13/2023	Ratchet tie down (4)		\$113.32
	I17736	09/19/2023	Sunhat		\$17.43
	I18595	09/21/2023	Rocker switch, wall plate, continuity tester		\$88.57
104393	09/29/2023			PACIFIC GAS & ELECTRIC	\$14,407.17
	Invoice	Date	Description		Amount
	PGE091323-acct9	09/13/2023	September utilities		\$12,834.97
	PGE091323-acct5	09/13/2023	September Pacific Cove parking lot utilities		\$1,572.20
			1000 - General Fund		\$6,892.22
			1300 - SLESF - Supl Law Enfc		\$144.63
			1310 - Gas Tax		\$7,070.74
			1311 - Wharf		\$299.58
104394	09/29/2023			PALACE BUSINESS SOLUTIONS	\$217.73
	Invoice	Date	Description		Amount
	688562-1	08/09/2023	Pencil sharpener (4)		\$15.96
	694708-0	09/25/2023	Certificate forms, certificate holders		\$47.01
	694833-0	09/25/2023	Printing Paper		\$154.76
104395	09/29/2023			PITNEY BOWES	\$2,200.04
	Invoice	Date	Description		Amount
	PB091923	09/19/2023	City Hall postage machine refill		\$2,200.04
			2210 - ISF - Stores Fund		

City Checks Issued September 29, 2023

Item 6 B.

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
104396	09/29/2023			PLUMBER'S PARADISE	\$21,188.00
	Invoice	Date	Description		Amount
	2878	09/18/2023	Elkay water bottle filling stations (4)		\$21,188.00
104397	09/29/2023			PPD MULTIMEDIA INC.	\$575.17
	Invoice	Date	Description		Amount
	00032235	07/17/2023	Banner layout & design		\$575.17
104398	09/29/2023			RACHEL GARCIA	\$1,126.23
	Invoice	Date	Description		Amount
	RG092523	09/25/2023	Reimbursement for rower		\$909.09
	RG090823	09/25/2023	Wmn Leaders in Law Enf training conference reimbursement		\$217.14
104399	09/29/2023			RACHEL TATE	\$163.49
	Invoice	Date	Description		Amount
	RT092523	09/25/2023	Wellness funded expense - under desk walking pad 1300 - SLESF - Supl Law Enfc		\$163.49
104400	09/29/2023			RAY ALLEN MANUFACTURING LLC	\$160.65
	Invoice	Date	Description		Amount
	RINV332790	09/12/2023	K-9 Patch		\$6.52
	RINV330203	08/28/2023	K-9 Extreme Harness		\$154.13
104401	09/29/2023			ROBIN H EVEREST	\$208.00
	Invoice	Date	Description		Amount
	RE092423	09/24/2023	Instructor payment		\$208.00
104402	09/29/2023			RRM DESIGN GROUP	\$5,056.25
	Invoice	Date	Description		Amount
	2757-01-0823	09/17/2023	Capitola Housing Element Update - August services 1313 - General Plan Update and Maint		\$5,056.25
104403	09/29/2023			SAN LORENZO LUMBER	\$251.99
	Invoice	Date	Description		Amount
	55-0833806	09/14/2023	Column base stands, gorilla tape		\$220.61
	55-0832078	09/08/2023	Lumber		\$31.38
104404	09/29/2023			SANTA CRUZ AUTO PARTS INC.	\$761.25
	Invoice	Date	Description		Amount
	14508-478987	09/13/2023	Rage gold body filler, coating		\$173.65
	14508-479381	09/19/2023	Cups, starter		\$128.70
	14508-479421	09/19/2023	Epoxy activator, spray gun filter, bulbs, spreaders, battery		\$295.06
	14508-479089	09/14/2023	Gloves, starter, refinish masking, tape, 40g longboard		\$163.84

City Checks Issued September 29, 2023

Item 6 B.

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
104405	09/29/2023			SANTA CRUZ BACKFLOW TESTING & REPAIR	\$589.00
	Invoice	Date	Description		Amount
	82723A	08/27/2023	Annual backflow test & repairs		\$589.00
104406	09/29/2023			SANTA CRUZ COUNTY DEPT OF PUBLIC WORKS	\$394.24
	Invoice	Date	Description		Amount
	45774	08/31/2023	12 Tires disposal landfill charges		\$394.24
104407	09/29/2023			SANTA CRUZ COUNTY SHERIFF	\$11,870.00
	Invoice	Date	Description		Amount
	2024-CPD	09/25/2023	FY23/24 SART Program Contribution		\$11,870.00
104408	09/29/2023			SANTA CRUZ MUNICIPAL UTILITIES	\$273.22
	Invoice	Date	Description		Amount
	SCMU090723	09/18/2023	August water service for medians		\$273.22
104409	09/29/2023			SANTA CRUZ REGIONAL 911	\$183,318.25
	Invoice	Date	Description		Amount
	SCR091523	09/26/2023	FY23/24 Second Quarter Operating Contribution		\$149,093.25
	SCR091523-2	09/15/2023	FY23/24 First Half Capital/Debt Service		\$34,225.00
104410	09/29/2023			SARAH RYAN	\$909.09
	Invoice	Date	Description		Amount
	SR092123	09/21/2023	Wellness Grant Funded Expense - Hot Elevation Studios Me		\$909.09
104411	09/29/2023			SCC ENVIRONMENTAL HEALTH SVC	\$787.50
	Invoice	Date	Description		Amount
	IN0115256	09/19/2023	Environmental cleanup oversight charges - McGregor Park		\$787.50
104412	09/29/2023			SCOTTS VALLEY FIRE PROTECTION DISTRICT	\$8,905.00
	Invoice	Date	Description		Amount
	2324-1	09/25/2023	FY23/24 Hazmat Interagency Team Contribution		\$8,905.00

City Checks Issued September 29, 2023

Item 6 B.

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
104413	09/29/2023			SOQUEL CREEK WATER DISTRICT	\$21,494.02
	Invoice	Date	Description		Amount
	06-14476-0091123	09/11/2023	06-14476-00 430 Kennedy Drive water service		\$206.37
	42-14952-0090523	09/05/2023	42-14952 Cortez Park irrigation		\$736.87
	42-15297-0090523	09/05/2023	42-15297-00 426 Capitola Ave irrigation		\$162.71
	42-15969-0090523	09/05/2023	42-15969-00 Lawn Way irrigation		\$440.47
	42-16122-0090523	09/05/2023	42-16122-00 Esplanade fountain irrigation		\$89.42
	42-10504-0090523	09/05/2023	42-10504-00 Cliff Drive irrigation		\$70.20
	42-11090-0090523	09/05/2023	42-11090-01 Capitola Road irrigation		\$162.71
	42-11467-0090523	09/05/2023	42-11467-00 Jade Street park irrigation		\$9,980.67
	42-11517-0090523	09/05/2023	42-11517-00 41st Avenue irrigation		\$162.71
	42-14404-0090523	09/05/2023	42-14404-00 Monterey Ave. Nobel Gulch Park irrigation		\$461.52
	42-16130-0090523	09/05/2023	42-16130-00 Wharf Road irrigation		\$108.17
	42-16136-0090523	09/05/2023	42-16136-00 1400 Wharf Road irrigation		\$70.20
	42-16407-0090523	09/05/2023	42-16407-00 Bay Ave. irrigation		\$70.20
	42-14431-0090523	09/05/2023	42-14431-00 Monterey Ave irrigation		\$5,251.20
	42-17688-0090523	09/05/2023	42-17688-00 Lawn Way irrigation 2		\$70.20
	42-18238-0090502	09/05/2023	42-18238-00 Capitola Road irrigation		\$70.20
	08-15299-0091823	09/18/2023	08-15299-00 Monterey Ave. water		\$73.02
	08-15562-0091823	09/18/2023	08-15562-00 Cliff and Fairview water service		\$62.34
	09-15964-0091823	09/18/2023	09-15964-00 Monterey Ave. Esplanade water		\$3,244.84
		1000 - General Fund		\$21,423.82	
		1311 - Wharf		\$70.20	
104414	09/29/2023			STAPLES ADVANTAGE	\$66.15
	Invoice	Date	Description		Amount
	3546831142	09/02/2023	Cork board		\$66.15
104415	09/29/2023			SUMMIT UNIFORMS	\$899.07
	Invoice	Date	Description		Amount
	1593	08/18/2023	565 Uniform Shirts		\$161.88
	2670	09/14/2023	532 Uniforms		\$737.19
104416	09/29/2023			T MOBILE	\$43.58
	Invoice	Date	Description		Amount
	TM092123	09/21/2023	September cell phone usage - acct # 947590665		\$43.58
104417	09/29/2023			THE CLEANING MACHINE INC.	\$2,950.00
	Invoice	Date	Description		Amount
	6648	09/12/2023	Village sidewalk cleaning		\$2,950.00

City Checks Issued September 29, 2023

Item 6 B.

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
104418	09/29/2023			THE HOME DEPOT PRO	\$3,009.14
	Invoice	Date	Description		Amount
	763737996	09/06/2023	Renown black can liner garbage bags		\$374.97
	763992500	09/07/2023	Renown black can liner garbage bags		\$366.31
	764996203	09/13/2023	Cleaning supplies		\$2,267.86
104419	09/29/2023			TPX COMMUNICATIONS	\$1,644.78
	Invoice	Date	Description		Amount
	174596809-0	09/23/2023	September phone service		\$1,644.78
			1000 - General Fund	\$893.55	
			2211 - ISF - Information Technology	\$751.23	
104420	09/29/2023			UNITED WAY OF SANTA CRUZ COUNTY	\$20.00
	Invoice	Date	Description		Amount
	UW093023	09/22/2023	September United Way contributions		\$20.00
			1001 - Payroll Payables		
104421	09/29/2023			UPEC LIUNA LOCAL 792	\$990.00
	Invoice	Date	Description		Amount
	UPEC093023	09/22/2023	September UPEC dues		\$990.00
			1001 - Payroll Payables		
104422	09/29/2023			UPLIFT DESK	\$1,087.82
	Invoice	Date	Description		Amount
	INV1558579	08/04/2023	Standing desk		\$1,087.82
104423	09/29/2023			UPS	\$31.58
	Invoice	Date	Description		Amount
	0000954791363	09/09/2023	Shipping Costs		\$31.58
104424	09/29/2023			US BANK PARS Acct 6746022400	\$782.40
	Invoice	Date	Description		Amount
	PARS092223	09/22/2023	PARS contributions PPE 9/16/23		\$782.40
			1001 - Payroll Payables		
104425	09/29/2023			VERIZON WIRELESS	\$3,269.69
	Invoice	Date	Description		Amount
	9944105044	09/10/2023	September telephone charges		\$3,269.69
104426	09/29/2023			WESTERN EXTERMINATOR COMPANY	\$156.40
	Invoice	Date	Description		Amount
	51101430	09/06/2023	City Hall rodent control		\$78.20
	51101431	09/06/2023	Turnouts rodent control		\$78.20

City Checks Issued September 29, 2023

Item 6 B.

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
104427	09/29/2023			YVETTE BROOKS	\$829.22
	Invoice	Date	Description		Amount
	YB092223	09/22/2023	Attendance at the League of CA Cities Conference Reimburs		\$829.22
104428	09/29/2023			ZEP SALES & SERVICE	\$170.77
	Invoice	Date	Description		Amount
	08939347	09/01/2023	Penetrant & lubricant		\$170.77
Type Check Totals:					\$409,084.62
<u>EFT</u>					
1599	09/19/2023			INTERNAL REVENUE SERVICE	\$1.74
	Invoice	Date	Description		Amount
	73068016	09/15/2023	Federal taxes & Medicare employee final paycheck		\$1.74
			1001 - Payroll Payables		
1600	09/26/2023			CalPERS Health Insurance	\$67,820.29
	Invoice	Date	Description		Amount
	1002460969	09/14/2023	October health insurance		\$67,820.29
			1000 - General Fund	\$4,190.13	
			1001 - Payroll Payables	\$63,630.16	
1601	09/25/2023			CalPERS Member Services Division	\$63,528.21
	Invoice	Date	Description		Amount
	1002460563-7	09/22/2023	PERS contributions PPE 9/16/23		\$63,528.21
			1000 - General Fund	\$0.35	
			1001 - Payroll Payables	\$63,527.86	
1602	09/25/2023			EMPLOYMENT DEVELOPMENT DEPARTMENT	\$12,343.05
	Invoice	Date	Description		Amount
	1-120-096-272	09/22/2023	State taxes PPE 9/16/23		\$12,343.05
			1001 - Payroll Payables		
1603	09/25/2023			INTERNAL REVENUE SERVICE	\$39,432.61
	Invoice	Date	Description		Amount
	73228740	09/22/2023	Federal taxes & Medicare PPE 9/16/23 & final check		\$39,432.61
			1001 - Payroll Payables		
1604	09/25/2023			STATE DISBURSEMENT UNIT	\$1,662.91
	Invoice	Date	Description		Amount
	45550114	09/22/2023	Employee garnishments PPE 9/16/23		\$1,662.91
			1001 - Payroll Payables		

City Checks Issued September 29, 2023

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
1605	09/25/2023			VOYA FINANCIAL	\$7,227.21
	Invoice	Date	Description		Amount
	VOYA092223	09/22/2023	Employee 457 contributions PPE 9/16/23		\$7,227.21
			1001 - Payroll Payables		
1606	09/25/2023			WEX HEALTH INC.	\$135.00
	Invoice	Date	Description		Amount
	0001797648-IN	08/31/2023	August COBRA and FSA admin.		\$135.00
1607	09/28/2023			WELLS FARGO BANK	\$17,857.93
	Invoice	Date	Description		Amount
	WF090323	09/03/2023	August Credit Card Charges		\$17,857.93
			1000 - General Fund	\$14,389.89	
			2210 - ISF - Stores Fund	\$17.10	
			2211 - ISF - Information Technology	\$3,450.94	

Type EFT Totals: \$210,008.95

Main City Totals	Count	Total
Checks	87	\$409,084.62
EFTs	9	\$210,008.95
All	96	\$619,093.57

Payroll Totals	Count	Total
Checks	4	\$1,319.36
EFTs	110	\$210,044.64
All	114	\$211,364.00

Grand Totals:	Count	Total
Checks	91	\$410,403.98
EFTs	119	\$420,053.59
All	210	\$830,457.57

City main account checks dated October 13, 2023, numbered 104429 to 104522 totaling \$1,127,153.67, 6 EFTs totaling \$121,650.60, and 102 payroll EFTs totaling \$199,732.50, for a grand total of \$1,448,536.77, have been reviewed and authorized for distribution by the City Manager.



As of October 13, 2023, the unaudited cash balance is \$2,113,296.27.

**CASH POSITION - CITY OF CAPITOLA
October 13, 2023**

	10/13/2023
General Fund	\$ (5,580,132.64)
Payroll Payables	\$ 43,283.65
Contingency Reserve Fund	\$ 2,192,345.66
Facilities Reserve Fund	\$ 432,714.09
Capital Improvement Fund	\$ 3,566,392.89
Stores Fund	\$ 61,242.55
Information Technology Fund	\$ 240,334.37
Equipment Replacement	\$ 700,648.02
Self-Insurance Liability Fund	\$ (3,645.42)
Workers' Comp. Ins. Fund	\$ 129,227.04
Compensated Absences Fund	\$ 330,886.06
TOTAL UNASSIGNED GENERAL FUNDS	\$ 2,113,296.27

The Emergency Reserve Fund balance is \$1,461,505.54 (not included above).

The PERS Contingency Fund balance is \$1,154,274.68 (not included above).

 _____	10/24/23
Jamie Goldstein, City Manager	Date
 _____	10/23/23
Jim Malberg, City Treasurer	Date

City Checks Issued October 13, 2023

Item 6 B.

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
104429	10/13/2023			AJ'S FUEL MARKET OF CAPITOLA INC	\$312.00
	Invoice	Date	Description		Amount
	AJ093023	09/30/2023	Carwash Closing Date 9/30/2023		\$312.00
104430	10/13/2023			AKERS & ASSOCIATES INC.	\$1,840.00
	Invoice	Date	Description		Amount
	4206	10/04/2023	204 Hollister Ave Plan Check Parcel Map		\$1,840.00
104431	10/13/2023			ALEXANDRIA WORKMAN	\$909.09
	Invoice	Date	Description		Amount
	AW100423	10/04/2023	Wellness Funded Expense - Surfboard 1300 - SLESF - Supl Law Enfc		\$909.09
104432	10/13/2023			ALLIED UNIVERSAL	\$1,490.30
	Invoice	Date	Description		Amount
	14759971	10/05/2023	McGregor skate park foot patrol		\$490.08
	14759972	10/05/2023	Esplanade park foot patrol		\$525.94
	14759961	10/05/2023	October 2023 Jade Street Park Patrol		\$474.28
104433	10/13/2023			AMAZON CAPITAL SERVICES	\$3,162.29
	Invoice	Date	Description		Amount
	1134-YRYK-Q4K4	09/29/2023	Work boots		\$155.18
	1P4N-64HF-LRQQ	09/29/2023	Number stickers, magnet sheets		\$125.43
	19WX-FQJN-LGF1	09/29/2023	Office Name Plate		\$13.98
	1T3V-MFQK-KYJW	09/28/2023	Work boots		\$184.04
	1XLL-MT1F-F1XL	09/27/2023	Stylus pen for iPad		\$28.33
	16JD-D66T-9T7G	09/27/2023	iPad case		\$25.06
	113D-VXQY-3MPL	09/25/2023	Purell Hand Sanitizer		\$26.81
	1XKG-KJD7-34NY	10/05/2023	Febreze air freshener		\$11.51
	17JR-7TRF-VXMF	10/04/2023	Auxiliary Dash up fitter switch replacement		\$95.91
	16HQ-6N99-RR3J	10/04/2023	iPad case return		(\$68.62)
	13YM-9VNV-T1HM	10/04/2023	iPad Case		(\$68.62)
	1LW9-6FMF-N6X3	10/03/2023	Pressure Washer Nozzle		\$71.82
	1KYY-CG4Y-6R6F	10/05/2023	TAC side steps for truck		\$163.49
	1NWQ-CXPV-DLHD	10/06/2023	Rotary hammer shank extension		\$70.46
	1HFL-QJCN-K139	10/07/2023	Work boots, cargo shorts		\$443.07
	1YHD-C1HQ-VMGV	10/09/2023	Pocket calendar		\$7.95
	1P4H-G4RM-7FXC	10/05/2023	Portable Hard Drive and Zip Ties		\$158.02
	1PWD-JTTK-7LWR	10/05/2023	CIU Office Furniture		\$1,514.79
	1RLD-G1YH-669X	10/01/2023	Roku streaming device, youth size football, glowsti		\$203.68

City Checks Issued October 13, 2023

Item 6 B.

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
104434	10/13/2023			APTOS LANDSCAPE SUPPLY INC.	\$2,183.68
	Invoice	Date	Description		Amount
	616634	10/02/2023	Pathway bark		\$91.56
	616871	10/04/2023	Pathway bark		\$542.82
	616847	10/04/2023	Pathway bark, wheelbarrow tire, bungee, rake		\$1,549.30
104435	10/13/2023			AT&T	\$8.69
	Invoice	Date	Description		Amount
	ATT100123	10/01/2023	October long distance charges		\$8.69
		1000 - General Fund		\$4.28	
		2211 - ISF - Information Technology		\$4.41	
104436	10/13/2023			AXCIENT	\$135.00
	Invoice	Date	Description		Amount
	FY23INEFI149664	09/30/2023	September AppAssure storage		\$135.00
		2211 - ISF - Information Technology			
104437	10/13/2023			B & B SMALL ENGINE REPAIR	\$640.75
	Invoice	Date	Description		Amount
	531699	10/04/2023	Engine repair		\$640.75
104438	10/13/2023			BATTERIES PLUS BULBS	\$77.55
	Invoice	Date	Description		Amount
	P66229961	09/29/2023	Battery		\$77.55
104439	10/13/2023			BEAR ELECTRICAL SOLUTIONS INC.	\$1,188.60
	Invoice	Date	Description		Amount
	20376	09/28/2023	September traffic signal maintenance services - re		\$541.80
	20377	09/28/2023	September traffic signal maintenance services - ro		\$646.80
		1310 - Gas Tax			
104440	10/13/2023			BECKY ADAMS	\$304.59
	Invoice	Date	Description		Amount
	BA100923	10/09/2023	Instructor payment		\$304.59
104441	10/13/2023			BMI	\$421.00
	Invoice	Date	Description		Amount
	50370282	10/02/2023	Annual music licensing		\$421.00
104442	10/13/2023			BOONE LOW RATLIFF ARCHITECTS INC	\$31,025.15
	Invoice	Date	Description		Amount
	3885	10/02/2023	September Community Center renovation design s		\$15,550.90
	3884	10/02/2023	September Community Center renovation design s		\$15,474.25
		1200 - Capital Improvement Fund			

City Checks Issued October 13, 2023

Item 6 B.

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
104443	10/13/2023			CALIFORNIA COAST UNIFORM COMPANY	\$976.23
	Invoice	Date	Description		Amount
	10656	10/01/2023	564 Tailoring Charges		\$32.00
	10651	10/01/2023	483 Uniform Pants		\$119.85
	10652	10/01/2023	510 Tailoring Charges		\$60.00
	10655	10/01/2023	563 Tailoring Charges		\$66.00
	10660	10/01/2023	524 Tailoring Charges		\$15.00
	10650	10/01/2023	Tailoring Charges		\$131.00
	10659	10/01/2023	521 Uniform Pants		\$104.59
	10653	10/01/2023	536 Tailoring Charges		\$67.00
	10654	10/01/2023	531 Tailoring Charges		\$16.00
	10658	10/01/2023	528 Tailoring Charges		\$50.00
	10657	10/01/2023	Patches and Embroidery Charges		\$314.79
104444	10/13/2023			CAPITOLA PEACE OFFICERS ASSOCIATION	\$1,079.50
	Invoice	Date	Description		Amount
	POA100623	10/06/2023	POA & gym dues PPE 9/30/23		\$1,079.50
			1001 - Payroll Payables		
104445	10/13/2023			CAPITOLA-SOQUEL CHAMBER OF COMMERCE	\$27,067.05
	Invoice	Date	Description		Amount
	CSCC063023	06/30/2023	October - June TOT		\$27,067.05
			1305 - Restricted TOT		
104446	10/13/2023			CLEAN BUILDING MAINTENANCE CO.	\$8,942.92
	Invoice	Date	Description		Amount
	33108	09/30/2023	September janitorial services		\$8,942.92
104447	10/13/2023			COAST LOCK & SAFE INC.	\$161.69
	Invoice	Date	Description		Amount
	029665	09/26/2023	Keys		\$161.69
104448	10/13/2023			CRYSTAL SPRINGS WATER CO.	\$283.75
	Invoice	Date	Description		Amount
	CSW093023	09/30/2023	September drinking water		\$283.75
104449	10/13/2023			CUSHMAN CONTRACTING CORP ESCROW #80013175634	\$39,259.42
	Invoice	Date	Description		Amount
	CCC#02retention	10/11/2023	September Wharf Project retainer		\$39,259.42
			1200 - Capital Improvement Fund		
104450	10/13/2023			CUSHMAN CONTRACTING CORPORATION	\$745,928.98
	Invoice	Date	Description		Amount
	CCC#02	10/11/2023	September Wharf Resiliency and Public Access Pi		\$745,928.98
			1200 - Capital Improvement Fund		

City Checks Issued October 13, 2023

Item 6 B.

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
104451	10/13/2023			D & G SANITATION	\$2,312.93
	Invoice	Date	Description		Amount
	301502	09/30/2023	Skate park hand wash station, portable toilets		\$501.78
	301504	09/30/2023	Wharf portable toilets		\$1,280.10
	301503	09/30/2023	Lower parking lot portable toilet rental		\$531.05
			1000 - General Fund	\$1,032.83	
			1311 - Wharf	\$1,280.10	
104452	10/13/2023			DIAMOND D COMPANY	\$1,500.00
	Invoice	Date	Description		Amount
	5312	09/11/2023	Patch Back for sidewalk		\$1,500.00
			1200 - Capital Improvement Fund		
104453	10/13/2023			Division of the State Architect	\$23.60
	Invoice	Date	Description		Amount
	DSA093023	09/30/2023	July - September disability education & access fee		\$23.60
104454	10/13/2023			DUDEK	\$1,736.25
	Invoice	Date	Description		Amount
	202307388	09/18/2023	#23-0254 723 El Salto Dr Project Services		\$1,736.25
104455	10/13/2023			EWING IRRIGATION	\$569.31
	Invoice	Date	Description		Amount
	20615250	09/19/2023	PVC pipes, couplings, adapters		\$31.35
	20608465	09/18/2023	PVC pipes and supplies		\$466.74
	20696948	09/28/2023	PVC pipes, couplings		\$71.22
104456	10/13/2023			EXCEEDIO	\$9,044.19
	Invoice	Date	Description		Amount
	14428	10/01/2023	October IT services		\$9,044.19
			2211 - ISF - Information Technology		
104457	10/13/2023			FLYERS ENERGY LLC	\$9,608.59
	Invoice	Date	Description		Amount
	23-931292	09/29/2023	175 Gallons Diesel		\$1,053.57
	23-931291	09/29/2023	504 Gallons Gasoline		\$2,840.41
	23-928441	09/22/2023	178 Gallons Diesel		\$1,090.11
	23-928440	09/22/2023	840 Gallons Gasoline		\$4,624.50
104458	10/13/2023			FULL CIRCLE TRAINING SOLUTIONS	\$289.00
	Invoice	Date	Description		Amount
	230390	10/07/2023	581 Advanced NIBRS Training		\$289.00

City Checks Issued October 13, 2023

Item 6 B.

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
104459	10/13/2023			GALLS LLC	\$941.09
	Invoice	Date	Description		Amount
	025723229	09/20/2023	Stinger LED and Light Holder		\$213.44
	025737799	09/21/2023	Mourning Bands and 5.11 Stryke Pant		\$225.55
	025761567	09/23/2023	Mens L/S and S/S Class B Shirt		\$238.11
	025809149	09/28/2023	Riot Helmet and Elbow Guard		\$194.23
	025815333	09/28/2023	Riot Gear Bag		\$69.76
104460	10/13/2023			GARDAWORLD	\$390.33
	Invoice	Date	Description		Amount
	10755329	10/01/2023	October 2023 Armored Transportation Service		\$390.33
104461	10/13/2023			GEORGE H WILSON INC.	\$1,160.00
	Invoice	Date	Description		Amount
	20453690	09/01/2023	Lawn way lift station maintenance		\$750.00
	20453691	09/01/2023	Semi-annual HVAC service		\$410.00
104462	10/13/2023			GRANITE ROCK COMPANY	\$273.40
	Invoice	Date	Description		Amount
	2117108	09/23/2023	Moss rock, gloves, lenses		\$273.40
104463	10/13/2023			Hi-Line Inc.	\$342.42
	Invoice	Date	Description		Amount
	0151695658676	09/25/2023	Connecters, cables, nylon rings, fork/spade		\$163.19
	11070929	09/26/2023	Connectors, cable lug, nylon ring, washers		\$179.23
104464	10/13/2023			HINDERLITER DELLAMAS AND ASSOCIATES	\$1,350.16
	Invoice	Date	Description		Amount
	SIN031897	08/31/2023	August TOT and STR admin fees		\$1,350.16
104465	10/13/2023			HOME DEPOT CREDIT SERVICES	\$1,106.64
	Invoice	Date	Description		Amount
	1642209	09/28/2023	Mounting pads, play sand, fiber glass, cloths		\$163.16
	8641629	09/21/2023	Palm sander, safety glasses, gloves, engine oil		\$268.83
	7611163	10/02/2023	Speed hub flap, metal blades, cutoff discs		\$98.63
	6010932	10/03/2023	Wiring kit, saw blades, gloves, ratchet strap		\$107.22
	6611442	10/03/2023	Spray bottle, angle plug, safety glasses, magnetic		\$108.93
	4510516	10/05/2023	Yellowjacket traps, foam aerosol		\$20.64
	2625193	09/27/2023	Utility pump, bucket, aerosol, painters touch, gold		\$210.16
	4514684	09/25/2023	Granite, pachypodium, euphorbia		\$86.12
	4615610	09/25/2023	Granite, flashlight		\$42.95

City Checks Issued October 13, 2023

Item 6 B.

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
104466	10/13/2023			HOPE REHABILITATION SERVICES	\$10,800.00
	Invoice	Date	Description		Amount
	S175523	08/31/2023	August Litter abatement services		\$6,900.00
	S175651	09/30/2023	September Litter abatement services		\$3,900.00
104467	10/13/2023			HUMBOLDT PETROLEUM LLC	\$25.50
	Invoice	Date	Description		Amount
	INV-096579	09/30/2023	Carwash Closing Date 9/30/2023		\$25.50
104468	10/13/2023			INTERNATIONAL BRONZE PLAQUE COMPANY	\$390.00
	Invoice	Date	Description		Amount
	73699	09/29/2023	Memorial Plaques		\$390.00
104469	10/13/2023			INTERSTATE BATTERY SYSTEM OF SAN JOSE INC	\$298.19
	Invoice	Date	Description		Amount
	120130421	09/27/2023	Batteries (2)		\$298.19
104470	10/13/2023			JEANI MITCHELL	\$160.85
	Invoice	Date	Description		Amount
	JM100123	10/01/2023	Instructor payment		\$160.85
104471	10/13/2023			KBA Document Solutions LLC	\$8.40
	Invoice	Date	Description		Amount
	55Y1403057	10/02/2023	City Hall copier usage		\$8.40
			2211 - ISF - Information Technology		
104472	10/13/2023			KIMLEY HORN AND ASSOCIATES INC	\$5,047.50
	Invoice	Date	Description		Amount
	25725066	07/31/2023	41st Ave & Capitola Rd bicycle striping evaluation		\$5,047.50
			1200 - Capital Improvement Fund		
104473	10/13/2023			KRAIG EVANS	\$2,018.91
	Invoice	Date	Description		Amount
	KE100423	10/04/2023	Wellness Funded Expense - WHOOP, scout hyper		\$904.78
	KE092323	09/23/2023	Traffic Collision Reconstruction Course (POST Pla		\$604.02
	KE092923	09/29/2023	Traffic Collision Reconstruction Course (POST Pla		\$510.11
104474	10/13/2023			LABORMAX STAFFING	\$883.32
	Invoice	Date	Description		Amount
	26-334276	09/29/2023	Public Works seasonal labor 9/23 - 9/28		\$883.32
104475	10/13/2023			LAURA ALIOTO	\$262.50
	Invoice	Date	Description		Amount
	LA100123	10/01/2023	Instructor payment		\$262.50

City Checks Issued October 13, 2023

Item 6 B.

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
104476	10/13/2023			LONG BEACH BMW MOTORCYCLES	\$33,751.49
	Invoice	Date	Description		Amount
	1003	09/12/2023	2023 BMW R1250RT-P MC 2212 - ISF - Equipment Replacement		\$33,751.49
104477	10/13/2023			MALLORY SAFETY AND SUPPLY LLC	\$2,146.93
	Invoice	Date	Description		Amount
	5730855	10/05/2023	Rain jackets, overalls		\$2,146.93
104478	10/13/2023			MASTER CLEANERS	\$944.88
	Invoice	Date	Description		Amount
	MC100823	10/08/2023	September 2023 Uniform Cleaning		\$944.88
104479	10/13/2023			MBASIA	\$23,294.61
	Invoice	Date	Description		Amount
	MBASIA101023	10/10/2023	Liability claims - Deductible Recovery Invoices 2213 - ISF - Self-Insurance Liability		\$23,294.61
104480	10/13/2023			MBS BUSINESS SYSTEMS	\$771.04
	Invoice	Date	Description		Amount
	456114	09/28/2023	PD copier usage charges		\$771.04
104481	10/13/2023			METRO MOBILE COMMUNICATIONS	\$1,247.02
	Invoice	Date	Description		Amount
	47651	10/02/2023	Antenna System installation		\$1,247.02
104482	10/13/2023			MICHAEL G LEW	\$140.40
	Invoice	Date	Description		Amount
	ML100923	10/09/2023	Instructor payment		\$140.40
104483	10/13/2023			MICHELLE DAVEY-OUSE	\$91.00
	Invoice	Date	Description		Amount
	MDO100123	10/01/2023	Instructor payment		\$91.00
104484	10/13/2023			MID COUNTY AUTO SUPPLY	\$505.16
	Invoice	Date	Description		Amount
	M-2310410	09/22/2023	Batteries		\$209.06
	M-2317522	09/28/2023	Hand pads		\$12.77
	M-2315756	09/27/2023	Engine oil filter		\$39.04
	M-2317516	09/28/2023	Batteries		\$205.28
	M-2324005	10/04/2023	Cast Iron, paint		\$39.01

City Checks Issued October 13, 2023

Item 6 B.

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
104485	10/13/2023			MISSION LINEN SUPPLY	\$404.68
	Invoice	Date	Description		Amount
	520139484	09/27/2023	Fleet towels, uniform cleaning		\$34.50
	520139485	09/27/2023	Corp. Yard linen service		\$113.78
	520187746	10/04/2023	Corp. Yard linen service		\$140.78
	520187745	10/04/2023	Fleet towels, uniform cleaning		\$34.50
	520171390	10/02/2023	Community Center mop and mat service		\$81.12
104486	10/13/2023			MISSION PRINTERS	\$66.63
	Invoice	Date	Description		Amount
	64675	10/03/2023	Business Cards		\$66.63
104487	10/13/2023			MOFFATT AND NICHOL	\$57,976.05
	Invoice	Date	Description		Amount
	00781756	08/31/2023	Capitola Wharf & Beach Project Services		\$12,917.25
	00780561	07/18/2023	Stockton Ave Bridge Repairs through 6/24/2023		\$6,569.80
	781040	08/04/2023	Stockton Ave Bridge Repairs through 7/29/2023		\$32,729.75
	782113	09/18/2023	Stockton Ave Bridge Repairs through 8/26/2023		\$5,759.25
			1200 - Capital Improvement Fund		
104488	10/13/2023			MOTOROLA SOLUTIONS INC.	\$9,297.60
	Invoice	Date	Description		Amount
	8230410845	05/19/2023	Crime Reports Plus Subscription for 6/18/23 - 6/17		\$1,425.60
	8230414323	06/04/2023	Command Central Analytics Subscription for 7/1/2:		\$597.00
	8230414324	06/04/2023	Command Central Analytics Subscription for 10/1/:		\$597.00
	8230414321	06/04/2023	Command Central Analytics Subscription for 1/1/2:		\$597.00
	8230414325	06/04/2023	Command Central Analytics Subscription for 1/1/2:		\$597.00
	8230414454	06/04/2023	Command Central Analytics Subscription for 4/1/2:		\$597.00
	8230414322	06/04/2023	Command Central Analytics Subscription for 4/1/2:		\$597.00
	8230403844	03/09/2023	Video Manager License & Support Fee for 10/21/2		\$4,290.00
104489	10/13/2023			MV TRANSPORTATION INC.	\$9,104.70
	Invoice	Date	Description		Amount
	125381	10/02/2023	Summer shuttle service		\$9,104.70
104490	10/13/2023			NORTH BAY FORD	\$523.38
	Invoice	Date	Description		Amount
	290388	09/20/2023	Moulding, decal name plate, assembly		\$523.38
104491	10/13/2023			OCEAN HONDA	\$130.26
	Invoice	Date	Description		Amount
	679097	10/03/2023	Switch assembly		\$130.26

City Checks Issued October 13, 2023

Item 6 B.

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
104492	10/13/2023			OUTDOOR SUPPLY HARDWARE	\$139.54
	Invoice	Date	Description		Amount
	I26874	10/07/2023	Blade saw, anchor kit		\$40.85
	I25123	10/03/2023	Bucket		\$7.62
	I25121	10/03/2023	Bottled water, concrete mix, spray		\$12.62
	I22251	09/28/2023	Scissors, mag drive, screwdriver		\$78.45
104493	10/13/2023			PALACE BUSINESS SOLUTIONS	\$45.08
	Invoice	Date	Description		Amount
	695531-0	09/29/2023	USB Thumb Drives		\$45.08
104494	10/13/2023			PAST CONSULTANTS LLC	\$900.00
	Invoice	Date	Description		Amount
	#2	07/27/2023	PCR #21-0404 Construction consultation		\$900.00
104495	10/13/2023			PAVEMENT ENGINEERING INC.	\$22,215.00
	Invoice	Date	Description		Amount
	2309-053	10/09/2023	FY22/23 Capitola Rd. improvement project 9/01 - 9		\$1,493.75
	2309-115	10/10/2023	2024 Pavement Management services through 9/3		\$6,943.75
	2308-023	09/11/2023	FY22/23 Capitola Rd. improvement project service		\$2,412.50
	2308-024	09/11/2023	2024 Pavement Management services through 8/3		\$11,365.00
			1200 - Capital Improvement Fund	\$18,308.75	
			1309 - RTC Streets	\$3,906.25	
104496	10/13/2023			PEDRO ZAMORA	\$379.00
	Invoice	Date	Description		Amount
	PZ092823	09/28/2023	Wellness Funded Expense - Deadlift Weightlifting		\$379.00
104497	10/13/2023			PHOENIX GROUP INFORMATION SYSTEMS	\$3,958.53
	Invoice	Date	Description		Amount
	082023070	09/25/2023	August 2023 Citation Processing		\$3,958.53
104498	10/13/2023			ROYAL WHOLESALE ELECTRIC	\$83.70
	Invoice	Date	Description		Amount
	7719-1032759	09/27/2023	Wire connectors		\$83.70
104499	10/13/2023			SAN LORENZO LUMBER	\$154.63
	Invoice	Date	Description		Amount
	55-0837134	09/28/2023	Screws		\$9.80
	55-0837131	09/28/2023	Lumber		\$105.60
	55-0836762	09/27/2023	Magnetic mini sweeper		\$39.23

City Checks Issued October 13, 2023

Item 6 B.

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
104500	10/13/2023			SANTA CRUZ AUTO PARTS INC.	\$208.38
	Invoice	Date	Description		Amount
	14508-480185	09/28/2023	Oil filter, hose clamp, brake clean		\$114.29
	14508-479975	09/26/2023	Chassis Black Paint		\$94.09
104501	10/13/2023			SANTA CRUZ COUNTY AUDITOR-CONTROLLER	\$10,153.00
	Invoice	Date	Description		Amount
	SCCO093023	09/30/2023	September citation processing		\$10,153.00
104502	10/13/2023			SANTA CRUZ COUNTY DEPT OF PUBLIC WORKS	\$1,681.92
	Invoice	Date	Description		Amount
	ZONEV-20220435	10/03/2023	Zone V pass through payment		\$1,681.92
104503	10/13/2023			SANTA CRUZ COUNTY DISTRICT ATTORNEY	\$5,871.00
	Invoice	Date	Description		Amount
	23/24 MDIC-CPD	09/28/2023	FY23/24 MDIC Annual Contribution		\$5,871.00
104504	10/13/2023			SANTA CRUZ COUNTY INFORMATION SERVICES	\$1,368.50
	Invoice	Date	Description		Amount
	SCISD070323	07/03/2023	June 2023 Open Query Charges		\$663.51
	Radio Shop 9/23	10/02/2023	July - September 2023 Radio Shop Charges		\$704.99
104505	10/13/2023			SANTA CRUZ SEASIDE COMPANY	\$221.55
	Invoice	Date	Description		Amount
	44446	10/05/2023	Camp Capitola Boardwalk Bowl - October 5		\$221.55
104506	10/13/2023			SANTA CRUZ SENTINEL	\$1,325.88
	Invoice	Date	Description		Amount
	0001389702	10/02/2023	September legal notices		\$1,325.88
104507	10/13/2023			SOQUEL CREEK WATER DISTRICT	\$541.20
	Invoice	Date	Description		Amount
	34-18508-0092523	09/25/2023	34-18508-00 1510 McGregor Drive water service		\$41.11
	10-16317-0092523	09/25/2023	10-16317-00 420 Capitola Ave. water		\$324.22
	10-16315-0092523	09/25/2023	10-16315-00 504 Beulah Dr. water		\$57.83
	10-16316-0092523	09/25/2023	10-16316-00 426 Capitola Ave. water		\$118.04
104508	10/13/2023			SPECTRUM BUSINESS	\$3,704.32
	Invoice	Date	Description		Amount
	170005701092123	09/21/2023	October internet service		\$3,704.32
			1000 - General Fund	\$1,638.23	
			2211 - ISF - Information Technology	\$2,066.09	

City Checks Issued October 13, 2023

Item 6 B.

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
104509	10/13/2023			STAPLES ADVANTAGE	\$52.22
	Invoice	Date	Description		Amount
	3547943591	09/21/2023	Paper, drywall hook, copy paper		\$52.22
			2210 - ISF - Stores Fund		
104510	10/13/2023			STOP COMPANY	\$43.60
	Invoice	Date	Description		Amount
	1679	09/29/2023	No left turn signs		\$43.60
104511	10/13/2023			TANKO STREETLIGHTING INC.	\$7,500.00
	Invoice	Date	Description		Amount
	69106	08/31/2023	Streetlight feasibility analysis		\$7,500.00
			1310 - Gas Tax		
104512	10/13/2023			THE EMBLEM AUTHORITY	\$844.00
	Invoice	Date	Description		Amount
	43642	10/06/2023	500 Challenge Coins		\$844.00
			1300 - SLESF - Supl Law Enfc		
104513	10/13/2023			THE HOME DEPOT PRO	\$1,910.16
	Invoice	Date	Description		Amount
	767392236	09/27/2023	Cleaning supplies		\$1,910.16
104514	10/13/2023			TRANSPARENTSEA MEDIA CO.	\$2,668.00
	Invoice	Date	Description		Amount
	00035	10/01/2023	October BIA marketing, website management, me		\$2,668.00
			1321 - BIA - Capitola Village-Wharf BIA		
104515	10/13/2023			TRANSPORTATION ALLIANCE BANK INC.	\$165.20
	Invoice	Date	Description		Amount
	680054	10/09/2023	Pressure switch, oil press		\$165.20
			1310 - Gas Tax		
104516	10/13/2023			US BANK EQUIPMENT FINANCE	\$899.95
	Invoice	Date	Description		Amount
	512033077	09/28/2023	City Hall Copier Lease		\$315.01
	511667792	09/24/2023	City Hall Copier Lease		\$174.40
	512483116	10/04/2023	Recreation copier lease		\$205.61
	512574542	10/05/2023	PD copier lease		\$204.93
			1000 - General Fund	\$410.54	
			2210 - ISF - Stores Fund	\$489.41	

City Checks Issued October 13, 2023

Item 6 B.

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
104517	10/13/2023			US BANK PARS Acct 6746022400	\$581.15
	Invoice	Date	Description		Amount
	PARS100623	10/06/2023	PARS contributions PPE 9/30/23		\$581.15
			1001 - Payroll Payables		
104518	10/13/2023			VICTORIA M JOHNSON	\$85.02
	Invoice	Date	Description		Amount
	VMJ100123	10/01/2023	Instructor payment		\$85.02
104519	10/13/2023			CONI WELCH	\$500.00
	Invoice	Date	Description		Amount
	CW101123	10/11/2023	Tree Deposit Refund #23-0324		\$500.00
104520	10/13/2023			MIDPEN HOUSING	\$111.00
	Invoice	Date	Description		Amount
	MH100623	10/06/2023	Refund of Community Center Room A		\$111.00
104521	10/13/2023			NATIONAL TESTING NETWORK	\$500.00
	Invoice	Date	Description		Amount
	12838	07/01/2023	Annual renewal NTN agreement 6/30/23-6/30/24		\$500.00
104522	10/13/2023			Sanchez, Gilberto	\$5.00
	Invoice	Date	Description		Amount
	GS100523	10/05/2023	Overpayment of Police Report 23C-00894		\$5.00
Type Check Totals:					\$1,127,153.67
<u>EFT</u>					
1608	10/03/2023			INTERNAL REVENUE SERVICE	\$29.48
	Invoice	Date	Description		Amount
	13150672	09/25/2023	Federal taxes & Medicare employee final payched		\$29.48
			1001 - Payroll Payables		
1609	10/10/2023			CalPERS Member Services Division	\$64,449.56
	Invoice	Date	Description		Amount
	1002470640-3	10/06/2023	PERS contributions PPE 9/30/23		\$64,449.56
			1000 - General Fund	\$0.34	
			1001 - Payroll Payables	\$64,449.22	
1610	10/10/2023			EMPLOYMENT DEVELOPMENT DEPARTMENT	\$11,424.11
	Invoice	Date	Description		Amount
	0-750-856-208	10/06/2023	State taxes PPE 9/30/23		\$11,424.11
			1001 - Payroll Payables		

City Checks Issued October 13, 2023

Item 6 B.

Check Number	Invoice Number	Invoice Date	Description	Payee Name	Transaction Amount
1611	10/10/2023			INTERNAL REVENUE SERVICE	\$37,068.03
	Invoice	Date	Description		Amount
	14516671	10/06/2023	Federal taxes & Medicare PPE 9/30/23		\$37,068.03
			1001 - Payroll Payables		
1612	10/10/2023			STATE DISBURSEMENT UNIT	\$1,662.91
	Invoice	Date	Description		Amount
	45719716	10/06/2023	Employee garnishments PPE 9/30/23		\$1,662.91
			1001 - Payroll Payables		
1613	10/10/2023			VOYA FINANCIAL	\$7,016.51
	Invoice	Date	Description		Amount
	VOYA100623	10/06/2023	Employee 457 contributions PPE 9/30/23		\$7,016.51
			1001 - Payroll Payables		

Type EFT Totals: \$121,650.60

Main City Totals	Count	Total
Checks	94	\$1,127,153.67
EFTs	6	\$121,650.60
All	100	\$1,248,804.27

Payroll Totals	Count	Total
Checks	0	\$0.00
EFTs	102	\$199,732.50
All	102	\$199,732.50

Grand Totals:	Count	Total
Checks	94	\$1,127,153.67
EFTs	108	\$321,383.10
All	202	\$1,448,536.77

Capitola City Council

Agenda Report



Meeting: October 12, 2023

From: Public Works Department

Subject: Cliff Drive Resiliency Project Contract Amendment 1

Recommended Action: Authorize the City Manager to execute Amendment 1 to the Professional Services Agreement with CSW/Stuber-Stroeh Engineering Group, Inc. for professional planning, permitting, and design services for the Cliff Drive Resiliency Project.

Background: On October 12, 2023, the City Council authorized the City Manager to execute a Professional Services Agreement with CSW/Stuber-Stroeh Engineering Group, Inc. for professional planning, permitting, and design services for the Cliff Drive Resiliency Project in the amount of \$1,193,700.

Discussion: After a final review of the contract, Caltrans Local Assistance (Caltrans LA) provided feedback that required the inclusion of additional federal provisions, as mandated by the Federal Highway Administration (FHWA), for professional services. In response, City staff has made the necessary modifications to the agreement as an amendment, obtained approval from Caltrans LA, and engaged in discussions with the consultant. The amendment is now ready for Council approval. The timeline, scope, and budget of the Cliff Drive Resiliency Project will not be affected by this amendment.

Fiscal Impact: Approving this amendment will not have an additional fiscal impact, as it pertains to the same amount and funding source as the original agreement approved by the City Council on October 12, 2023.

Attachments:

1. [October 12, 2023 Cliff Drive Resiliency Project Staff Report](#)
2. Draft Amendment

Report Prepared By: Jessica Kahn, Public Works Director

Reviewed By: Julia Gautho, City Clerk; Samantha Zutler, City Attorney

Approved By: Jamie Goldstein, City Manager

1ST AMENDMENT TO THE
PROFESSIONAL SERVICES AGREEMENT WITH CSW / STUBER-STROEH ENGINEERING
GROUP FOR THE CLIFF DRIVE RESILIENCY PROJECT

between

CITY OF CAPITOLA AND CSW / STUBER-STROEH ENGINEERING GROUP

The City of Capitola and CSW / Stuber-Stroeh Engineering Group, hereby agree to the following Amendment(s) to the Contract dated October 12, 2023:

1) SECTION 6. Time of Beginning and Schedule for Completion Contract, is revised in part to read as follows: "This Agreement will become effective when signed by both parties and will terminate on December 31, 2025."

2) Consultant shall comply with federal funding (FHWA) and Caltrans requirements as outlined in Caltrans Exhibit 10-R, as set forth in Appendix Three attached hereto and incorporated herein. Should there be a conflict between Caltrans Exhibit 10-R and part of this Agreement, Caltrans Exhibit 10-R shall govern.

All other terms and conditions of the Professional Services Agreement remain in full force and effect.

CONTRACTOR: CSW / STUBER-STROEH ENGINEERING

By:

Date: _____

CITY OF CAPITOLA

By: Benjamin Goldstein, City Manager

Date: _____

APPENDIX THREE
Caltrans Exhibit 10-R

Exhibit 10-R: A&E BOILERPLATE AGREEMENT LANGUAGE

(For Local Assistance Federal-Aid Projects)

NOTE TO LOCAL AGENCY - BE SURE THAT YOUR LEGAL STAFF REVIEWS AND APPROVES ALL CONSULTANT CONTRACTS BEFORE EXECUTION. THIS AGREEMENT LANGUAGE IS RECOMMENDED LANGUAGE, EXCEPT ARTICLE XXXII TITLE VI ASSURANCES (APPENDICES A AND E MUST BE PHYSICALLY INCLUDED, UNMODIFIED, IN ANY FEDERAL-AID CONTRACT AND APPENDICES B-D MUST BE PHYSICALLY INCLUDED, UNMODIFIED, IN ANY FEDERAL-AID CONTRACT INVOLVING RIGHT OF WAY ACQUISITION). MODIFY AS RECOMMENDED BY YOUR OWN LEGAL STAFF AND TO FIT YOUR PARTICULAR REQUIREMENTS AND PROJECT.

THE FISCAL AND FEDERAL PROVISIONS ARE REQUIRED IN ALL FEDERALLY FUNDED CONTRACTS. THE ORIGINAL INTENT OF THE ARTICLE SHALL REMAIN, IF MODIFIED BY YOUR LEGAL STAFF.

THIS EXHIBIT CONTAINS FISCAL REQUIREMENTS FROM 2 CFR 200 AND IS TO BE USED FOR STATE-ONLY FUNDED CONTRACTS AS WELL.

TABLE OF CONTENTS

	<u>Page</u>
ARTICLE I INTRODUCTION	3
ARTICLE II CONSULTANT’S REPORTS OR MEETINGS	4
ARTICLE III STATEMENT OF WORK	4
ARTICLE IV PERFORMANCE PERIOD.....	6
ARTICLE V ALLOWABLE COSTS AND PAYMENTS.....	6
ARTICLE VI TERMINATION	10
ARTICLE VII COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS.....	11
ARTICLE VIII RETENTION OF RECORD/AUDITS	11
ARTICLE IX AUDIT REVIEW PROCEDURES	12
ARTICLE X SUBCONTRACTING	13
ARTICLE XI EQUIPMENT PURCHASE AND OTHER CAPITAL EXPENDITURES	15
ARTICLE XII STATE PREVAILING WAGE RATES.....	16
ARTICLE XIII CONFLICT OF INTEREST.....	19
ARTICLE XIV REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION	19
ARTICLE XV PROHIBITION OF EXPENDING LOCAL AGENCY, STATE, OR FEDERAL FUNDS FOR LOBBYING	20
ARTICLE XVI NON-DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE.....	20
ARTICLE XVII DEBARMENT AND SUSPENSION CERTIFICATION.....	21
ARTICLE XVIII DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION.....	22
ARTICLE XIX INSURANCE	28
ARTICLE XX FUNDING REQUIREMENTS.....	29
ARTICLE XXI CHANGE IN TERMS	29

ARTICLE XXII CONTINGENT FEE 29

ARTICLE XXIII DISPUTES..... 30

ARTICLE XXIV INSPECTION OF WORK 30

ARTICLE XXV SAFETY 30

ARTICLE XXVI OWNERSHIP OF DATA..... 31

ARTICLE XXVII CLAIMS FILED BY LOCAL AGENCY’S CONSTRUCTION CONTRACTOR..... 31

ARTICLE XXVIII CONFIDENTIALITY OF DATA..... 32

ARTICLE XXIX NATIONAL LABOR RELATIONS BOARD CERTIFICATION..... 32

ARTICLE XXX EVALUATION OF CONSULTANT 33

ARTICLE XXXI PROMPT PAYMENT..... 33

ARTICLE XXXII TITLE VI ASSURANCES 33

ARTICLE XXXIII NOTIFICATION 38

ARTICLE XXXIV CONTRACT 38

ARTICLE XXXV SIGNATURES 39

ARTICLE I INTRODUCTION

~~A. This AGREEMENT is between the following named, hereinafter referred to as, CONSULTANT and the following named, hereinafter referred to as, LOCAL AGENCY:~~

~~The name of the "CONSULTANT" is as follows:
(NAME OF CONSULTANT)~~

~~Incorporated in the State of (NAME OF STATE)
The Project Manager for the "CONSULTANT" will be (NAME)
The name of the "LOCAL AGENCY" is as follows:-
(NAME)~~

~~The Contract Administrator for LOCAL AGENCY will be (NAME)~~

~~B. The work to be performed under this AGREEMENT is described in Article III Statement of Work and the approved CONSULTANT's Cost Proposal dated (DATE). The approved CONSULTANT's Cost Proposal is attached hereto (Attachment #) and incorporated by reference. If there is any conflict between the approved Cost Proposal and this AGREEMENT, this AGREEMENT shall take precedence.~~

~~C. CONSULTANT agrees to the fullest extent permitted by law, to indemnify, protect, defend, and hold harmless LOCAL AGENCY, its officers, officials, agents, employees and volunteers from and against any and all claims, damages, demands, liability, costs, losses and expenses, including without limitation, court costs and reasonable attorneys' and expert witness fees, arising out of any failure to comply with applicable law, any injury to or death of any person(s), damage to property, loss of use of property, economic loss or otherwise arising out of the performance of the work described herein, to the extent caused by a negligent act or negligent failure to act, errors, omissions, recklessness or willful misconduct incident to the performance of this AGREEMENT on the part of CONSULTANT, except such loss or damage which was caused by the sole negligence, or willful misconduct of LOCAL AGENCY, as determined by a Court of competent jurisdiction. The provisions of this section shall survive termination or suspension of this AGREEMENT.~~

~~D. CONSULTANT in the performance of this AGREEMENT, shall act in an independent capacity. It is understood and agreed that CONSULTANT (including CONSULTANT's employees) is an independent contractor and that no relationship of employer-employee exists between the Parties hereto. CONSULTANT's assigned personnel shall not be entitled to any benefits payable to employees of City.~~

~~E. LOCAL AGENCY is not required to make any deductions or withholdings from the compensation payable to CONSULTANT under the provisions of the AGREEMENT, and is not required to issue W-2 Forms for income and employment tax purposes for any of CONSULTANT's assigned personnel. CONSULTANT, in the performance of its obligation hereunder, is only subject to the control or direction of the LOCAL AGENCY as to the designation of tasks to be performed and the results to be accomplished.~~

~~F. Any third party person(s) employed by CONSULTANT shall be entirely and exclusively under the direction, supervision, and control of CONSULTANT. CONSULTANT hereby indemnifies and holds LOCAL AGENCY harmless from any and all claims that may be made against City based upon any contention by any third party that an employer-employee relationship exists by reason of this AGREEMENT.~~

- ~~G. Except as expressly authorized herein, CONSULTANT's obligations under this AGREEMENT are not assignable or transferable, and CONSULTANT shall not subcontract any work, without the prior written approval of the LOCAL AGENCY. However, claims for money due or which become due to CONSULTANT from City under this AGREEMENT may be assigned to a financial institution or to a trustee in bankruptcy, without such approval. Notice of any assignment or transfer whether voluntary or involuntary shall be furnished promptly to the LOCAL AGENCY.~~
- ~~H. CONSULTANT shall be as fully responsible to the LOCAL AGENCY for the negligent acts and omissions of its contractors and subcontractors or subconsultants, and of persons either directly or indirectly employed by them, in the same manner as persons directly employed by CONSULTANT.~~
- ~~I. No alteration or variation of the terms of this AGREEMENT shall be valid, unless made in writing and signed by the parties authorized to bind the parties; and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.~~
- ~~J. The consideration to be paid to CONSULTANT as provided herein, shall be in compensation for all of CONSULTANT's expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.~~

ARTICLE II CONSULTANT'S REPORTS OR MEETINGS

~~[Choose either Option 1 or Option 2]~~

~~[Option 1 – Use paragraphs A & B below for standard AGREEMENTs]~~

- ~~A. CONSULTANT shall submit progress reports at least once a month. The report should be sufficiently detailed for the LOCAL AGENCY's Contract Administrator to determine, if CONSULTANT is performing to expectations, or is on schedule; to provide communication of interim findings, and to sufficiently address any difficulties or special problems encountered, so remedies can be developed.~~
- ~~B. CONSULTANT's Project Manager shall meet with LOCAL AGENCY's Contract Administrator, as needed, to discuss progress on the AGREEMENT.~~

~~[Option 2 – Use paragraphs A & B below for on-call AGREEMENTs]~~

- ~~A. CONSULTANT shall submit progress reports on each specific project in accordance with the Task Order. These reports shall be submitted at least once a month. The report should be sufficiently detailed for LOCAL AGENCY's Contract Administrator or Project Coordinator to determine, if CONSULTANT is performing to expectations, or is on schedule; to provide communication of interim findings, and to sufficiently address any difficulties or special problems encountered, so remedies can be developed.~~
- ~~B. CONSULTANT's Project Manager shall meet with LOCAL AGENCY's Contract Administrator or Project Coordinator, as needed, to discuss progress on the project(s).~~

ARTICLE III STATEMENT OF WORK

~~[Insert Appropriate Statement of work including a Description of the Deliverables in the following sections. If a section does not apply to the AGREEMENT, state "Not Applicable to this AGREEMENT."]~~

~~A. CONSULTANT Services~~

~~[Detail based on the services to be furnished should be provided by CONSULTANT. Nature and extent should be verified in the negotiations to make precise statements to eliminate subsequent~~

~~uncertainties and misunderstandings. Reference to the appropriate standards for design or other standards for work performance stipulated in CONSULTANT AGREEMENT should be included. Describe acceptance criteria, and if the responsible CONSULTANT/engineer shall sign all Plans, Specifications and Estimate (PS&E) and engineering data furnished under the AGREEMENT including registration number.~~

~~Environmental documents are not considered complete until a Caltrans District Senior Environmental Planner signs the Categorical Exclusion, a Caltrans Deputy District Director signs the Finding of No Significant Impact, or the Caltrans District Director signs the Record of Decision (see [LAPM Chapter 6: Environmental Procedures](#), and the Standard Environmental Reference).]~~

~~B. Right of Way~~

~~[State whether Right of Way requirements are to be determined and shown by CONSULTANT, whether land surveys and computations with metes and bounds descriptions are to be made, and whether Right of Way parcel maps are to be furnished.]~~

~~C. Surveys~~

~~[State whether or not the CONSULTANT has the responsibility for performing preliminary or construction surveys.]~~

~~D. Subsurface Investigations~~

~~[State specifically whether or not CONSULTANT has responsibility for making subsurface investigations. If borings or other specialized services are to be made by others under the supervision of CONSULTANT, appropriate provisions are to be incorporated. Archaeological testing and data recovery guidance can be found in the Standard Environmental Reference.]~~

~~E. Local Agency Obligations~~

~~All data applicable to the project and in possession of LOCAL AGENCY, another agency, or government agency that are to be made available to CONSULTANT are referred to in the AGREEMENT. Any other assistance or services to be furnished to CONSULTANT are to be stated clearly.~~

~~F. Conferences, Site Visits, Inspection of Work~~

~~This AGREEMENT provides for conferences as needed, visits to the site, and inspection of the work by representatives of the LOCAL AGENCY, State, and/or FHWA. Costs incurred by CONSULTANT for meetings, subsequent to the initial meeting shall be included in the fee.~~

~~G. Checking Shop Drawings~~

~~[For AGREEMENTs requiring the preparation of construction drawings, make provision for checking shop drawings. Payment for checking shop drawings by CONSULTANT may be included in the AGREEMENT fee, or provision may be made for separate payment.]~~

~~H. CONSULTANT Services During Construction~~

~~The extent, if any of CONSULTANT's services during the course of construction as material testing, construction surveys, etc., are specified in the AGREEMENT together with the method of payment for such services.~~

~~I. Documentation and Schedules~~

~~AGREEMENTs where appropriate, shall provide that CONSULTANT document the results of the work to the satisfaction of LOCAL AGENCY, and if applicable, the State and FHWA. This may include preparation of progress and final reports, plans, specifications and estimates, or similar evidence of attainment of the AGREEMENT objectives.~~

J. Deliverables and Number of Copies

The number of copies or documents to be furnished, such as reports, brochures, sets of plans, specifications, or Right of Way parcel maps shall be specified. Provision may be made for payment for additional copies.

ARTICLE IV PERFORMANCE PERIOD

[A time must be set for beginning and ending the work under the AGREEMENT. The time allowed for performing the work is specified; it should be reasonable for the kind and amount of services contemplated; and it is written into the AGREEMENT. If it is desirable that Critical Path Method (CPM) networks, or other types of schedules be prepared by CONSULTANT, they should be identified and incorporated into the AGREEMENT.]

A. This AGREEMENT shall go into effect on (DATE), contingent upon approval by LOCAL AGENCY, and CONSULTANT shall commence work after notification to proceed by LOCAL AGENCY'S Contract Administrator. The AGREEMENT shall end on (DATE), unless extended by AGREEMENT amendment.

B. CONSULTANT is advised that any recommendation for AGREEMENT award is not binding on LOCAL AGENCY until the AGREEMENT is fully executed and approved by LOCAL AGENCY.

[Use paragraph C below in addition to paragraphs A & B above for on-call AGREEMENTS. On-call AGREEMENTS shall be 5 years maximum.]

C. The period of performance for each specific project shall be in accordance with the Task Order for that project. If work on a Task Order is in progress on the expiration date of this AGREEMENT, the terms of the AGREEMENT shall be extended by AGREEMENT amendment prior to the expiration of the contract to cover the time needed to complete the task order in progress only. The maximum term shall not exceed five (5) years.

ARTICLE V ALLOWABLE COSTS AND PAYMENTS

[Choose either Option 1, 2, 3, or 4]

[Option 1 – Use paragraphs A through K below for Cost-Plus-Fixed-Fee AGREEMENTS]

A. The method of payment for this AGREEMENT will be based on actual cost plus a fixed fee. LOCAL AGENCY will reimburse CONSULTANT for actual costs (including labor costs, employee benefits, travel, equipment rental costs, overhead and other direct costs) incurred by CONSULTANT in performance of the work. CONSULTANT will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead, and other estimated costs set forth in the approved CONSULTANT'S Cost Proposal, unless additional reimbursement is provided for by AGREEMENT amendment. In no event, will CONSULTANT be reimbursed for overhead costs at a rate that exceeds LOCAL AGENCY'S approved overhead rate set forth in the Cost Proposal. In the event, that LOCAL AGENCY determines that a change to the work from that specified in the Cost Proposal and AGREEMENT is required, the AGREEMENT time or actual costs reimbursable by LOCAL AGENCY shall be adjusted by AGREEMENT amendment to accommodate the changed work. The maximum total cost as specified in Paragraph "I" of this Article shall not be exceeded, unless authorized by AGREEMENT amendment.

B. The indirect cost rate established for this AGREEMENT is extended through the duration of this specific AGREEMENT. CONSULTANT'S agreement to the extension of the 1-year applicable period shall not be a condition or qualification to be considered for the work or AGREEMENT award.

- ~~C. In addition to the allowable incurred costs, LOCAL AGENCY will pay CONSULTANT a fixed fee of \$(AMOUNT). The fixed fee is nonadjustable for the term of the AGREEMENT, except in the event of a significant change in the scope of work and such adjustment is made by AGREEMENT amendment.~~
- ~~D. Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal.~~
- ~~E. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval for a revised milestone cost estimate from the Contract Administrator before exceeding such cost estimate.~~
- ~~F. Progress payments will be made monthly in arrears based on services provided and allowable incurred costs. A pro rata portion of CONSULTANT’s fixed fee will be included in the monthly progress payments. If CONSULTANT fails to submit the required deliverable items according to the schedule set forth in Article III Statement of Work, LOCAL AGENCY shall have the right to delay payment or terminate this AGREEMENT.~~
- ~~G. No payment will be made prior to approval of any work, nor for any work performed prior to approval of this AGREEMENT.~~
- ~~H. CONSULTANT will be reimbursed promptly according to California Regulations upon receipt by LOCAL AGENCY’s Contract Administrator of itemized invoices in duplicate. Invoices shall be submitted no later than thirty (30) calendar days after the performance of work for which CONSULTANT is billing. Invoices shall detail the work performed on each milestone and each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this AGREEMENT number and project title. Final invoice must contain the final cost and all credits due LOCAL AGENCY including any equipment purchased under the provisions of Article XI Equipment Purchase. The final invoice should be submitted within sixty (60) calendar days after completion of CONSULTANT’s work. Invoices shall be mailed to LOCAL AGENCY’s Contract Administrator at the following address:~~

~~(LOCAL AGENCY/NAME OF CONTRACT ADMINISTRATOR)
(ADDRESS)~~

- ~~I. The total amount payable by LOCAL AGENCY including the fixed fee shall not exceed \$(Amount).~~
 - ~~J. For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.~~
- ~~[Option 2 – For Cost per Unit of Work AGREEMENTs, replace paragraphs A & B of Option 1 with the following paragraphs A, B, and C and re-letter the remaining paragraphs. Adjust as necessary for work specific to your project].~~
- ~~A. The method of payment for the following items shall be at the rate specified for each item, as described in this Article. The specified rate shall include full compensation to CONSULTANT for the item as described, including but not limited to, any repairs, maintenance, or insurance, and no further compensation will be allowed therefore.~~
 - ~~B. The specified rate to be paid for vehicle expense for CONSULTANT’s field personnel shall be \$(Amount) per approved Cost Proposal. This rate shall be for fully equipped vehicle(s) specified in~~

Article III Statement of Work, as applicable. The specified rate to be paid for equipment shall be, as listed in the approved Cost Proposal.

~~C. The method of payment for this AGREEMENT, except those items to be paid for on a specified rate basis, will be based on cost per unit of work. LOCAL AGENCY will reimburse CONSULTANT for actual costs (including labor costs, employee benefits, travel, equipment rental costs, overhead and other direct costs) incurred by CONSULTANT in performance of the work. CONSULTANT will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead and other estimated costs set forth in the approved Cost Proposal, unless additional reimbursement is provided for, by AGREEMENT amendment. In no event, will CONSULTANT be reimbursed for overhead costs at a rate that exceeds LOCAL AGENCY approved overhead rate set forth in the approved Cost Proposal. In the event, LOCAL AGENCY determines that changed work from that specified in the approved Cost Proposal and AGREEMENT is required; the actual costs reimbursable by LOCAL AGENCY may be adjusted by AGREEMENT amendment to accommodate the changed work. The maximum total cost as specified in Paragraph "I," of this article shall not be exceeded unless authorized by AGREEMENT amendment.~~

~~[Option 3 – Use paragraphs A through P for Specific Rates of Compensation Agreements (such as on-call Agreements). This payment method shall only be used when it is not possible at the time of procurement to estimate the extent or duration of the work or to estimate costs with any reasonable degree of accuracy. The specific rates of compensation payment method should be limited to AGREEMENTs or components of AGREEMENTs for specialized or support type services where the CONSULTANT is not in direct control of the number of hours worked, such as construction engineering and inspection.]~~

~~A. CONSULTANT will be reimbursed for hours worked at the hourly rates specified in the CONSULTANT's approved Cost Proposal. The specified hourly rates shall include direct salary costs, employee benefits, prevailing wages, employer payments, overhead, and fee. These rates are not adjustable for the performance period set forth in this AGREEMENT. CONSULTANT will be reimbursed within thirty (30) days upon receipt by LOCAL AGENCY'S Contract Administrator of itemized invoices in duplicate.~~

~~B. In addition, CONSULTANT will be reimbursed for incurred (actual) direct costs other than salary costs that are in the approved Cost Proposal and identified in the approved Cost Proposal and in the executed Task Order.~~

~~C. Specific projects will be assigned to CONSULTANT through issuance of Task Orders.~~

~~D. After a project to be performed under this AGREEMENT is identified by LOCAL AGENCY, LOCAL AGENCY will prepare a draft Task Order, less the cost estimate. A draft Task Order will identify the scope of services, expected results, project deliverables, period of performance, project schedule and will designate a LOCAL AGENCY Project Coordinator. The draft Task Order will be delivered to CONSULTANT for review. CONSULTANT shall return the draft Task Order within ten (10) calendar days along with a Cost Estimate, including a written estimate of the number of hours and hourly rates per staff person, any anticipated reimbursable expenses, overhead, fee if any, and total dollar amount. After agreement has been reached on the negotiable items and total cost; the finalized Task Order shall be signed by both LOCAL AGENCY and CONSULTANT.~~

~~E. Task Orders may be negotiated for a lump sum (Firm Fixed Price) or for specific rates of compensation, both of which must be based on the labor and other rates set forth in CONSULTANT's approved Cost Proposal.~~

~~CONSULTANT shall be responsible for any future adjustments to prevailing wage rates including, but not limited to, base hourly rates and employer payments as determined by the Department of Industrial Relations. CONSULTANT is responsible for paying the appropriate rate, including escalations that take place during the term of the AGREEMENT.~~

~~F. [Local Agency to include either (a) or (b) below; delete the other one]~~

~~(a) Reimbursement for transportation and subsistence costs shall not exceed State rates.~~

~~(b) Reimbursement for transportation and subsistence costs shall not exceed the rates as specified in the approved Cost Proposal. CONSULTANT will be responsible for transportation and subsistence costs in excess of State rates.~~

~~G. When milestone cost estimates are included in the approved Cost Proposal, CONSULTANT shall obtain prior written approval in the form of an AGREEMENT amendment for a revised milestone cost estimate from the Contract Administrator before exceeding such estimate.~~

~~H. Progress payments for each Task Order will be made monthly in arrears based on services provided and actual costs incurred.~~

~~I. CONSULTANT shall not commence performance of work or services until this AGREEMENT has been approved by LOCAL AGENCY and notification to proceed has been issued by LOCAL AGENCY'S Contract Administrator. No payment will be made prior to approval or for any work performed prior to approval of this AGREEMENT.~~

~~J. A Task Order is of no force or effect until returned to LOCAL AGENCY and signed by an authorized representative of LOCAL AGENCY. No expenditures are authorized on a project and work shall not commence until a Task Order for that project has been executed by LOCAL AGENCY.~~

~~K. CONSULTANT will be reimbursed within thirty (30) days upon receipt by LOCAL AGENCY'S Contract Administrator of itemized invoices in duplicate. Separate invoices itemizing all costs are required for all work performed under each Task Order. Invoices shall be submitted no later than thirty (30) calendar days after the performance of work for which CONSULTANT is billing, or upon completion of the Task Order. Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this AGREEMENT number, project title and Task Order number. Credits due LOCAL AGENCY that include any equipment purchased under the provisions of Article XI Equipment Purchase, must be reimbursed by CONSULTANT prior to the expiration or termination of this AGREEMENT. Invoices shall be mailed to LOCAL AGENCY's Contract Administrator at the following address:~~

~~(NAME OF LOCAL AGENCY/ NAME OF CONTRACT ADMINISTRATOR)
(ADDRESS)~~

~~L. The period of performance for Task Orders shall be in accordance with dates specified in the Task Order. No Task Order will be written which extends beyond the expiration date of this AGREEMENT.~~

~~M. The total amount payable by LOCAL AGENCY for an individual Task Order shall not exceed the amount agreed to in the Task Order, unless authorized by amendment.~~

~~N. If CONSULTANT fails to satisfactorily complete a deliverable according to the schedule set forth in a Task Order, no payment will be made until the deliverable has been satisfactorily completed.~~

~~O. Task Orders may not be used to amend the language (or the terms) of this AGREEMENT nor to exceed the scope of work under this AGREEMENT.~~

~~P. The total amount payable by LOCAL AGENCY for all Task Orders resulting from this AGREEMENT shall not exceed \$ (Amount). It is understood and agreed that there is no guarantee, either expressed or implied that this dollar amount will be authorized under this AGREEMENT through Task Orders.~~

~~[Option 4 - Use paragraphs A through E below for lump sum agreements.~~

~~A. The method of payment for this AGREEMENT will be based on lump sum. The total lump sum price paid to CONSULTANT will include compensation for all work and deliverables, including travel and equipment described in Article III Statement of Work. No additional compensation will be paid to CONSULTANT, unless there is a change in the scope of the work or the scope of the project. In the instance of a change in the scope of work or scope of the project, adjustment to the total lump sum compensation will be negotiated between CONSULTANT and LOCAL AGENCY. Adjustment in the total lump sum compensation will not be effective until authorized by AGREEMENT amendment and approved by LOCAL AGENCY.~~

~~B. Progress payments may be made monthly in arrears based on the percentage of work completed by CONSULTANT. If CONSULTANT fails to submit the required deliverable items according to the schedule set forth in Article III Statement of Work, LOCAL AGENCY shall have the right to delay payment or terminate this AGREEMENT in accordance with the provisions of Article VI Termination.~~

~~C. CONSULTANT shall not commence performance of work or services until this AGREEMENT has been approved by LOCAL AGENCY and notification to proceed has been issued by LOCAL AGENCY'S Contract Administrator. No payment will be made prior to approval of any work, or for any work performed prior to approval of this AGREEMENT.~~

~~D. CONSULTANT will be reimbursed within thirty (30) days upon receipt by LOCAL AGENCY'S Contract Administrator of itemized invoices in duplicate. Invoices shall be submitted no later than thirty (30) calendar days after the performance of work for which CONSULTANT is billing. Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this AGREEMENT number and project title. Final invoice must contain the final cost and all credits due LOCAL AGENCY that include any equipment purchased under the provisions of Article XI Equipment Purchase. The final invoice must be submitted within sixty (60) calendar days after completion of CONSULTANT's work unless a later date is approved by the LOCAL AGENCY. Invoices shall be mailed to LOCAL AGENCY's Contract Administrator at the following address:~~

~~(LOCAL AGENCY/NAME OF CONTRACT ADMINISTRATOR)
(ADDRESS)~~

~~E. The total amount payable by LOCAL AGENCY shall not exceed \$(Amount).~~

ARTICLE VI TERMINATION

A. This AGREEMENT may be terminated by LOCAL AGENCY, provided that LOCAL AGENCY gives not less than thirty (30) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate. Upon termination, LOCAL AGENCY shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not.

- B. LOCAL AGENCY may temporarily suspend this AGREEMENT, at no additional cost to LOCAL AGENCY, provided that CONSULTANT is given written notice (delivered by certified mail, return receipt requested) of temporary suspension. If LOCAL AGENCY gives such notice of temporary suspension, CONSULTANT shall immediately suspend its activities under this AGREEMENT. A temporary suspension may be issued concurrent with the notice of termination.
- C. Notwithstanding any provisions of this AGREEMENT, CONSULTANT shall not be relieved of liability to LOCAL AGENCY for damages sustained by City by virtue of any breach of this AGREEMENT by CONSULTANT, and City may withhold any payments due to CONSULTANT until such time as the exact amount of damages, if any, due City from CONSULTANT is determined.
- D. In the event of termination, CONSULTANT shall be compensated as provided for in this AGREEMENT. Upon termination, LOCAL AGENCY shall be entitled to all work, including but not limited to, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not.

ARTICLE VII COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS

- A. The CONSULTANT agrees that 48 CFR 31, Contract Cost Principles and Procedures, shall be used to determine the allowability of individual terms of cost.
- B. The CONSULTANT also agrees to comply with Federal procedures in accordance with 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- C. Any costs for which payment has been made to the CONSULTANT that are determined by subsequent audit to be unallowable under 48 CFR 31 or 2 CFR 200 are subject to repayment by the CONSULTANT to LOCAL AGENCY.
- D. When a CONSULTANT or Subconsultant is a Non-Profit Organization or an Institution of Higher Education, the Cost Principles for Title 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards shall apply.

ARTICLE VIII RETENTION OF RECORD/AUDITS

For the purpose of determining compliance with Gov. Code § 8546.7, the CONSULTANT, Subconsultants, and LOCAL AGENCY shall maintain all books, documents, papers, accounting records, Independent CPA Audited Indirect Cost Rate workpapers, and other evidence pertaining to the performance of the AGREEMENT including, but not limited to, the costs of administering the AGREEMENT. All parties, including the CONSULTANT's Independent CPA, shall make such workpapers and materials available at their respective offices at all reasonable times during the AGREEMENT period and for three (3) years from the date of final payment under the AGREEMENT and records for real property and equipment acquired with federal funds must be retained for three (3) years after final disposition. LOCAL AGENCY, Caltrans Auditor, FHWA, or any duly authorized representative of the Federal government having jurisdiction under Federal laws or regulations (including the basis of Federal funding in whole or in part) shall have access to any books, records, and documents of the CONSULTANT, Subconsultants, and the CONSULTANT's Independent CPA, that are pertinent to the AGREEMENT for audits, examinations, workpaper review, excerpts, and transactions, and copies thereof shall be furnished if requested without limitation.

ARTICLE IX AUDIT REVIEW PROCEDURES

- A. Any dispute concerning a question of fact arising under an interim or post audit of this AGREEMENT that is not disposed of by AGREEMENT, shall be reviewed by LOCAL AGENCY'S Chief Financial Officer.
- B. Not later than thirty (30) calendar days after issuance of the final audit report, CONSULTANT may request a review by LOCAL AGENCY'S Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute nor its consideration by LOCAL AGENCY will excuse CONSULTANT from full and timely performance, in accordance with the terms of this AGREEMENT.
- D. CONSULTANT and subconsultant AGREEMENTs, including cost proposals and Indirect Cost Rates (ICR), may be subject to audits or reviews such as, but not limited to, an AGREEMENT audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the AGREEMENT, cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is CONSULTANT's responsibility to ensure federal, LOCAL AGENCY, or local government officials are allowed full access to the CPA's work papers including making copies as necessary. The AGREEMENT, cost proposal, and ICR shall be adjusted by CONSULTANT and approved by LOCAL AGENCY Contract Administrator to conform to the audit or review recommendations. CONSULTANT agrees that individual terms of costs identified in the audit report shall be incorporated into the AGREEMENT by this reference if directed by LOCAL AGENCY at its sole discretion. Refusal by CONSULTANT to incorporate audit or review recommendations, or to ensure that the federal, LOCAL AGENCY or local governments have access to CPA work papers, will be considered a breach of AGREEMENT terms and cause for termination of the AGREEMENT and disallowance of prior reimbursed costs.
- E. CONSULTANT's Cost Proposal may be subject to a CPA ICR Audit Work Paper Review and/or audit by the Independent Office of Audits and Investigations (IOAI). IOAI, at its sole discretion, may review and/or audit and approve the CPA ICR documentation. The Cost Proposal shall be adjusted by the CONSULTANT and approved by the LOCAL AGENCY Contract Administrator to conform to the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report. Refusal by the CONSULTANT to incorporate the Work Paper Review recommendations included in the management letter or audit recommendations included in the audit report will be considered a breach of the AGREEMENT terms and cause for termination of the AGREEMENT and disallowance of prior reimbursed costs.
1. During IOAI's review of the ICR audit work papers created by the CONSULTANT's independent CPA, IOAI will work with the CPA and/or CONSULTANT toward a resolution of issues that arise during the review. Each party agrees to use its best efforts to resolve any audit disputes in a timely manner. If IOAI identifies significant issues during the review and is unable to issue a cognizant approval letter, LOCAL AGENCY will reimburse the CONSULTANT at an accepted ICR until a FAR (Federal Acquisition Regulation) compliant ICR (e.g. 48 CFR Part 31; GAGAS (Generally Accepted Auditing Standards); CAS (Cost Accounting Standards), if applicable; in accordance with procedures and guidelines of the American Association of State Highways and Transportation Officials (AASHTO) Audit Guide; and other applicable procedures and guidelines) is received and approved by IOAI.

Accepted rates will be as follows:

- a. If the proposed rate is less than one hundred fifty percent (150%) - the accepted rate reimbursed will be ninety percent (90%) of the proposed rate.
 - b. If the proposed rate is between one hundred fifty percent (150%) and two hundred percent (200%) - the accepted rate will be eighty-five percent (85%) of the proposed rate.
 - c. If the proposed rate is greater than two hundred percent (200%) - the accepted rate will be seventy-five percent (75%) of the proposed rate.
2. If IOAI is unable to issue a cognizant letter per paragraph E.1. above, IOAI may require CONSULTANT to submit a revised independent CPA-audited ICR and audit report within three (3) months of the effective date of the management letter. IOAI will then have up to six (6) months to review the CONSULTANT's and/or the independent CPA's revisions.
 3. If the CONSULTANT fails to comply with the provisions of this paragraph E, or if IOAI is still unable to issue a cognizant approval letter after the revised independent CPA audited ICR is submitted, overhead cost reimbursement will be limited to the accepted ICR that was established upon initial rejection of the ICR and set forth in paragraph E.1. above for all rendered services. In this event, this accepted ICR will become the actual and final ICR for reimbursement purposes under this AGREEMENT.
 4. CONSULTANT may submit to LOCAL AGENCY final invoice only when all of the following items have occurred: (1) IOAI accepts or adjusts the original or revised independent CPA audited ICR; (2) all work under this AGREEMENT has been completed to the satisfaction of LOCAL AGENCY; and, (3) IOAI has issued its final ICR review letter. The CONSULTANT MUST SUBMIT ITS FINAL INVOICE TO LOCAL AGENCY no later than sixty (60) calendar days after occurrence of the last of these items. The accepted ICR will apply to this AGREEMENT and all other agreements executed between LOCAL AGENCY and the CONSULTANT, either as a prime or subconsultant, with the same fiscal period ICR.

ARTICLE X SUBCONTRACTING

- A. Nothing contained in this AGREEMENT or otherwise, shall create any contractual relation between the LOCAL AGENCY and any Subconsultants, and no subagreement shall relieve the CONSULTANT of its responsibilities and obligations hereunder. The CONSULTANT agrees to be as fully responsible to the LOCAL AGENCY for the acts and omissions of its Subconsultants and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the CONSULTANT. The CONSULTANT's obligation to pay its Subconsultants is an independent obligation from the LOCAL AGENCY's obligation to make payments to the CONSULTANT.
- B. The CONSULTANT shall perform the work contemplated with resources available within its own organization and no portion of the work shall be subcontracted without written authorization by the LOCAL AGENCY Contract Administrator, except that which is expressly identified in the CONSULTANT's approved Cost Proposal.
- C. Any subagreement entered into as a result of this AGREEMENT, shall contain all the provisions stipulated in this entire AGREEMENT to be applicable to Subconsultants unless otherwise noted.
- D. CONSULTANT shall pay its Subconsultants within Fifteen (15) calendar days from receipt of each payment made to the CONSULTANT by the LOCAL AGENCY.

E. Any substitution of Subconsultants must be approved in writing by the LOCAL AGENCY Contract Administrator in advance of assigning work to a substitute Subconsultant.

F. Prompt Progress Payment

CONSULTANT or subconsultant shall pay to any subconsultant, not later than fifteen (15) days after receipt of each progress payment, unless otherwise agreed to in writing, the respective amounts allowed CONSULTANT on account of the work performed by the subconsultants, to the extent of each subconsultant's interest therein. In the event that there is a good faith dispute over all or any portion of the amount due on a progress payment from CONSULTANT or subconsultant to a subconsultant, CONSULTANT or subconsultant may withhold no more than 150 percent of the disputed amount. Any violation of this requirement shall constitute a cause for disciplinary action and shall subject the licensee to a penalty, payable to the subconsultant, of 2 percent of the amount due per month for every month that payment is not made.

In any action for the collection of funds wrongfully withheld, the prevailing party shall be entitled to his or her attorney's fees and costs. The sanctions authorized under this requirement shall be separate from, and in addition to, all other remedies, either civil, administrative, or criminal. This clause applies to both DBE and non-DBE subconsultants.

G. ~~Prompt Payment of Withheld Funds to Subconsultants~~

~~The LOCAL AGENCY may hold retainage from CONSULTANT and shall make prompt and regular incremental acceptances of portions, as determined by the LOCAL AGENCY, of the contract work, and pay retainage to CONSULTANT based on these acceptances. The LOCAL AGENCY shall designate one of the methods below in the contract to ensure prompt and full payment of any retainage kept by CONSULTANT or subconsultant to a subconsultant.~~

~~[Choose either Method 1, Method 2, or Method 3 below and delete the other two.]~~

~~**Method 1:** No retainage will be held by the LOCAL AGENCY from progress payments due to CONSULTANT. CONSULTANTS and subconsultants are prohibited from holding retainage from subconsultants. Any delay or postponement of payment may take place only for good cause and with the LOCAL AGENCY's prior written approval. Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions, and other remedies specified in Section 3321 of the California Civil Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies, otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT, deficient subconsultant performance and/or noncompliance by a subconsultant. This clause applies to both DBE and non-DBE subconsultants.~~

~~**Method 2:** No retainage will be held by the LOCAL AGENCY from progress payments due to CONSULTANT. Any retainage kept by CONSULTANT or by a subconsultant must be paid in full to the earning subconsultant within 15 days after the subconsultant's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the LOCAL AGENCY's prior written approval. Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions, and remedies specified in Section 3321 of the California Civil Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies, otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT, deficient subconsultant performance and/or noncompliance by a subconsultant. This clause applies to both DBE and non-DBE subconsultants.~~

~~**Method 3:** The LOCAL AGENCY shall hold retainage from CONSULTANT and shall make prompt and regular incremental acceptances of portions, as determined by the LOCAL AGENCY of the contract work and pay retainage to CONSULTANT based on these acceptances. CONSULTANT or subconsultant shall return all monies withheld in retention from all subconsultants within 15 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the LOCAL AGENCY. Any delay or postponement of payment may take place only for good cause and with the LOCAL AGENCY's prior written approval. Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions, and other remedies specified in Section 3321 of the California Civil Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT; deficient subconsultant performance and/or noncompliance by a subconsultant. This clause applies to both DBE and non-DBE subconsultants.~~

~~Any violation of these provisions shall subject the violating CONSULTANT or subconsultant to the penalties, sanctions and other remedies specified therein. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to CONSULTANT or subconsultant in the event of a dispute involving late payment or nonpayment by CONSULTANT, deficient subcontract performance, or noncompliance by a subconsultant.~~

ARTICLE XI EQUIPMENT PURCHASE AND OTHER CAPITAL EXPENDITURES

- A. Prior authorization in writing by LOCAL AGENCY's Contract Administrator shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding five thousand dollars (\$5,000) for supplies, equipment, or CONSULTANT services. CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.
- B. For purchase of any item, service, or consulting work not covered in CONSULTANT's approved Cost Proposal and exceeding five thousand dollars (\$5,000), with prior authorization by LOCAL AGENCY's Contract Administrator, three competitive quotations must be submitted with the request, or the absence of proposal must be adequately justified.
- C. Any equipment purchased with funds provided under the terms of this AGREEMENT is subject to the following:
 1. CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of five thousand dollars (\$5,000) or more. If the purchased equipment needs replacement and is sold or traded in, LOCAL AGENCY shall receive a proper refund or credit at the conclusion of the AGREEMENT, or if the AGREEMENT is terminated, CONSULTANT may either keep the equipment and credit LOCAL AGENCY in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established LOCAL AGENCY procedures; and credit LOCAL AGENCY in an amount equal to the sales price. If CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by LOCAL AGENCY and CONSULTANT, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by LOCAL AGENCY.
 2. Regulation 2 CFR 200 requires a credit to Federal funds when participating equipment with a fair market value greater than five thousand dollars (\$5,000) is credited to the project.

ARTICLE XII STATE PREVAILING WAGE RATES

- A. No CONSULTANT or Subconsultant may be awarded an AGREEMENT containing public work elements unless registered with the Department of Industrial Relations (DIR) pursuant to Labor Code §1725.5. Registration with DIR must be maintained throughout the entire term of this AGREEMENT, including any subsequent amendments.
- B. The CONSULTANT shall comply with all of the applicable provisions of the California Labor Code requiring the payment of prevailing wages. The General Prevailing Wage Rate Determinations applicable to work under this AGREEMENT are available and on file with the Department of Transportation's Regional/District Labor Compliance Officer (<https://dot.ca.gov/programs/construction/labor-compliance>). These wage rates are made a specific part of this AGREEMENT by reference pursuant to Labor Code §1773.2 and will be applicable to work performed at a construction project site. Prevailing wages will be applicable to all inspection work performed at LOCAL AGENCY construction sites, at LOCAL AGENCY facilities and at off-site locations that are set up by the construction contractor or one of its subcontractors solely and specifically to serve LOCAL AGENCY projects. Prevailing wage requirements do not apply to inspection work performed at the facilities of vendors and commercial materials suppliers that provide goods and services to the general public.
- C. General Prevailing Wage Rate Determinations applicable to this project may also be obtained from the Department of Industrial Relations website at <http://www.dir.ca.gov>.
- D. Payroll Records
1. Each CONSULTANT and Subconsultant shall keep accurate certified payroll records and supporting documents as mandated by Labor Code §1776 and as defined in 8 CCR §16000 showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the CONSULTANT or Subconsultant in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:
 - a. The information contained in the payroll record is true and correct.
 - b. The employer has complied with the requirements of Labor Code §1771, §1811, and §1815 for any work performed by his or her employees on the public works project.
 2. The payroll records enumerated under paragraph (1) above shall be certified as correct by the CONSULTANT under penalty of perjury. The payroll records and all supporting documents shall be made available for inspection and copying by LOCAL AGENCY representatives at all reasonable hours at the principal office of the CONSULTANT. The CONSULTANT shall provide copies of certified payrolls or permit inspection of its records as follows:
 - a. A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or the employee's authorized representative on request.
 - b. A certified copy of all payroll records enumerated in paragraph (1) above, shall be made available for inspection or furnished upon request to a representative of LOCAL AGENCY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards of the Department of Industrial Relations. Certified payrolls submitted to LOCAL AGENCY, the Division of Labor Standards Enforcement and the Division of Apprenticeship Standards shall not be altered or obliterated by the CONSULTANT.

- c. The public shall not be given access to certified payroll records by the CONSULTANT. The CONSULTANT is required to forward any requests for certified payrolls to the LOCAL AGENCY Contract Administrator by both email and regular mail on the business day following receipt of the request.
 3. Each CONSULTANT shall submit a certified copy of the records enumerated in paragraph (1) above, to the entity that requested the records within ten (10) calendar days after receipt of a written request.
 4. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by LOCAL AGENCY shall be marked or obliterated in such a manner as to prevent disclosure of each individual's name, address, and social security number. The name and address of the CONSULTANT or Subconsultant performing the work shall not be marked or obliterated.
 5. The CONSULTANT shall inform LOCAL AGENCY of the location of the records enumerated under paragraph (1) above, including the street address, city and county, and shall, within five (5) working days, provide a notice of a change of location and address.
 6. The CONSULTANT or Subconsultant shall have ten (10) calendar days in which to comply subsequent to receipt of written notice requesting the records enumerated in paragraph (1) above. In the event the CONSULTANT or Subconsultant fails to comply within the ten (10) day period, he or she shall, as a penalty to LOCAL AGENCY, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Such penalties shall be withheld by LOCAL AGENCY from payments then due. CONSULTANT is not subject to a penalty assessment pursuant to this section due to the failure of a Subconsultant to comply with this section.
- E. When prevailing wage rates apply, the CONSULTANT is responsible for verifying compliance with certified payroll requirements. Invoice payment will not be made until the invoice is approved by the LOCAL AGENCY Contract Administrator.
- F. Penalty
1. The CONSULTANT and any of its Subconsultants shall comply with Labor Code §1774 and §1775. Pursuant to Labor Code §1775, the CONSULTANT and any Subconsultant shall forfeit to the LOCAL AGENCY a penalty of not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of DIR for the work or craft in which the worker is employed for any public work done under the AGREEMENT by the CONSULTANT or by its Subconsultant in violation of the requirements of the Labor Code and in particular, Labor Code §§1770 to 1780, inclusive.
 2. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of mistake, inadvertence, or neglect of the CONSULTANT or Subconsultant in failing to pay the correct rate of prevailing wages, or the previous record of the CONSULTANT or Subconsultant in meeting their respective prevailing wage obligations, or the willful failure by the CONSULTANT or Subconsultant to pay the correct rates of prevailing wages. A mistake, inadvertence, or neglect in failing to pay the correct rates of prevailing wages is not excusable if the CONSULTANT or Subconsultant had knowledge of the obligations under the Labor Code. The CONSULTANT is responsible for paying the appropriate rate, including any escalations that take place during the term of the AGREEMENT.

3. In addition to the penalty and pursuant to Labor Code §1775, the difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the CONSULTANT or Subconsultant.
4. If a worker employed by a Subconsultant on a public works project is not paid the general prevailing per diem wages by the Subconsultant, the CONSULTANT of the project is not liable for the penalties described above unless the CONSULTANT had knowledge of that failure of the Subconsultant to pay the specified prevailing rate of wages to those workers or unless the CONSULTANT fails to comply with all of the following requirements:
 - a. The AGREEMENT executed between the CONSULTANT and the Subconsultant for the performance of work on public works projects shall include a copy of the requirements in Labor Code §§ 1771, 1775, 1776, 1777.5, 1813, and 1815.
 - b. The CONSULTANT shall monitor the payment of the specified general prevailing rate of per diem wages by the Subconsultant to the employees by periodic review of the certified payroll records of the Subconsultant.
 - c. Upon becoming aware of the Subconsultant's failure to pay the specified prevailing rate of wages to the Subconsultant's workers, the CONSULTANT shall diligently take corrective action to halt or rectify the failure, including but not limited to, retaining sufficient funds due the Subconsultant for work performed on the public works project.
 - d. Prior to making final payment to the Subconsultant for work performed on the public works project, the CONSULTANT shall obtain an affidavit signed under penalty of perjury from the Subconsultant that the Subconsultant had paid the specified general prevailing rate of per diem wages to the Subconsultant's employees on the public works project and any amounts due pursuant to Labor Code §1813.
5. Pursuant to Labor Code §1775, LOCAL AGENCY shall notify the CONSULTANT on a public works project within fifteen (15) calendar days of receipt of a complaint that a Subconsultant has failed to pay workers the general prevailing rate of per diem wages.
6. If LOCAL AGENCY determines that employees of a Subconsultant were not paid the general prevailing rate of per diem wages and if LOCAL AGENCY did not retain sufficient money under the AGREEMENT to pay those employees the balance of wages owed under the general prevailing rate of per diem wages, the CONSULTANT shall withhold an amount of moneys due the Subconsultant sufficient to pay those employees the general prevailing rate of per diem wages if requested by LOCAL AGENCY.

G. Hours of Labor

Eight (8) hours labor constitutes a legal day's work. The CONSULTANT shall forfeit, as a penalty to the LOCAL AGENCY, twenty-five dollars (\$25) for each worker employed in the execution of the AGREEMENT by the CONSULTANT or any of its Subconsultants for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of the Labor Code, and in particular §§1810 to 1815 thereof, inclusive, except that work performed by employees in excess of eight (8) hours per day, and forty (40) hours during any one week, shall be permitted upon compensation for all hours worked in excess of eight (8) hours per day and forty (40) hours in any week, at not less than one and one-half (1.5) times the basic rate of pay, as provided in §1815.

H. Employment of Apprentices

1. Where either the prime AGREEMENT or the subagreement exceeds thirty thousand dollars (\$30,000), the CONSULTANT and any subconsultants under him or her shall comply with all applicable requirements of Labor Code §§ 1777.5, 1777.6 and 1777.7 in the employment of apprentices.
2. CONSULTANTs and subconsultants are required to comply with all Labor Code requirements regarding the employment of apprentices, including mandatory ratios of journey level to apprentice workers. Prior to commencement of work, CONSULTANT and subconsultants are advised to contact the DIR Division of Apprenticeship Standards website at <https://www.dir.ca.gov/das/>, for additional information regarding the employment of apprentices and for the specific journey-to- apprentice ratios for the AGREEMENT work. The CONSULTANT is responsible for all subconsultants' compliance with these requirements. Penalties are specified in Labor Code §1777.7.

ARTICLE XIII CONFLICT OF INTEREST

- A. During the term of this AGREEMENT, the CONSULTANT shall disclose any financial, business, or other relationship with LOCAL AGENCY that may have an impact upon the outcome of this AGREEMENT or any ensuing LOCAL AGENCY construction project. The CONSULTANT shall also list current clients who may have a financial interest in the outcome of this AGREEMENT or any ensuing LOCAL AGENCY construction project which will follow.
- B. CONSULTANT certifies that it has disclosed to LOCAL AGENCY any actual, apparent, or potential conflicts of interest that may exist relative to the services to be provided pursuant to this AGREEMENT. CONSULTANT agrees to advise LOCAL AGENCY of any actual, apparent or potential conflicts of interest that may develop subsequent to the date of execution of this AGREEMENT. CONSULTANT further agrees to complete any statements of economic interest if required by either LOCAL AGENCY ordinance or State law.
- C. The CONSULTANT hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this AGREEMENT.
- D. The CONSULTANT hereby certifies that the CONSULTANT or subconsultant and any firm affiliated with the CONSULTANT or subconsultant that bids on any construction contract or on any Agreement to provide construction inspection for any construction project resulting from this AGREEMENT, has established necessary controls to ensure a conflict of interest does not exist. An affiliated firm is one, which is subject to the control of the same persons, through joint ownership or otherwise.

ARTICLE XIV REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION

The CONSULTANT warrants that this AGREEMENT was not obtained or secured through rebates, kickbacks or other unlawful consideration either promised or paid to any LOCAL AGENCY employee. For breach or violation of this warranty, LOCAL AGENCY shall have the right, in its discretion, to terminate this AGREEMENT without liability, to pay only for the value of the work actually performed, or to deduct from this AGREEMENT price or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

ARTICLE XV PROHIBITION OF EXPENDING LOCAL AGENCY, STATE, OR FEDERAL FUNDS FOR LOBBYING

[Include this article in all AGREEMENTs where federal funding will exceed \$150,000. If less than \$150,000 in federal funds will be expended on the AGREEMENT; delete this article and re-number the subsequent articles.]

- A. The CONSULTANT certifies, to the best of his or her knowledge and belief, that:
1. No State, Federal, or LOCAL AGENCY appropriated funds have been paid or will be paid, by or on behalf of the CONSULTANT, to any person for influencing or attempting to influence an officer or employee of any local, State, or Federal agency, a Member of the State Legislature or United States Congress, an officer or employee of the Legislature or Congress, or any employee of a Member of the Legislature or Congress in connection with the awarding or making of this AGREEMENT, or with the extension, continuation, renewal, amendment, or modification of this AGREEMENT.
 2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this AGREEMENT, the CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. §1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten thousand dollars (\$10,000) and not more than one hundred thousand dollars (\$100,000) for each such failure.
- C. The CONSULTANT also agrees by signing this document that he or she shall require that the language of this certification be included in all lower tier subagreements, which exceed one hundred thousand dollars (\$100,000), and that all such subrecipients shall certify and disclose accordingly.

ARTICLE XVI NON-DISCRIMINATION CLAUSE AND STATEMENT OF COMPLIANCE

- A. The CONSULTANT's signature affixed herein and dated shall constitute a certification under penalty of perjury under the laws of the State of California that the CONSULTANT has, unless exempt, complied with the nondiscrimination program requirements of Gov. Code §12990 and 2 CCR § 8103.
- B. During the performance of this AGREEMENT, CONSULTANT and its subconsultants shall not deny the AGREEMENT's benefits to any person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, nor shall they unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. CONSULTANT and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment.
- C. CONSULTANT and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 et seq.), the applicable regulations promulgated there under (2

CCR §11000 et seq.), the provisions of Gov. Code §§11135-11139.5, and the regulations or standards adopted by LOCAL AGENCY to implement such article. The applicable regulations of the Fair Employment and Housing Commission implementing Gov. Code §12990 (a-f), set forth 2 CCR §§8100-8504, are incorporated into this AGREEMENT by reference and made a part hereof as if set forth in full.

- D. CONSULTANT shall permit access by representatives of the Department of Fair Employment and Housing and the LOCAL AGENCY upon reasonable notice at any time during the normal business hours, but in no case less than twenty-four (24) hours' notice, to such of its books, records, accounts, and all other sources of information and its facilities as said Department or LOCAL AGENCY shall require to ascertain compliance with this clause.
- E. CONSULTANT and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.
- F. CONSULTANT shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under this AGREEMENT.
- G. The CONSULTANT, with regard to the work performed under this AGREEMENT, shall act in accordance with Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d et seq.). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the United States shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.
- H. The CONSULTANT shall comply with regulations relative to non-discrimination in federally-assisted programs of the U.S. Department of Transportation (49 CFR 21 - Effectuation of Title VI of the Civil Rights Act of 1964). Specifically, the CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR §21.5, including employment practices and the selection and retention of Subconsultants.
- I. CONSULTANT, subrecipient or subconsultant will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR 26 on the basis of race, color, sex, or national origin. In administering the LOCAL AGENCY components of the DBE Program Plan, CONSULTANT, subrecipient or subconsultant will not, directly, or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program Plan with respect to individuals of a particular race, color, sex, or national origin.

ARTICLE XVII DEBARMENT AND SUSPENSION CERTIFICATION

- A. The CONSULTANT's signature affixed herein shall constitute a certification under penalty of perjury under the laws of the State of California, that the CONSULTANT or any person associated therewith in the capacity of owner, partner, director, officer or manager:
 - 1. Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency;
 - 2. Has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years;
 - 3. Does not have a proposed debarment pending; and

4. Has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years.
- B. Any exceptions to this certification must be disclosed to LOCAL AGENCY. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining responsibility. Disclosures must indicate the party to whom the exceptions apply, the initiating agency, and the dates of agency action.
 - C. Exceptions to the Federal Government excluded parties (<https://sam.gov/content/home>) maintained by the U.S. General Services Administration are to be determined by FHWA.

ARTICLE XVIII DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION

- A. CONSULTANT, subrecipient (LOCAL AGENCY), or subconsultant shall take necessary and reasonable steps to ensure that DBEs have opportunities to participate in the contract (49 CFR 26). To ensure equal participation of DBEs provided in 49 CFR 26.5, the LOCAL AGENCY shows a contract goal for DBEs. CONSULTANT shall make work available to DBEs and select work parts consistent with available DBE subconsultants and suppliers.

CONSULTANT shall meet the DBE goal shown elsewhere in these special provisions or demonstrate that they made adequate Good Faith Efforts (GFE) to meet this goal. It is CONSULTANT's responsibility to verify at date of proposal opening that the DBE firm is certified as a DBE by using the California Unified Certification Program (CUCP) database and possesses the most specific available North American Industry Classification System (NAICS) codes and work code applicable to the type of work the firm will perform on the contract. Additionally, the CONSULTANT is responsible to document the verification record by printing out the CUCP data for each DBE firm. A list of DBEs certified by the CUCP can be found at <https://dot.ca.gov/programs/civil-rights/dbe-search>.

All DBE participation will count toward the California Department of Transportation's federally mandated statewide overall DBE goal. Credit for materials or supplies CONSULTANT purchases from DBEs counts towards the goal in the following manner:

- 100 percent counts if the materials or supplies are obtained from a DBE manufacturer.
- 60 percent counts if the materials or supplies are purchased from a DBE regular dealer.
- Only fees, commissions, and charges for assistance in the procurement and delivery of materials or supplies count if obtained from a DBE that is neither a manufacturer nor regular dealer. 49 CFR 26.55 defines "manufacturer" and "regular dealer."

This AGREEMENT is subject to 49 CFR 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". CONSULTANTS who enter into a federally-funded agreement will assist the LOCAL AGENCY in a good faith effort to achieve California's statewide overall DBE goal.

- B. The goal for DBE participation for this AGREEMENT is 19%. Participation by DBE

CONSULTANT or subconsultants shall be in accordance with information contained in [Exhibit 10-02: Consultant Contract DBE Commitment](#) attached hereto and incorporated as part of the AGREEMENT. If a DBE subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.

C. CONSULTANT can meet the DBE participation goal by either documenting commitments to DBEs to meet the AGREEMENT goal, or by documenting adequate good faith efforts to meet the AGREEMENT goal. An adequate good faith effort means that the CONSULTANT must show that it took all necessary and reasonable steps to achieve a DBE goal that, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to meet the DBE goal. If CONSULTANT has not met the DBE goal, complete and submit Exhibit 15-H: Proposer/Contractor Good Faith Efforts to document efforts to meet the goal. Refer to 49 CFR 26 for guidance regarding evaluation of good faith efforts to meet the DBE goal.

D. Contract Assurance

Under 49 CFR 26.13(b):

CONSULTANT, subrecipient or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. CONSULTANT shall carry out applicable requirements of 49 CFR 26 in the award and administration of federal-aid contracts.

Failure by the CONSULTANT to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying CONSULTANT from future proposing as non-responsible

E. Termination and [Replacement](#) of DBE Subconsultants

CONSULTANT shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless CONSULTANT or DBE subconsultant obtains the LOCAL AGENCY's written consent. CONSULTANT shall not terminate or [replace](#) a listed DBE for convenience and perform the work with their own forces or obtain materials from other sources without authorization from the LOCAL AGENCY. Unless the LOCAL AGENCY's consent is provided, the CONSULTANT shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE on the Exhibit 10-02: Consultant Contract DBE Commitment form.

[Termination of DBE Subconsultants](#)

[After execution of the AGREEMENT, termination of a DBE may be allowed for the following, but not limited to, justifiable reasons with prior written authorization from the LOCAL AGENCY:](#)

1. Listed DBE fails or refuses to execute a written contract based on plans and specifications for the project.
2. The LOCAL AGENCY stipulated that a bond is a condition of executing the subcontract and the listed DBE fails to meet the LOCAL AGENCY's bond requirements.
3. Work requires a consultant's license and listed DBE does not have a valid license under Contractors License Law.
4. Listed DBE fails or refuses to perform the work or furnish the listed materials (failing or refusing to perform is not an allowable reason to remove a DBE if the failure or refusal is a result of bad faith or discrimination).
5. Listed DBE's work is unsatisfactory and not in compliance with the contract.

6. Listed DBE is ineligible to work on the project because of suspension or debarment.
7. Listed DBE becomes bankrupt or insolvent or exhibits credit unworthiness.
8. Listed DBE voluntarily withdraws with written notice from the Contract.
9. Listed DBE is ineligible to receive credit for the type of work required.
10. Listed DBE owner dies or becomes disabled resulting in the inability to perform the work on the Contract.
11. The LOCAL AGENCY determines other documented good cause.

CONSULTANT must use the following procedures to request the termination of a DBE or portion of a DBE's work:

1. Send a written notice to the DBE of the CONSULTANT's intent to use other forces or material sources and include one or more justifiable reasons listed above. Simultaneously send a copy of this written notice to the LOCAL AGENCY. The written notice to the DBE must request they provide any response within five (5) business days to both the CONSULTANT and the LOCAL AGENCY by either acknowledging their agreement or documenting their reasoning as to why the use of other forces or sources of materials should not occur.
2. If the DBE does not respond within five (5) business days, CONSULTANT may move forward with the request as if the DBE had agreed to CONSULTANT's written notice.
3. Submit CONSULTANT's DBE termination request by written letter to the LOCAL AGENCY and include:
 - One or more above listed justifiable reasons along with supporting documentation.
 - CONSULTANT's written notice to the DBE regarding the request, including proof of transmission and tracking documentation of CONSULTANT's written notice
 - The DBE's response to CONSULTANT's written notice, if received. If a written response was not provided, provide a statement to that effect.

The LOCAL AGENCY shall respond in writing to CONSULTANT's DBE termination request within five (5) business days.

Replacement of DBE Subconsultants

After receiving the LOCAL AGENCY's written authorization of DBE termination request, CONSULTANT must obtain the LOCAL AGENCY's written agreement for DBE replacement. CONSULTANT must find or demonstrate GFEs to find qualified DBE replacement firms to perform the work to the extent needed to meet the DBE commitment.

The following procedures shall be followed to request authorization to replace a DBE firm:

1. Submit a request to replace a DBE with other forces or material sources in writing to the LOCAL AGENCY which must include:
 - a. Description of remaining uncommitted work item made available for replacement DBE solicitation and participation.
 - b. The proposed DBE replacement firm's business information, the work they have agreed to perform, and the following:
 - Description of scope of work and cost proposal

- Proposed subcontract agreement and written confirmation of agreement to perform on the Contract
 - Revised Exhibit 10-O2: Consultant Contract DBE Commitment
2. If CONSULTANT has not identified a DBE replacement firm, submits documentation of CONSULTANT's GFEs to use DBE replacement firms within seven (7) days of LOCAL AGENCY's authorization to terminate the DBE. CONSULTANT may request the LOCAL AGENCY's approval to extend this submittal period to a total of 14 days. Submit documentation of actions taken to find a DBE replacement firm, such as:
- Search results of certified DBEs available to perform the original DBE work identified and or other work CONSULTANT had intended to self-perform, to the extent needed to meet DBE commitment
 - Solicitations of DBEs for performance of work identified
 - Correspondence with interested DBEs that may have included contract details and requirements
 - Negotiation efforts with DBEs that reflect why an agreement was not reached
 - If a DBE's quote was rejected, provide reasoning for the rejection, such as why the DBE was unqualified for the work, or why the price quote was unreasonable or excessive
 - Copies of each DBE's and non-DBE's price quotes for work identified, as the LOCAL AGENCY may contact the firms to verify solicitation efforts and determine if the DBE quotes are substantially higher
 - Additional documentation that supports CONSULTANT's GFE

The LOCAL AGENCY shall respond in writing to CONSULTANT's DBE replacement request within five (5) business days.

F. Commitment and Utilization

The LOCAL AGENCY's DBE program must include a monitoring and enforcement mechanism to ensure that DBE commitments reconcile to DBE utilization.

The LOCAL AGENCY shall request CONSULTANT to:

1. Notify the LOCAL AGENCY's contract administrator or designated representative of any changes to its anticipated DBE participation
2. Provide this notification before starting the affected work
3. Maintain records including:
 - Name and business address of each 1st-tier subconsultant
 - Name and business address of each DBE subconsultant, DBE vendor, and DBE trucking company, regardless of tier
 - Date of payment and total amount paid to each business (see Exhibit 9-F: Monthly Disadvantaged Business Enterprise Payment)

If CONSULTANT is a DBE CONSULTANT, they shall include the date of work performed by their own forces and the corresponding value of the work.

If a DBE is decertified before completing its work, the DBE must notify CONSULTANT in writing of the decertification date. If a business becomes a certified DBE before completing its work, the business must notify CONSULTANT in writing of the certification date. CONSULTANT shall submit the notifications to the LOCAL AGENCY. On work completion, CONSULTANT shall complete Exhibit 17-O: Disadvantaged Business Enterprises (DBE) Certification Status Change and submit the form to the LOCAL AGENCY within 30 days of contract acceptance.

Upon work completion, CONSULTANT shall complete Exhibit 17-F: Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors and submit it to the LOCAL AGENCY within 90 days of contract acceptance. The LOCAL AGENCY will withhold \$10,000 until the form is submitted. The LOCAL AGENCY will release the withhold upon submission of the completed form.

In the LOCAL AGENCY's reports of DBE participation to Caltrans, the LOCAL AGENCY must display both commitments and attainments.

G. Commercially Useful Function

DBEs must perform a commercially useful function (CUF) under 49 CFR 26.55 when performing work or supplying materials listed on the DBE Commitment form. The DBE value of work will only count toward the DBE commitment if the DBE performs a CUF. A DBE performs a CUF when it is responsible for execution of the work of the AGREEMENT and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible, with respect to materials and supplies used on the AGREEMENT, for negotiating price, determining quality and quantity, ordering the material and installing (where applicable), and paying for the material itself.

CONSULTANT must perform CUF evaluation for each DBE working on a federal-aid contract, with or without a DBE goal. Perform a CUF evaluation at the beginning of the DBE's work and continue to monitor the performance of CUF for the duration of the project.

CONSULTANT must provide written notification to the LOCAL AGENCY at least 15 days in advance of each DBE's initial performance of work or supplying materials for the Contract. The notification must include the DBE's name, work the DBE will perform on the contract, and the location, date, and time of where their work will take place.

Within 10 days of a DBE initially performing work or supplying materials on the Contract, CONSULTANT shall submit to the LPA the initial evaluation and validation of DBE performance of a CUF using the LAPM 9-J: Disadvantaged Business Enterprise Commercially Useful Function Evaluation. Include the following information with the submittal:

- Subcontract agreement with the DBE
- Purchase orders
- Bills of lading
- Invoices
- Proof of payment

CONSULTANT must monitor all DBE's performance of CUF by conducting quarterly evaluations and validations throughout their duration of work on the Contract using the LAPM 9-J: DBE Commercially Useful Function Evaluation. CONSULTANT must submit to the LOCAL AGENCY

these quarterly evaluations and validations by the 5th of the month for the previous three months of work.

CONSULTANT must notify the LOCAL AGENCY immediately if they believe the DBE may not be performing a CUF.

The LOCAL AGENCY will verify DBEs performance of CUF by reviewing the initial and quarterly submissions of LAPM 9-J: DBE Commercially Useful Function Evaluation, submitted supporting information, field observations, and through any additional LOCAL AGENCY evaluations. The LOCAL AGENCY must evaluate DBEs and their CUF performance throughout the duration of a Contract. The LOCAL AGENCY will provide written notice to the CONSULTANT and the DBE at least two (2) business days prior to any evaluation. The CONSULTANT and the DBE must participate in the evaluation. Upon completing the evaluation, the LOCAL AGENCY must share the evaluation results with the CONSULTANT and the DBE. An evaluation could include items that must be remedied upon receipt. If the LOCAL AGENCY determines the DBE is not performing a CUF, the CONSULTANT must suspend performance of the noncompliant work.

CONSULTANT and DBEs must submit any additional CUF related records and documents within five (5) business days of LOCAL AGENCY's request such as:

- Proof of ownership or lease and rental agreements for equipment
- Tax records
- Employee rosters
- Certified payroll records
- Inventory rosters

Failure to submit required DBE Commercially Useful Function Evaluation forms or requested records and documents can result in withholding of payment for the value of work completed by the DBE.

If CONSULTANT and/or the LOCAL AGENCY determine that a listed DBE is not performing a CUF in performance of their DBE committed work, CONSULTANT must immediately suspend performance of the noncompliant portion of the work. LOCAL AGENCY may deny payment for the noncompliant portion of the work. LOCAL AGENCY will ask the CONSULTANT to submit a corrective action plan (CAP) to the LOCAL AGENCY within five (5) days of the noncompliant CUF determination. The CAP must identify how the CONSULTANT will correct the noncompliance findings for the remaining portion of the DBE's work. LOCAL AGENCY has five (5) days to review the CAP in conjunction with the CONSULTANT's review. The CONSULTANT must implement the CAP within five (5) days of the LOCAL AGENCY's approval. The LOCAL AGENCY will then authorize the prior noncompliant portion of work for the DBE's committed work.

If corrective actions cannot be accomplished to ensure the DBE performs a commercially useful function on the Contract, CONSULTANT may have good cause to request termination of the DBE.

- H. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, AGREEMENT, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.
- I. If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its AGREEMENT with its own work force, or the DBE subcontracts a greater portion of the work

of the AGREEMENT than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a CUF.

- J. CONSULTANT shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE CONSULTANT's shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.
- K. If a DBE subconsultant is decertified during the life of the AGREEMENT, the decertified subconsultant shall notify CONSULTANT in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the AGREEMENT, the subconsultant shall notify CONSULTANT in writing with the date of certification. Any changes should be reported to LOCAL AGENCY's Contract Administrator within thirty (30) calendar days.
- L. For projects awarded on or after March 1, 2020, but before September 1, 2023: after submitting an invoice for reimbursement that includes a payment to a DBE, but no later than the 10th of the following month, the prime contractor/consultant must complete and email Exhibit 9-F: [Disadvantaged Business Enterprise Running Tally of Payments to business.support.unit@dot.ca.gov](mailto:business.support.unit@dot.ca.gov) with a copy to local administering agencies.

For projects awarded on or after September 1, 2023: Exhibit 9-F is no longer required. Instead, by the 15th of the month following the month of any payment(s), the CONSULTANT must now submit Exhibit 9-P to the LOCAL AGENCY administering the contract. If the CONSULTANT does not make any payments to subconsultants, supplier(s), and/or manufacturers they must report "no payments were made to subs this month" and write this visibly and legibly on Exhibit 9-P.

- M. Any subcontract entered into as a result of this AGREEMENT shall contain all of the provisions of this section.

ARTICLE XIX INSURANCE

~~[Choose either Option 1 or Option 2]~~

~~[Option 1 – for AGREEMENT with a scope of services that may require the CONSULTANT or subconsultant to work within the operating state or Local Agency Highway Right of Way; where there would be exposure to public traffic or construction operations.]~~

- ~~A. Prior to commencement of the work described herein, CONSULTANT shall furnish LOCAL AGENCY a Certificate of Insurance stating that there is general comprehensive liability insurance presently in effect for CONSULTANT with a combined single limit (CSL) of not less than one million dollars (\$1,000,000) per occurrence.~~

~~B. The Certificate of Insurance will provide:~~

- ~~1. That the insurer will not cancel the insured's coverage without thirty (30) calendar days prior-written notice to LOCAL AGENCY.~~
- ~~2. That LOCAL AGENCY, its officers, agents, employees, and servants are included as additional insureds, but only insofar as the operations under this AGREEMENT are concerned.~~
- ~~3. That LOCAL AGENCY will not be responsible for any premiums or assessments on the policy.~~

~~C. CONSULTANT agrees that the bodily injury liability insurance herein provided for, shall be in effect at all times during the term of this AGREEMENT. In the event said insurance coverage expires at any time or times during the term of this AGREEMENT, CONSULTANT agrees to provide at least thirty (30) calendar days prior notice to said expiration date; and a new Certificate of Insurance evidencing insurance coverage as provided for herein, for not less than either the remainder of the term of the AGREEMENT, or for a period of not less than one (1) year. New Certificates of Insurance are subject to the approval of LOCAL AGENCY. In the event CONSULTANT fails to keep in effect at all times insurance coverage as herein provided, LOCAL AGENCY may, in addition to any other remedies it may have, terminate this AGREEMENT upon occurrence of such event.~~

~~[Option 2 – for AGREEMENTs with a scope of services that will not require the CONSULTANT or subconsultant to work within the operating state or Local Agency Highway Right of Way where there would be exposure to public traffic or construction CONSULTANT operations.]~~

CONSULTANT is not required to show evidence of general comprehensive liability insurance.

ARTICLE XX FUNDING REQUIREMENTS

- A. It is mutually understood between the parties that this AGREEMENT may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if the AGREEMENT were executed after that determination was made.
- B. This AGREEMENT is valid and enforceable only if sufficient funds are made available to LOCAL AGENCY for the purpose of this AGREEMENT. In addition, this AGREEMENT is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress, State Legislature, or LOCAL AGENCY governing board that may affect the provisions, terms, or funding of this AGREEMENT in any manner.
- C. It is mutually agreed that if sufficient funds are not appropriated, this AGREEMENT may be amended to reflect any reduction in funds.
- D. LOCAL AGENCY has the option to terminate the AGREEMENT pursuant to Article VI Termination, or by mutual agreement to amend the AGREEMENT to reflect any reduction of funds.

ARTICLE XXI CHANGE IN TERMS

- A. This AGREEMENT may be amended or modified only by mutual written agreement of the parties.
- B. CONSULTANT shall only commence work covered by an amendment after the amendment is executed and notification to proceed has been provided by LOCAL AGENCY's Contract Administrator.
- C. There shall be no change in CONSULTANT's Project Manager or members of the project team, as listed in the approved Cost Proposal, which is a part of this AGREEMENT without prior written approval by LOCAL AGENCY's Contract Administrator.

ARTICLE XXII CONTINGENT FEE

CONSULTANT warrants, by execution of this AGREEMENT that no person or selling agency has been employed, or retained, to solicit or secure this AGREEMENT upon an agreement or understanding, for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees, or bona fide established commercial or selling agencies maintained by CONSULTANT for the purpose of securing

business. For breach or violation of this warranty, LOCAL AGENCY has the right to annul this AGREEMENT without liability; pay only for the value of the work actually performed, or in its discretion to deduct from the AGREEMENT price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

ARTICLE XXIII DISPUTES

Prior to either party commencing any legal action under this AGREEMENT, the parties agree to try in good faith, to settle any dispute amicably between them. If a dispute has not been settled after forty-five (45) days of good-faith negotiations and as may be otherwise provided herein, then either party may commence legal action against the other.

[Choose either Option 1 or Option 2]

~~[Option 1 – Use paragraphs A through C below for all AGREEMENTs without PS&E submittal]~~

- A. Any dispute, other than audit, concerning a question of fact arising under this AGREEMENT that is not disposed of by agreement shall be decided by a committee consisting of LOCAL AGENCY's Contract Administrator and (Insert Department Head or Official), who may consider written or verbal information submitted by CONSULTANT.
- ~~B. Not later than thirty (30) calendar days after completion of all work under the AGREEMENT, CONSULTANT may request review by LOCAL AGENCY Governing Board of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.~~
- C. Neither the pendency of a dispute, nor its consideration by the committee will excuse CONSULTANT from full and timely performance in accordance with the terms of this AGREEMENT.

[Option 2 - Replace Paragraph B, above, with the following for AGREEMENTs requiring the submission of PS&E]

- B. Not later than thirty (30) calendar days after completion of all deliverables necessary to complete the plans, specifications and estimate, CONSULTANT may request review by LOCAL AGENCY Governing Board of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.

ARTICLE XXIV INSPECTION OF WORK

CONSULTANT and any subconsultant shall permit LOCAL AGENCY, the State, and the FHWA if federal participating funds are used in this AGREEMENT; to review and inspect the project activities and files at all reasonable times during the performance period of this AGREEMENT.

ARTICLE XXV SAFETY

- A. CONSULTANT shall comply with OSHA regulations applicable to CONSULTANT regarding necessary safety equipment or procedures. CONSULTANT shall comply with safety instructions issued by LOCAL AGENCY Safety Officer and other LOCAL AGENCY representatives. CONSULTANT personnel shall wear hard hats and safety vests at all times while working on the construction project site.
- B. Pursuant to the authority contained in Vehicle Code §591, LOCAL AGENCY has determined that such areas are within the limits of the project and are open to public traffic. CONSULTANT shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. CONSULTANT shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.

- C. Any subcontract entered into as a result of this contract, shall contain all of the provisions of this Article.

[Add the following paragraph to all AGREEMENTs, which may require trenching of five feet or deeper]

- D. CONSULTANT must have a Division of Occupational Safety and Health (CAL-OSHA) permit(s), as outlined in Labor Code §6500 and §6705, prior to the initiation of any practices, work, method, operation, or process related to the construction or excavation of trenches which are five (5) feet or deeper.

ARTICLE XXVI OWNERSHIP OF DATA

- A. It is mutually agreed that all materials prepared by CONSULTANT under this AGREEMENT shall become the property of City, and CONSULTANT shall have no property right therein whatsoever. Immediately upon termination, City shall be entitled to, and CONSULTANT shall deliver to City, reports, investigations, appraisals, inventories, studies, analyses, drawings and data estimates performed to that date, whether completed or not, and other such materials as may have been prepared or accumulated to date by CONSULTANT in performing this AGREEMENT which is not CONSULTANT's privileged information, as defined by law, or CONSULTANT's personnel information, along with all other property belonging exclusively to City which is in CONSULTANT's possession. Publication of the information derived from work performed or data obtained in connection with services rendered under this AGREEMENT must be approved in writing by City.
- B. Additionally, it is agreed that the Parties intend this to be an AGREEMENT for services and each considers the products and results of the services to be rendered by CONSULTANT hereunder to be work made for hire. CONSULTANT acknowledges and agrees that the work (and all rights therein, including, without limitation, copyright) belongs to and shall be the sole and exclusive property of City without restriction or limitation upon its use or dissemination by City.
- C. Nothing herein shall constitute or be construed to be any representation by CONSULTANT that the work product is suitable in any way for any other project except the one detailed in this Contract. Any reuse by City for another project or project location shall be at City's sole risk.
- D. Applicable patent rights provisions regarding rights to inventions shall be included in the contracts as appropriate (48 CFR 27 Subpart 27.3 - Patent Rights under Government Contracts for federal-aid contracts).
- E. LOCAL AGENCY may permit copyrighting reports or other agreement products. If copyrights are permitted; the AGREEMENT shall provide that the FHWA shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use; and to authorize others to use, the work for government purposes.

ARTICLE XXVII CLAIMS FILED BY LOCAL AGENCY'S CONSTRUCTION CONTRACTOR

- A. If claims are filed by LOCAL AGENCY's construction contractor relating to work performed by CONSULTANT's personnel, and additional information or assistance from CONSULTANT's personnel is required in order to evaluate or defend against such claims; CONSULTANT agrees to make its personnel available for consultation with LOCAL AGENCY'S construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.
- B. CONSULTANT's personnel that LOCAL AGENCY considers essential to assist in defending against construction contractor claims will be made available on reasonable notice from LOCAL AGENCY.

Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for CONSULTANT's personnel services under this AGREEMENT.

- C. Services of CONSULTANT's personnel in connection with LOCAL AGENCY's construction contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this AGREEMENT in order to resolve the construction claims.

ARTICLE XXVIII CONFIDENTIALITY OF DATA

- A. All financial, statistical, personal, technical, or other data and information relative to LOCAL AGENCY's operations, which are designated confidential by LOCAL AGENCY and made available to CONSULTANT in order to carry out this AGREEMENT, shall be protected by CONSULTANT from unauthorized use and disclosure.
- B. Permission to disclose information on one occasion, or public hearing held by LOCAL AGENCY relating to the AGREEMENT, shall not authorize CONSULTANT to further disclose such information, or disseminate the same on any other occasion.
- C. CONSULTANT shall not comment publicly to the press or any other media regarding the AGREEMENT or LOCAL AGENCY's actions on the same, except to LOCAL AGENCY's staff, CONSULTANT's own personnel involved in the performance of this AGREEMENT, at public hearings, or in response to questions from a Legislative committee.
- D. CONSULTANT shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this AGREEMENT without prior review of the contents thereof by LOCAL AGENCY, and receipt of LOCAL AGENCY'S written permission.
- E. Any subcontract entered into as a result of this contract shall contain all of the provisions of this Article.

[For PS&E contracts add paragraph F, below, to paragraphs A through E, above]

- F. All information related to the construction estimate is confidential, and shall not be disclosed by CONSULTANT to any entity, other than LOCAL AGENCY, Caltrans, and/or FHWA. All of the materials prepared or assembled by CONSULTANT pursuant to performance of this Contract are confidential and CONSULTANT agrees that they shall not be made available to any individual or organization without the prior written approval of City or except by court order. If CONSULTANT or any of its officers, employees, or subcontractors does voluntarily provide information in violation of this Contract, City has the right to reimbursement and indemnity from CONSULTANT for any damages caused by CONSULTANT releasing the information, including, but not limited to, City's attorney's fees and disbursements, including without limitation experts' fees and disbursements.

ARTICLE XXIX NATIONAL LABOR RELATIONS BOARD CERTIFICATION

In accordance with Public Contract Code §10296, CONSULTANT hereby states under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against CONSULTANT within the immediately preceding two-year period, because of CONSULTANT's failure to comply with an order of a federal court that orders CONSULTANT to comply with an order of the National Labor Relations Board.

ARTICLE XXX EVALUATION OF CONSULTANT

CONSULTANT's performance will be evaluated by LOCAL AGENCY. A copy of the evaluation will be sent to CONSULTANT for comments. The evaluation together with the comments shall be retained as part of the AGREEMENT record.

ARTICLE XXXI PROMPT PAYMENT**A. PROMPT PAYMENT FROM LOCAL AGENCY TO CONSULTANT**

The LOCAL AGENCY shall make all project progress payment within 30 days after receipt of an undisputed and properly submitted payment request from CONSULTANT on a professional service contract. If the LOCAL AGENCY fails to pay promptly, the LOCAL AGENCY shall pay interest to the CONSULTANT, which accrues at the rate of 10 percent per annum on the principal amount of a money judgment remaining unsatisfied and pro-rated as necessary. Upon receipt of the payment request, the LOCAL AGENCY shall act in accordance with both of the following:

- (1) The LOCAL AGENCY shall review each payment request as soon as feasible after receipt to verify it is a proper payment request.
- (2) The LOCAL AGENCY must return any payment request deemed improper by the LOCAL AGENCY to the CONSULTANT as soon as feasible, but not later than seven (7) days, after receipt. A request returned pursuant to this paragraph shall include documentation setting forth in writing the reasons why it is an improper payment request.

B. PROMPT PAYMENT CERTIFICATION

For projects awarded on or after September 1, 2023: the CONSULTANT must now submit Exhibit 9-P to the LOCAL AGENCY administering the contract by the 15th of the month following the month of any payment(s). If the CONSULTANT does not make any payments to subconsultants, supplier(s), and/or manufacturers they must report "no payments were made to subs this month" and write this visibly and legibly on Exhibit 9-P.

The LOCAL AGENCY must verify all Exhibit 9-P information, monitor compliance with prompt payment requirements for DBE and non-DBE firms, and address any shortfalls to the DBE commitment and prompt payment issues until the end of the project. The LOCAL AGENCY must email a copy of Exhibit 9-P to DBE.Forms@dot.ca.gov before the end of the month after receiving the Exhibit 9-P from the CONSULTANT.

ARTICLE XXXII TITLE VI ASSURANCES**APPENDICES A - E of the TITLE VI ASSURANCES**

[The U.S. Department of Transportation Order No.1050.2A requires all federal-aid Department of Transportation contracts between an agency and a consultant to contain Appendices A and E of the Title VI Assurances. Include Appendices B, C, and D if applicable as shown below. In addition, the consultant must include the Title VI Assurances Appendices A and E, and if applicable Appendices B, C, and D in all subcontracts to perform work under the contract.

The clauses of Appendix B of this Assurance shall be included as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a LOCAL AGENCY.

The clauses set forth in Appendix C and Appendix D of this Assurance shall be included as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the LOCAL AGENCY with other parties:

- a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and*
- b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.]*

APPENDIX A

During the performance of this Agreement, the contractor, for itself, its assignees and successors in interest (hereinafter collectively referred to as CONSULTANT) agrees as follows:

- a. Compliance with Regulations: CONSULTANT shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATIONS), which are herein incorporated by reference and made a part of this agreement.
- b. Nondiscrimination: CONSULTANT, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the agreement covers a program set forth in Appendix B of the Regulations.
- c. Solicitations for Sub-agreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by CONSULTANT for work to be performed under a Sub- agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by CONSULTANT of the CONSULTANT'S obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- d. Information and Reports: CONSULTANT shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the recipient or FHWA to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, CONSULTANT shall so certify to the recipient or FHWA as appropriate, and shall set forth what efforts CONSULTANT has made to obtain the information.
- e. Sanctions for Noncompliance: In the event of CONSULTANT's noncompliance with the nondiscrimination provisions of this agreement, the recipient shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
 - i. withholding of payments to CONSULTANT under the Agreement within a reasonable period of time, not to exceed 90 days; and/or
 - ii. cancellation, termination or suspension of the Agreement, in whole or in part.

- f. Incorporation of Provisions: CONSULTANT shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

CONSULTANT shall take such action with respect to any sub-agreement or procurement as the recipient or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event CONSULTANT becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, CONSULTANT may request the recipient enter into such litigation to protect the interests of the State, and, in addition, CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

~~The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:~~

~~**NOW THEREFORE**, the U.S. Department of Transportation as authorized by law and upon the condition that the recipient will accept title to the lands and maintain the project constructed thereon in accordance with Title 23 U.S.C., the regulations for the administration of the preceding statute, and the policies and procedures prescribed by the FHWA of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the recipient all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.~~

(HABENDUM CLAUSE)

~~**TO HAVE AND TO HOLD** said lands and interests therein unto the recipient and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the recipient, its successors and assigns. The recipient, in consideration of the conveyance of said lands and interest in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the recipient will use the lands and interests in lands and interest in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended [, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said lands, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*~~

~~(*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)~~

APPENDIX C
CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE
ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the recipient pursuant to the provisions of Assurance 7(a):

- A. ~~The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:~~
1. ~~In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.~~
- B. ~~With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, the recipient will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*~~
- C. ~~With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the recipient will have the right to enter or re-enter the lands and facilities thereon, and the above-described lands and facilities will there upon revert to and vest in and become the absolute property of the recipient and its assigns.*~~

~~(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)~~

APPENDIX D
CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE
ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by the recipient pursuant to the provisions of Assurance 7(b):

- A. ~~The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, “as a covenant running with the land”) that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on,~~

~~over, or under such land, and the furnishings of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits or, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.~~

~~B. With respect to (licenses, leases, permits, etc.) in the event of breach of any of the above of the above Non-discrimination covenants, the recipient will have the right to terminate the (license, permits, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*~~

~~C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, the recipient will there upon revert to and vest in and become the absolute property of the recipient and its assigns.~~

APPENDIX E

During the performance of this contract, the CONSULTANT, for itself, its assignees, and successors in interest (hereinafter referred to as the "CONSULTANT") agrees to comply with the following non-discrimination statutes and authorities, including, but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), prohibits discrimination on the basis of sex;
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination of the basis of disability in the operation of public entities, public and private transportation systems, places of

ARTICLE XXXV SIGNATURES

(Name of LOCAL AGENCY) _____ (Name of CONSULTANT)

(Signature)

(Name of Signer)

(Signature)

(Name of Signer)

Date: _____

Date: _____

Capitola City Council

Agenda Report

Meeting: November 9, 2023
From: Police Department
Subject: 2023 Holiday Parking



Recommended Action: Authorize the suspension of parking meter and pay station operation to allow free three-hour parking in the Village Parking Meter Zone A (1) from November 23, 2023, through December 25, 2023.

Background: The Capitola Business Improvement Association (BIA) has submitted its annual request to City Council to offer free three-hour parking in the Village during the holiday season. City Council has authorized this program since 2001, with only one exception in 2003.

Discussion: The three-hour parking limit and the paid parking encourage parking rotation, which benefits Village businesses. Although the Village is less congested in late-fall through early-winter than in the late-spring through early-fall, the need for time-limited parking still prevails.

The Capitola BIA has submitted a letter requesting that the Council authorize suspending parking meter and pay station operation to allow free three-hour parking in the Village from November 23, 2023, through December 25, 2023, to encourage holiday shopping and dining (Attachment 1).

Fiscal Impact: Staff estimates that in 2022, the suspension of the Village parking meters and pay stations reduced parking meter revenue by \$40,000. The Fiscal Year 2023-2024 budget accounts for suspending Village meter and pay station operation for the holiday shopping period.

Attachments:

1. BIA Holiday Parking Request

Report Prepared By: Andrew Dally, Chief of Police

Reviewed By: Julia Gautho, City Clerk

Approved By: Jamie Goldstein, City Manager



October 19, 2023

Capitola City Council
City of Capitola
420 Capitola Ave
Capitola, CA 95010

Dear City Council,

The Capitola Village and Wharf BIA requests your consideration of the annual free parking during the upcoming holiday. Traditionally the 3 hour parking is free from Thanksgiving day through Christmas.

We understand that free parking comes at a substantial price. However, our customers and visitors as well as the residents of Capitola have come to count on this generous policy of the city. The businesses in Capitola Village appreciate your considering our request.

Sincerely,

Anthony Guajardo
Chair, Capitola Village and Wharf BIA

Capitola City Council

Agenda Report



Meeting: November 9, 2023
From: Community Development Department
Subject: 1098 38th Avenue Project

Recommended Action: Adopt a resolution authorizing the City Manager to finalize the loan agreement with MidPen Housing to assist with predevelopment activities for a 100% affordable multifamily rental housing development located at 1098 38th Avenue.

Background: On March 10, 2023, MidPen Housing, a local non-profit affordable housing developer, acquired 1098 38th Avenue. Upon acquiring the property, the non-profit approached City staff with a request for \$250,000 of funding for predevelopment planning costs.

On June 22, 2023, the City Council received a presentation on a future 100% affordable multifamily rental housing development located at 1098 38th Avenue and directed staff to prepare a loan agreement to assist with predevelopment activities.

Analysis: MidPen Housing intends to construct a 100% affordable housing development at 1098 38th Avenue. Since acquiring the site, the non-profit has been working on buildout scenarios for the site. After much consideration, MidPen has decided to pursue a 52-unit, multifamily housing development.

Recently, MidPen hired Architects FORA to design the future multifamily housing development. MidPen is requested \$250,000 for predevelopment planning of the project, including \$200,000 for architectural design, \$32,000 for civil and survey costs, and \$19,800 for geotechnical reports and testing, with the expectation that the City would consider providing additional construction funding in the future.

The City has approximately \$2 million in funds in the Housing Successor Agency Fund due to a recent loan pay-off. The Housing Successor Agency funds may be utilized for the new construction of an affordable housing development for households earning 80 percent or less of the area median income (AMI).

The City Attorney's office prepared a loan agreement in the amount of \$250,000 to assist with predevelopment planning of 1098 38th Avenue utilizing the Housing Successor Agency Funds (Attachment 2).

Fiscal Impact: The City has approximately \$2 million in the Housing Successor Agency Fund. MidPen's request for \$250,000 will be fully funded through the Housing Successor Agency fund.

Attachments:

1. Resolution
2. Loan Agreement

Report Prepared By: Katie Herlihy, Community Development Director

Reviewed By: Julia Moss, City Clerk; Samantha Zutler, City Attorney

Approved By: Jamie Goldstein, City Manager

RESOLUTION NO.

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA
AUTHORIZING A PREDEVELOPMENT LOAN AGREEMENT WITH MP RAIL TRAIL
ASSOCIATES, LP, A CALIFORNIA LIMITED PARTNESHIP, FOR AN AFFORDABLE
HOUSING DEVELOPMENT AT 1098 38th AVENUE, CAPITOLA, CA, 95010**

WHEREAS, MP Rail Trail Associates, LP, a California limited partnership (“Borrower”), an entity controlled by Mid-Peninsula San Carlos Corporation, a California nonprofit public benefit corporation, is the owner of approximately 1.97 acres of real property located at 1098 38th Avenue, Capitola, California (“Property”); and

WHEREAS, the Borrower desires to construct and operate a multi-family residential housing development on the Property affordable to households earning 30% to 80% of Area Median Income (“AMI”) for Santa Cruz County (“Project”). The City desires that the Property be developed to create affordable housing to help provide units affordable to low, very-low and extremely-low income households, consistent with the City’s adopted Housing Element; and

WHEREAS, the Borrower will incur several predevelopment expenses (“Predevelopment Costs”) in connection with assessing the Project’s feasibility, designing the Project, and applying for governmental approvals necessary to construct the Project; and

WHEREAS, the Borrower has requested funding from the City to pay for a portion of the Predevelopment Costs, and upon satisfaction of the conditions precedent set forth in the Predevelopment Loan Agreement, attached to this resolution as Exhibit A, and evidenced by a predevelopment note and predevelopment deed of trust (as defined in the Predevelopment Loan Agreement), the City has agreed to use funds in its Low and Moderate Income Housing Asset Fund established pursuant to Health and Safety Code § 34176 (d), and provide a loan to Borrower with a total principal amount not to exceed TWO HUNDRED FIFTY THOUSAND AND 00/100 DOLLARS (\$250,000.00) (the “Predevelopment Loan”); and

WHEREAS, until such time as the Borrower has submitted formal applications to City for all required land use entitlements to develop and construct the Project on the Property (e.g. design review, density bonus, etc.), and received City approval for such land use entitlements and associated environmental review as may be required by the California Environmental Quality Act (“CEQA”) and the National Environmental Policy Act (“NEPA”), which project approvals may be granted or denied in the City’s discretion, the City will not be committed to approving the Project.

WHEREAS, the Predevelopment Loan Agreement addresses funding to pay for predevelopment due diligence, surveys, geotechnical investigation, civil, architectural and design services, and other predevelopment work, and is one of the types of early-stage agreements often entered into before a lead agency decides on the specifics of a project; and

NOW, THEREFORE, BE IT HEREBY RESOLVED, that the City Council of the City of Capitola finds that the approval of the Predevelopment Loan Agreement shall not and does not, as a practical matter, commit the City of Capitola to the proposed Project and, consistent with Section 15004 (b)(4) of the State CEQA Guidelines, affirms as follows: (1) considering all the surrounding circumstances, the preliminary nature of the Predevelopment Loan Agreement does not commit the

City as a practical matter to approve the land use entitlements for the proposed Project; (2) the specific parameters of the proposed Project are unknown at this stage, and therefore, it is premature to conduct a meaningful analysis and environmental review of the proposed Project under CEQA and/or NEPA, if applicable; (3) once Borrower submits formal applications to City for the necessary land use entitlements required for the proposed Project, the environmental review required under CEQA, and NEPA if applicable, will be performed; (4) the Predevelopment Loan Agreement does not bind or commit the City to any definite course of action related to the proposed Project prior to compliance with CEQA; (5) the Predevelopment Loan Agreement does not restrict the City from considering any feasible mitigation measures and alternatives, including the “no project” alternative, if relevant as part of the review of the proposed Project under CEQA; and (6) the Predevelopment Loan Agreement does not restrict the City from denying the proposed Project; and

BE IT FURTHER RESOLVED, by the City Council of the City of Capitola that the Predevelopment Loan Agreement, in the form attached hereto as Exhibit A, between the City of Capitola and MP Rail Trail Associates, LP, a California limited partnership, for an affordable housing development at 1098 38th Avenue, Capitola, CA, is hereby approved; and

BE IT FURTHER RESOLVED, by the City Council of the City of Capitola that (i) the City Manager and City Attorney are authorized to make and agree to such changes and modifications to the Predevelopment Loan Agreement which do not significantly increase the obligations or decrease the benefits of the City thereunder, and (ii) the City Manager is authorized to execute and enter into the Predevelopment Loan Agreement on behalf of the City of Capitola with MP Rail Trail Associates, LP, a California limited partnership, and to take all such actions as are necessary to implement the Predevelopment Loan Agreement.

I HEREBY CERTIFY that the foregoing Resolution was passed and adopted by the City Council of the City of Capitola on the 9th day of November 2023, by the following vote:

- AYES:**
- NOES:**
- ABSENT:**
- ABSTAIN:**

Margaux Keiser, Mayor

ATTEST:

Julia Gautho, City Clerk

PREDEVELOPMENT LOAN AGREEMENT

THIS PREDEVELOPMENT LOAN AGREEMENT (“**Agreement**”) is entered into effective as of _____, 2023 (“**Effective Date**”), by and between the CITY OF CAPITOLA, a California municipal corporation (“**City**”), and MP Rail Trail Associates, L.P., a California limited partnership (“**Borrower**”). The City and the Borrower are referred to herein individually as a “**Party**” and collectively as the “**Parties.**”

RECITALS

A. Borrower is the owner of approximately 1.97 acres of real property located at 1098 38th Avenue, Capitola, California, more particularly described in the legal description attached hereto as Exhibit A and identified as Assessor Parcel Number 034-172-01 (the “**Property**”).

B. Borrower desires to construct and operate a multi-family residential housing development on the Property affordable to households earning 30% to 80% of Area Median Income (“**AMI**”) for Santa Cruz County (“**Project**”). The City desires that the Property be developed to create affordable housing to help provide units affordable to low, very-low and extremely-low income households, consistent with the City’s adopted Housing Element.

C. The Borrower will incur several predevelopment expenses (“**Predevelopment Costs**”) in connection with assessing the Project’s feasibility, designing the Project, and applying for governmental approvals necessary to construct the Project.

D. Borrower has requested funding from the City to pay for a portion of the Predevelopment Costs, and upon satisfaction of the conditions precedent set forth in this Agreement and evidenced by a Predevelopment Note and Predevelopment Deed of Trust (as each are defined below), the City has agreed to use funds in its Low and Moderate Income Housing Asset Fund (“**LMIHAF**”) established pursuant to Health and Safety Code § 34176 (d), and provide a loan to Borrower with a total principal amount not to exceed TWO HUNDRED FIFTY THOUSAND AND 00/100 DOLLARS (\$250,000.00) (the “**Predevelopment Loan**”).

E. Until such time as the Borrower has submitted formal applications to City for all required land use approvals to develop and construct the Project on the Property (e.g. design review, density bonus, etc.) (hereinafter, the “**Land Use Entitlements**”), and received City approval for such Land Use Entitlements and associated environmental review as may be required by the California Environmental Quality Act (“**CEQA**”) and the National Environmental Policy Act (“**NEPA**”) (collectively, the “**Project Approvals**”), which Project Approvals may be granted or denied in the City’s discretion, the City will not be committed to approving the Project.

F. City and Borrower acknowledge that this Agreement addresses funding to pay for predevelopment due diligence, surveys, geotechnical investigation, civil, architectural and design services, and other predevelopment work, and is one of the types of early-stage agreements often entered into before a lead agency decides on the specifics of a project. The Parties further

acknowledge that: (1) considering all the surrounding circumstances, the preliminary nature of this Agreement does not commit City as a practical matter to approve the Land Use Entitlements for the proposed Project; and (2) the specific parameters of the proposed Project are unknown at this stage, and therefore, it is premature to conduct a meaningful analysis and environmental review of the proposed Project under CEQA and/or NEPA, if applicable. The Parties agree that once Borrower submits formal applications to City for the necessary Land Use Entitlements, the environmental review required under CEQA, and NEPA if applicable, will be performed.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows.

**ARTICLE 1
RECITALS; DEFINITIONS; TERM AND TERMINATION.**

1.1 Incorporation of Recitals. The Parties acknowledge the truth of the foregoing recitals which are hereby incorporated into this Agreement by this reference.

1.2 Definitions. The following terms shall have the meanings set forth below or as indicated in the Sections referenced below whenever used in this Agreement and the Exhibits attached hereto:

“**Agreement**” shall mean this Predevelopment Loan Agreement.

“**AMI**” is defined in Recital B.

“**Applicable Laws**” is defined in Section 10.1.

“**Borrower**” shall mean **MP Rail Trail Associates, L.P., a California limited partnership**.

“**CEQA**” is defined in Recital E.

“**City**” shall mean the City of Capitola, a California municipal corporation.

“**Claims**” is defined in Section 7.2.

“**Effective Date**” shall mean the date set forth in the introductory paragraph of this Agreement.

“**Environmental Laws**” is defined in Section 7.4.

“**Hazardous Materials**” is defined in Section 7.3.

“**Indemnitees**” is defined in Section 7.2.

“**Land Use Entitlements**” is defined in Recital E.

“**LMIHAF**” is defined in Recital D.

“**NEPA**” is defined in Recital E.

“**Official Records**” is defined in Section 3.2.

“**Party**” or “**Parties**” shall mean, respectively, City and Borrower individually or collectively.

“**Predevelopment Costs**” is defined in Recital C and more particularly described in Exhibit B.

“**Predevelopment Deed of Trust**” is defined in Section 3.2 and substantially in the form attached as Exhibit D.

“**Predevelopment Loan**” is defined in Recital D.

“**Predevelopment Loan Documents**” is defined in Section 4.3.2.

“**Predevelopment Loan Proceeds**” is defined in Section 2.1.1.

“**Predevelopment Note**” is defined in Section 3.1 and substantially in the form attached as Exhibit C.

“**Prevailing Wage Laws**” is defined in Section 13.2.

“**Project**” is defined in Recital B.

“**Project Approval Date**” is defined in Section 1.3.1.

“**Project Approvals**” is defined in Recital E.

“**Property**” is defined in Recital A and more particularly described in Exhibit A.

“**Regulatory Agreement**” is defined in Section 4.5.1.

“**Term**” is defined in Section 1.3.1.

“**Transfer**” is defined in Section 5.2.

1.3 Term and Termination; Predevelopment Loan Forgiveness.

1.3.1 Term. The term of this Agreement shall begin on the Effective Date and shall expire two (2) years thereafter (“**Term**”), unless extended as provided herein. If, prior to expiration of the Term, the City considers and approves the Project Approvals, then as the date of approval of the Project Approvals (“**Project Approval Date**”), the Term shall automatically be amended and thereafter shall expire two (2) years after the Project Approval Date. In addition to the aforementioned provision providing for an automatic extension of the Term, the Term of this Agreement may be extended either prior to or after the Project Approval Date for up to two additional periods of six (6) months each upon presentation of a written request from the Borrower outlining its efforts to secure the Project Approvals and/or obtain construction and permanent financing to develop and construct the Project, together with a schedule of tasks to be accomplished during the additional period. The City Manager may approve, conditionally approve, or deny the extension(s) request in his or her sole discretion, and any decision to approve or conditionally approve an extension of the Term shall only be effective upon the execution of an amendment to this Agreement. Notwithstanding the foregoing, upon closing of construction financing for the Project, the City and Borrower agree to amend the Predevelopment Loan to: (i) extend the Term to fifty-five (55) years from the date of issuance of a certificate of occupancy for the Project; (ii) modify the Predevelopment Loan repayment terms to include annual residual receipt payments that shall be due and payable on a pro-rata residual receipts basis in accordance with an agreed upon formula, to be set forth in the amended Predevelopment Note; and (iii) if applicable, combine the Predevelopment Loan amount already disbursed with any new funding approved by the City for Project construction.

1.3.2 Termination. City shall have the right to terminate this Agreement during the Term upon Borrower's default under this Agreement and failure to cure within the applicable cure period specified in Section 6.1. If City terminates this Agreement during the Term pursuant to this Section, then the principal balance on the Predevelopment Loan and accrued interest thereon shall be immediately due and payable.

ARTICLE 2 PREDEVELOPMENT LOAN PROVISIONS.

2.1 Predevelopment Loan. Using funds in the LMIHAF, City agrees to loan Borrower, and Borrower agrees to borrow from and repay to the City, the Predevelopment Loan in the maximum principal amount of TWO HUNDRED FIFTY THOUSAND AND 00/100 DOLLARS (\$250,000.00) according to the terms and conditions set forth in this Agreement:

2.1.1 Predevelopment Loan Proceeds; Interest. The proceeds of the Predevelopment Loan (the "**Predevelopment Loan Proceeds**") shall not be disbursed unless and until Borrower has supplied the City with such documentation as the City deems necessary to substantiate the payment of the Predevelopment Loan for eligible uses, as set forth in Section 2.1.2, below. From the date of initial disbursement of the Predevelopment Loan Proceeds to Borrower, the unpaid principal balance on the Predevelopment Loan shall accrue simple interest at the rate of three percent (3%) per annum. Principal and interest may be prepaid in whole or in part at any time, and from time to time, without notice or penalty.

2.1.2 Funding Disbursement. After Borrower's satisfaction of the conditions set forth in Section 4.3 below, the Predevelopment Loan shall be funded in accordance with the following requirements:

(a) Following satisfaction of the conditions set forth herein, the City shall disburse the Predevelopment Loan Proceeds to Borrower up to the amount of the Predevelopment Loan, for the sole purpose of paying for those Predevelopment Costs set forth in Exhibit B.

(b) The Predevelopment Loan Proceeds will be disbursed to Borrower only upon a request for disbursement by Borrower and upon the City's approval of invoices, contracts and other documentation satisfactory to City delineating Predevelopment Costs satisfactorily performed. Borrower shall submit to the City a written request for disbursement of a specific dollar amount. The City shall review such request and the supporting documentation and, within ten (10) business days from receipt thereof, shall either (i) approve such request and make the requested disbursement, or (ii) disapprove all or a portion of such request, and notify Borrower in writing of the reason for such disapproval, in which case Borrower shall modify its request to correct the stated deficiency and repeat the process outlined above.

(c) Borrower's request(s) for disbursement of Predevelopment Loan Proceeds under this Agreement and actual disbursement by the City shall be completed no later than the expiration of the Term or termination of this Agreement.

(d) Nothing herein shall be deemed to require disbursement of the full amount of the Predevelopment Loan if the requirements above are not satisfied.

**ARTICLE 3
PREDEVELOPMENT LOAN SECURITY.**

3.1 Predevelopment Note. The Predevelopment Loan shall be evidenced by a promissory note (the "**Predevelopment Note**") executed by Borrower, in favor of the City and substantially in the form attached as Exhibit C. Borrower shall execute and deliver the Predevelopment Note to City concurrently with the execution of this Agreement and the Predevelopment Deed of Trust. The Predevelopment Note shall evidence the repayment obligations by Borrower of the Predevelopment Loan.

Borrower shall have the right to prepay the Predevelopment Note at any time and from time to time, without penalty or premium, provided that any prepayment of principal must be accompanied by interest accrued but unpaid to the date of prepayment. Prepayments shall be applied first to accrued but unpaid interest and then to principal.

Unless City agrees otherwise in writing, the entire unpaid principal balance and all interest and other sums accrued under the Predevelopment Note shall be due and payable upon expiration of the Term of this Agreement or the Transfer (as defined in Section 5.2) absent the prior written consent of City of all or any part of or interest in the Property except for a Transfer permitted under Section 5.3 of this Agreement.

3.2 Predevelopment Deed of Trust. The Predevelopment Note shall be secured by a short form deed of trust (the "**Predevelopment Deed of Trust**") executed by Borrower, in the form attached to this Agreement as Exhibit D. Borrower shall execute, acknowledge, and deliver the Predevelopment Deed of Trust to City concurrently with the execution of this Agreement and the Predevelopment Note. Upon delivery by Borrower of the Predevelopment Deed of Trust to City, City may thereafter record the Predevelopment Deed of Trust against the Property in the Official Records of the Office of the Santa Cruz County Recorder ("**Official Records**").

3.3 Non-Recourse Provisions. Except as expressly provided in this Section 3.3, Borrower shall have no personal liability for payment of the principal of, or interest on the Predevelopment Note, and the sole recourse of City with respect to the payment of the principal of, and interest on the Predevelopment Note shall be to the Property and any improvements thereon and any other collateral held by City as security for the Predevelopment Note; provided however, nothing contained in the foregoing limitation of liability shall: (i) limit or impair the enforcement against all such security for the Predevelopment Note of all the rights and remedies of the City thereunder; (ii) be deemed in any way to impair the right of the City to assert the unpaid principal amount of the Predevelopment Note as demand for money within the meaning and intendment of Section 431.70 of the California Code of Civil Procedure or any successor provision thereto; or (iii) be deemed in any way to limit the rights of the City to obtain specific

performance by Borrower of its covenants under this Agreement, other than the covenants to pay the City principal and interest due under the Predevelopment Note.

The foregoing limitation of liability is intended to apply only to the obligation for the repayment of the principal of, and payment of interest on the Predevelopment Note; nothing contained herein is intended to relieve the Borrower of its obligation to indemnify the City under this Agreement, or liability for: (i) fraud or willful misrepresentation by the Borrower; (ii) the failure to pay taxes, assessments or other charges which may create liens on the Property that are payable or applicable prior to any foreclosure under the Predevelopment Deed of Trust (to the full extent of such taxes, assessments or other charges); (iii) the fair market value of any personal property or fixtures removed or disposed of by the Borrower other than in accordance with the Predevelopment Deed of Trust; and/or (iv) the misappropriation of any proceeds by the Borrower under any insurance policies or awards resulting from condemnation or the exercise of the power of eminent domain or by reason of damage, loss or destruction to any portion of the Property and any improvement thereon.

**ARTICLE 4
USE AND DISBURSEMENT OF PREDEVELOPMENT LOAN PROCEEDS.**

4.1 Use Requirements. The Predevelopment Loan Proceeds shall be used solely and exclusively for Predevelopment Costs for the Project as set forth in Exhibit B and such other costs related to the Project as the City may approve in writing in its sole discretion. As more particularly described in Exhibit B, Borrower's predevelopment activities shall include preparation of geotechnical reports, architectural and civil engineering plans, and surveys necessary to secure the Project Approvals from City as are required to develop the Project and apply for construction and permanent financing for the Project.

4.2 Change in Predevelopment Costs. Borrower shall notify the City in a timely manner of any changes to the Predevelopment Costs to be performed under this Agreement. A written authorization by the City Manager must be obtained to make any changes to the Predevelopment Costs to be reimbursed under this Agreement.

4.3 Conditions Precedent to Disbursement of Predevelopment Loan Proceeds. City's obligation to disburse the Predevelopment Loan Proceeds is conditioned upon satisfaction of all the following conditions as determined by City in its sole discretion:

4.3.1 Borrower's representations and warranties set forth in Section 4.5 below remain true and correct in all material respects;

4.3.2 Borrower's execution and delivery to the City of this Agreement, the Predevelopment Note and Predevelopment Deed of Trust (the "**Predevelopment Loan Documents**"), and recording of the Predevelopment Deed of Trust against the Property in the Official Records;

4.3.3 Borrower's delivery to the City for its review and approval of a title report showing fee title to the Property vested in Borrower and copies of all exceptions to title;

4.3.4 Borrower's delivery to the City of evidence of insurance coverage in the form and in such amounts as set forth in Article 8;

4.3.5 Borrower's submission to City of complete applications for the Land Use Entitlements and payment of all application fees required in connection therewith; and

4.3.6 Borrower's delivery to the City of copies of Borrower's articles of incorporation and bylaws.

4.4 No Obligation to Disburse Predevelopment Loan Proceeds Upon Default. Notwithstanding any other provision of this Agreement, the City shall have no obligation to disburse any portion of the Predevelopment Loan Proceeds to Borrower (except for expenses previously approved by City and expended by Borrower) following:

4.4.1 the failure of any of Borrower's representations and warranties set forth in Section 4.5 of this Agreement to be true and correct in all material respects;

4.4.2 the conditions precedent to disbursement of the Predevelopment Loan Proceeds set forth in Section 4.3 have not been satisfied on or before the expiration of the Term, unless an extension thereof is approved by the City Manager in writing pursuant to Section 1.3.1;

4.4.3 expiration or termination of this Agreement in accordance with its terms;

4.4.4 termination of this Agreement by mutual agreement of the Parties; or

4.4.5 the occurrence of an Event of Default under this Agreement or the Predevelopment Loan Documents which remains uncured beyond any applicable cure period.

4.5 Borrower's Representations and Warranties. Borrower represents and warrants to the City that:

4.5.1 Borrower covenants and agrees that if the Project Approvals are approved by City and the Project is constructed by Borrower, for a term of fifty-five (55) years from the date of issuance of a certificate of occupancy for the Project¹, 5 of the multi-family residential housing units will be made available at rents affordable to and occupied by households earning 30% to 60% of AMI for Santa Cruz County and shall otherwise adhere to the requirements of California Health and Safety Code § 343176.1 (a)(3), and the balance of the multi-family residential housing units will be made available at rents affordable to and occupied by households earning no more than 80% of AMI for Santa Cruz County pursuant to the terms of an Affordable Housing Agreement and Declaration of Restrictive Covenants ("**Regulatory Agreement**"), in a form prepared by and subject to such terms and conditions desired by and/or agreed to by the City Manager and City Attorney and Borrower and to be recorded against the Property in the Official Records in connection with the issuance of a building permit by City for the construction of the Project upon the Property. Furthermore, in the event City provides additional funding in

¹ The date of issuance of a certificate of occupancy for the Project will be memorialized through the execution and recording in the Official Records of a Certificate of Completion, the form of which will be attached as an exhibit to the Regulatory Agreement.

connection with construction of the Project as mentioned in Section 1.3.1 above, the terms of the Regulatory Agreement shall be modified to address the affordability level of the housing units restricted to rents affordable to households earning no more than 80% of AMI in a manner consistent with requirements applicable to the source of the City's additional funding.

4.5.2 Borrower possesses fee title to the Property and, to the best of Borrower's knowledge after reasonable inquiry, the Property is not subject to any covenant, condition, restriction, or agreement that would hinder or prevent Borrower's performance of its obligations under this Agreement or the Predevelopment Loan Documents. If at any time the foregoing statements become untrue, the City shall have the right to terminate this Agreement upon written notice to Borrower.

4.5.3 All approvals have been obtained in connection with Borrower's execution of this Agreement and the Predevelopment Loan Documents, and all related agreements and documents, to the effect that no breach of or acceleration of performance under any agreement or document to which Borrower is a party will result from such execution;

4.5.4 Predevelopment Loan Proceeds advanced by the City pursuant to this Agreement are advanced wholly for the benefit of Borrower;

4.5.5 Borrower is a duly organized limited partnership, validly existing and in good standing under the laws of the State of California. Borrower has all requisite power and authority to develop, own and operate the proposed Project, to carry on its business as now conducted, and to execute, deliver and perform its obligations under this Agreement and the Predevelopment Loan Documents;

4.5.6 The execution, delivery and performance of this Agreement and the Predevelopment Loan Documents have been duly authorized by Borrower, and this Agreement and the Predevelopment Loan Documents, when duly executed and delivered, will constitute the valid and binding obligations of Borrower enforceable in accordance with their respective terms. Borrower's execution of this Agreement and the Predevelopment Loan Documents and performance thereunder will not result in a breach of or constitute a default under any agreement, indenture or other instrument to which Borrower is a party or by which Borrower may be bound. The persons executing this Agreement and the Predevelopment Loan Documents on behalf of Borrower have been duly authorized to do so;

4.5.7 There are no pending or, to the best of Borrower's knowledge, threatened actions or proceedings before any court or administrative agency which may adversely affect the financial condition or operation of Borrower or any of its members or managers or Borrower's ability to carry out the obligations of Borrower under this Agreement. Borrower is not the subject of any action under federal or state Bankruptcy Law;

4.5.8 Borrower covenants and agrees to use said Predevelopment Loan Proceeds solely to pay for the Predevelopment Costs;

4.5.9 Borrower covenants and agrees to promptly provide all information required and requested by City to process, evaluate, and analyze the Land Use Entitlements and

associated CEQA and NEPA review necessary for the City to consider and take action on the Project Approvals; and

4.5.10 Borrower is responsible for all obligations created by this Agreement and the Predevelopment Loan Documents, including, without limitation, the repayment of all principal and interest, if any, which may become due and payable under this Agreement, the Predevelopment Loan Documents, and any other instruments provided for herein. No creditor or other person shall have any right or action against City on account of any debts, obligations, or liabilities of Borrower.

ARTICLE 5 LIMITATIONS ON CHANGE IN OWNERSHIP, MANAGEMENT AND CONTROL OF BORROWER

5.1 Change Pursuant to this Agreement. Borrower has represented that it possess the necessary expertise, skill and ability to carry out the development of the Project on the Property pursuant to this Agreement. The qualifications, experience, financial capacity and expertise of Borrower is of particular concern to the City. It is because of these qualifications, experience, financial capacity and expertise that the City has entered into this Agreement with Borrower. No voluntary or involuntary successor, assignee or transferee of Borrower shall acquire any rights or powers under this Agreement, except as expressly provided herein.

5.2 Prohibition on Transfer. Prior to the expiration of the Term of this Agreement, Borrower shall not, except as expressly permitted by this Agreement, directly or indirectly, voluntarily, involuntarily or by operation of law make or attempt any total or partial sale, transfer, conveyance, assignment or lease (collectively, “**Transfer**”) of the whole or any part of the Property or this Agreement, without the prior written approval of City. Any such attempt to assign this Agreement without the City’s consent shall be null and void and shall confer no rights or privileges upon the purported assignee. In addition to the foregoing, prior to the expiration of the Term of this Agreement, except as expressly permitted by this Agreement, Borrower shall not undergo any significant change of ownership without the prior written approval of City. For purposes of this Agreement, a “significant change of ownership” shall mean a transfer of the beneficial interest of more than forty-nine percent (49%) in aggregate of the present ownership and /or control of Borrower, taking all transfers into account on a cumulative basis.

5.3 Permitted Transfers. Notwithstanding any contrary provision hereof, the prohibitions set forth in this Article shall not be deemed to prevent: (i) the granting of utility easements or permits to facilitate development of the Property; (ii) the dedication of any property required pursuant to the Project Approvals; (iii) the lease of individual units to tenants for occupancy as their principal residence in accordance with the Regulatory Agreement; (iv) assignments creating security interests for the purpose of financing the acquisition, construction or permanent financing of the Project or the Property, or Transfers directly resulting from the foreclosure of, or granting of a deed in lieu of foreclosure of, such a security interest; or (v) the

admission of limited partners to the Borrower entity in connection with tax credit financing, and any subsequent transfer of such limited partnership interests, including any transfer of stock or equity in the limited partners that does not change management or operational control of the Project.

5.4 Requirements for Proposed Transfers. The City may, in the exercise of its sole discretion, consent to a proposed Transfer of this Agreement, the Property or portion thereof if all of the following requirements are met (provided however, the requirements of this Section 5.4 shall not apply to Transfers described in Section 5.3):

5.4.1 The proposed transferee demonstrates to the City's satisfaction that it has the qualifications, experience and financial resources necessary and adequate as may be reasonably determined by the City to competently develop the Project and to otherwise fulfill the obligations undertaken by the Borrower under this Agreement.

5.4.2 The Borrower and the proposed transferee shall submit for City review and approval all instruments and other legal documents proposed to effect any Transfer of this Agreement, the Property or interest therein together with such documentation of the proposed transferee's qualifications and development capacity as the City may reasonably request.

5.4.3 The proposed transferee shall expressly assume all of the rights and obligations of the Borrower under this Agreement and the Predevelopment Loan Documents arising after the effective date of the Transfer and all obligations of Borrower arising prior to the effective date of the Transfer (unless City expressly agrees that Borrower may remain responsible for such obligations) and shall agree to be subject to and assume all of Borrower's obligations pursuant to this Agreement and the Predevelopment Loan Documents.

5.4.4 The Transfer shall be effectuated pursuant to a written instrument satisfactory to the City in form recordable in the Official Records.

5.4.5 Consent to any proposed Transfer may be given by the City Manager unless the City Manager, in his or her discretion, refers the matter of approval to the City Council. If the City rejects a proposed Transfer, the City, as applicable, shall provide the reasons for such rejection in writing within thirty (30) days following receipt of written request by Borrower, and representatives of the City shall meet with Borrower and the proposed transferee to discuss in good faith the reasons for the rejection and Borrower's and transferee's responses thereto.

5.5 In the absence of specific written agreement by the City, no Transfer by Borrower shall be deemed to relieve the Borrower or any other party from any obligation under this Agreement or the Predevelopment Loan Documents.

5.6 Without limiting any other remedy City may have under this Agreement or the Predevelopment Loan Documents, or under law or equity, this Agreement may be terminated by City if without the prior written approval of the City, Borrower assigns or Transfers this Agreement or the Property. This Section 5.6 shall not apply to Transfers described in Section 5.3.

5.7 Borrower shall reimburse City for all costs, including but not limited to attorneys' fees, incurred in reviewing instruments and other legal documents proposed to affect a Transfer under this Agreement and in reviewing the qualifications and financial resources of a proposed successor, assignee, or transferee within ten days following City's delivery to Borrower of an invoice detailing such costs. This Section 5.7 shall not apply to Transfers described in Section 5.3.

ARTICLE 6 SECURITY FINANCING AND RIGHTS OF MORTGAGEES

6.1 Mortgages and Deeds of Trust for Development. Mortgages and deeds of trust, or any other reasonable security instrument are permitted to be placed upon the Property only for the purpose of securing loans for financing the acquisition of the Property, the design and construction of the Project and other expenditures reasonably necessary for development of the Property. Borrower shall not enter into any conveyance for such financing without the prior written approval of the City Manager or his or her designee. As used herein, the terms "mortgage" and "deed of trust" shall mean any security instrument used in financing real estate acquisition, construction and land development.

6.1.1 Subordination. City agrees that if required by construction and/or permanent lenders, the Predevelopment Deed of Trust will be subordinated to deeds of trust or other security instruments approved by the City.

6.2 Holder Not Obligated to Construct. The holder of any mortgage, deed of trust authorized by this Agreement shall not be obligated to construct or complete the Project or to guarantee such construction or completion.

6.3 Notice of Default and Right to Cure. Whenever City delivers any notice of default hereunder, City shall concurrently deliver a copy of such notice to each holder of record of any mortgage or deed of trust secured by the Property provided that City has been provided with the address for delivery of such notice. City shall have no liability to any such holder for any failure by the City to provide such notice to such holder. Each such holder shall have the right, but not the obligation, at its option, to cure or remedy any such default or breach.

6.4 City Right to Cure Defaults. In the event of a breach or default by Borrower under a mortgage or deed of trust secured by the Property, City may (but has no obligation to) cure the default, without acceleration of the subject loan, following prior notice thereof to the holder of such instrument and Borrower. In such event, Borrower shall be liable for, and City shall be entitled to reimbursement from Borrower for all costs and expenses incurred by City associated with and attributable to the curing of the default or breach and such sum shall constitute a part of the indebtedness secured by the Predevelopment Deed of Trust.

6.5 Holder to be Notified. Borrower, for itself, its successors and assigns hereby warrants and agrees that each term contained herein dealing with security financing and rights of holders shall be either inserted into the relevant deed of trust or mortgage or acknowledged by the holder prior to its creating any security right or interest in the Property.

6.6 Modifications to Agreement. City shall not unreasonably withhold its consent to modifications of this Agreement requested by Project lenders or investors provided such modifications do not alter City’s substantive rights and obligations under this Agreement.

6.7 Estoppel Certificates. Any Party shall, at any time, and from time to time, within thirty (30) days after receipt of written request from the other Party, execute and deliver to such Party a written statement certifying that, to the knowledge of the certifying Party: (i) this Agreement is in full force and effect and a binding obligation of the Parties (if such be the case), (ii) this Agreement has not been amended or modified, or if so amended, identifying the amendments, and (iii) the requesting Party is not in default in the performance of its obligations under this Agreement, or if in default, describing the nature of any such defaults.

**ARTICLE 7
ENVIRONMENTAL MATTERS**

7.1 No City Liability; Borrower’s Covenants. City shall not be responsible for the cost of any soil, groundwater or other environmental remediation or other response activities for any Hazardous Materials, if any, existing or occurring on the Property or any portion thereof, and Borrower shall be solely responsible for all actions and costs associated with any such activities required by any regulatory agency with jurisdiction over the Property and/or required for the development of the Project, the Property, or any portion thereof. Upon receipt of any notice regarding the presence, release or discharge of Hazardous Materials in, on or under the Property, or any portion thereof, Borrower (as long as Borrower owns the property which is the subject of such notice) agrees to timely initiate and diligently pursue and complete all appropriate response, remediation and removal actions for the presence, release or discharge of such Hazardous Materials within such deadlines as specified by applicable Environmental Laws. Borrower hereby covenants and agrees that:

7.1.1 Borrower shall not knowingly permit the Project or the Property or any portion of either to be a site for the use, generation, treatment, manufacture, storage, disposal or transportation of Hazardous Materials or otherwise knowingly permit the presence or release of Hazardous Materials in, on, under, about or from the Project or the Property with the exception of any previously disclosed existing conditions on the Property and cleaning supplies and other materials customarily used in construction, rehabilitation, use or maintenance of residential property and used, stored and disposed of in compliance with Hazardous Materials Laws, and

7.1.2 Borrower shall keep and maintain the Project and the Property and each portion thereof in compliance with, and shall not cause or permit the Project or the Property or any portion of either to be in violation of, any Hazardous Materials Laws.

7.2 Environmental Indemnification. Borrower shall indemnify, defend (with counsel approved by City) and hold the City and its elected and appointed officials, officers, agents and employees (collectively, “**Indemnitees**”) harmless from and against any and all liability, loss, cost, expense (including without limitation reasonable attorneys’ fees and costs of litigation), claim, demand, action, suit, judicial or administrative proceeding, penalty, deficiency, fine, order, and damage (all of the foregoing collectively “**Claims**”) including without limitation any expenses associated with the investigation, assessment, monitoring, response, removal,

treatment, abatement or remediation of Hazardous Materials and administrative, enforcement or judicial proceedings resulting, arising, or based directly or indirectly in whole or in part, upon (i) the presence, release, use, generation, discharge, storage or disposal or the alleged presence, release, discharge, storage or disposal of any Hazardous Materials on, under, in or about, or the transportation of any such Hazardous Materials to or from, the Property, or (ii) the failure of Borrower, Borrower's employees, agents, contractors, subcontractors, or any person acting on behalf of any of the foregoing to comply with Hazardous Materials Laws or the covenants set forth in Section 7.1. The foregoing indemnity shall further apply to any residual contamination in, on, under, about or emanating from the Property or affecting any natural resources, and to any contamination of any property or natural resources arising in connection with the generation, use, handling, treatment, storage, transport or disposal of any such Hazardous Materials, and irrespective of whether any of such activities were or will be undertaken in accordance with Hazardous Materials Laws. The provisions of this Section 7.2 shall survive the issuance of a Certificate of Completion for the Project and the expiration or earlier termination of this Agreement. Borrower's indemnification obligation under this Section 7.2 shall not apply to acts described in clause (i) above caused by the gross negligence or willful misconduct of an Indemnitee.

7.2.1 No Limitation. Borrower hereby acknowledges and agrees that Borrower's duties, obligations and liabilities under this Agreement, including, without limitation, under Section 7.2 above, are in no way limited or otherwise affected by any information the City may have concerning the Property and/or the presence in, on, under, about or emanating from the Property of any Hazardous Materials, whether the City obtained such information from the Borrower or from its own investigations. It is further agreed that City does not and shall not waive any rights against Borrower that they may have by reason of this indemnity and hold harmless agreement because of the acceptance by City, or the deposit with City by Borrower, of any of the insurance policies described in this Agreement.

7.3 Hazardous Materials. As used herein, the term "**Hazardous Materials**" means any substance, material or waste which is or becomes regulated by any federal, state or local governmental authority, and includes without limitation (i) petroleum or oil or gas or any direct or indirect product or by-product thereof; (ii) asbestos and any material containing asbestos; (iii) any substance, material or waste regulated by or listed (directly or by reference) as a "hazardous substance", "hazardous material", "hazardous waste", "toxic waste", "toxic pollutant", "toxic substance", "solid waste" or "pollutant or contaminant" in or pursuant to, or similarly identified as hazardous to human health or the environment in or pursuant to, the Toxic Substances Control Act [15 U.S.C. 2601, et seq.]; the Comprehensive Environmental Response, Compensation and Liability Act [42 U.S.C. Section 9601, et seq.], the Hazardous Materials Transportation Authorization Act [49 U.S.C. Section 5101, et seq.], the Resource Conservation and Recovery Act [42 U.S.C. 6901, et seq.], the Federal Water Pollution Control Act [33 U.S.C. Section 1251], the Clean Air Act [42 U.S.C. Section 7401, et seq.], the California Underground Storage of Hazardous Substances Act [California Health and Safety Code Section 25280, et seq.], the California Hazardous Substances Account Act [California Health and Safety Code Section 25300, et seq.], the California Hazardous Waste Act [California Health and Safety Code Section 25100, et seq.], the California Safe Drinking Water and Toxic Enforcement Act [California Health and Safety Code Section 25249.5, et seq.], and the Porter-Cologne Water Quality Control Act [California Water Code Section 13000, et seq.], as they now exist or are hereafter amended,

together with any regulations promulgated thereunder; (iv) any substance, material or waste which is defined as such or regulated by any “Superfund” or “Superlien” law, or any Environmental Law; or (v) any other substance, material, chemical, waste or pollutant identified as hazardous or toxic and regulated under any other federal, state or local environmental law, including without limitation, asbestos, polychlorinated biphenyls, petroleum, natural gas and synthetic fuel products and by-products.

7.4 Environmental Laws. As used herein, the term “**Environmental Laws**” means all federal, state or local statutes, ordinances, rules, regulations, orders, decrees, judgments or common law doctrines, and provisions and conditions of permits, licenses and other operating authorizations regulating, or relating to, or imposing liability or standards of conduct concerning (i) pollution or protection of the environment, including natural resources; (ii) exposure of persons, including employees and agents, to Hazardous Materials (as defined above) or other products, raw materials, chemicals or other substances; (iii) protection of the public health or welfare from the effects of by-products, wastes, emissions, discharges or releases of chemical substances from industrial or commercial activities; (iv) the manufacture, use or introduction into commerce of chemical substances, including without limitation, their manufacture, formulation, labeling, distribution, transportation, handling, storage and disposal; or (iv) the use, release or disposal of toxic or hazardous substances or Hazardous Materials or the remediation of air, surface waters, groundwaters or soil, as now or may at any later time be in effect, including but not limited to the Toxic Substances Control Act [15 U.S.C. 2601, et seq.]; the Comprehensive Environmental Response, Compensation and Liability Act [42 U.S.C. Section 9601, et seq.], the Hazardous Materials Transportation Authorization Act [49 U.S.C. Section 5101, et seq.], the Resource Conservation and Recovery Act [42 U.S.C. 6901, et seq.], the Federal Water Pollution Control Act [33 U.S.C. Section 1251], the Clean Air Act [42 U.S.C. Section 7401, et seq.], the California Underground Storage of Hazardous Substances Act [California Health and Safety Code Section 25280, et seq.], the California Hazardous Substances Account Act [California Health and Safety Code Section 25300, et seq.], the California Hazardous Waste Act [California Health and Safety Code Section 25100, et seq.], the California Safe Drinking Water and Toxic Enforcement Act [California Health and Safety Code Section 25249.5, et seq.], and the Porter-Cologne Water Quality Control Act [California Water Code Section 13000, et seq.], as each of the foregoing now exist or are hereafter amended, together with any regulations promulgated thereunder.

**ARTICLE 8
INDEMNITY AND INSURANCE.**

8.1 Indemnity. Borrower shall indemnify, defend (with counsel approved by City in its sole discretion) and hold Indemnitees harmless from and against any and all Claims, including without limitation, Claims arising directly or indirectly, in whole or in part, as a result of or in connection with Borrower’s or Borrower’s contractors, subcontractors, agents, consultants or employees development, construction, improvement, operation, ownership or maintenance of the Project or the Property, or any part thereof or otherwise arising out of or in connection with Borrower’s performance under this Agreement. Borrower’s indemnification obligations under this Section 8.1 shall not extend to Claims resulting from the gross negligence or willful misconduct of Indemnitees. The provisions of this Section 8.1 shall survive the issuance of a Certificate of Completion for the Project and the expiration or earlier termination of this

Agreement. It is further agreed that City does not and shall not waive any rights against Borrower that they may have by reason of this indemnity and hold harmless agreement because of the acceptance by City, or the deposit with City by Borrower, of any of the insurance policies described in this Agreement.

8.2 Insurance Coverage. The Borrower shall maintain or cause to be maintained the following insurance coverage throughout the Term and provide evidence satisfactory to the City of such coverage:

8.2.1 Borrower and any contractor or subcontractor who performs work on the Property shall secure worker's compensation insurance to the extent required by law, including Employer's Liability coverage, with limits not less than One Million Dollars (\$1,000,000) each accident.

8.2.2 Borrower and any contractor or subcontractor who performs work on the Property shall maintain Comprehensive General Liability insurance with limits not less than Two Million Dollars (\$2,000,000) each occurrence combined single limit for Bodily Injury and Property Damage, including coverage for Contractual Liability, Person Injury, Broad form Property Damage, Products and Completed Operations to cover any claims arising out of Borrower's performance under this Agreement. Such policy or policies shall be written on an occurrence basis and shall name the Indemnitees as additional insureds.

8.2.3 Borrower and any contractor or subcontractor who performs work on the Property shall maintain Comprehensive Automobile Liability insurance with limits not less than One Million Dollars (\$1,000,000) each occurrence combined single limit for Bodily Injury and Property Damage, including coverage for owned, non-owned and hired vehicles, as applicable. Such policy or policies shall be written on an occurrence basis and shall name the Indemnitees as additional insureds.

8.2.4 Companies writing the insurance required hereunder shall be licensed to do business in the State of California. Insurance shall be placed with insurers with a current A.M. Best's rating of no less than A-VIII.

8.2.5 Prior to disbursement of the Predevelopment Loan Proceeds, Borrower shall furnish City with certificates of insurance in form acceptable to City evidencing the required insurance coverage and duly executed endorsements evidencing such additional insured status. The certificates shall contain a statement of obligation on the part of the carrier to notify City of any material adverse change, cancellation, termination or non-renewal of the coverage at least thirty (30) days in advance of the effective date of any such material adverse change, cancellation, termination or non-renewal.

8.2.6 If any insurance policy or coverage required hereunder is canceled or reduced, Borrower shall, within fifteen (15) calendar days after receipt of notice of such cancellation or reduction in coverage, but in no event later than the effective date of cancellation or reduction, file with City a certificate showing that the required insurance has been reinstated or provided through another insurance company or companies. Upon failure to so file such certificate, City may, without further notice and at its option, procure such insurance coverage at

Borrower's expense, and Borrower shall promptly reimburse City for such expense upon receipt of billing from City

8.2.7 Coverage provided by Borrower and any contractor or subcontractor shall be primary insurance and shall not be contributing with any insurance, or self-insurance maintained by City, and the policies shall so provide. The insurance policies shall contain a waiver of subrogation for the benefit of the City. Borrower shall furnish the required certificates and endorsements to City prior to the commencement of construction of the Project and shall provide City with certified copies of the required insurance policies upon request of City.

ARTICLE 9 DEFAULT AND REMEDIES.

9.1 Borrower Default. The occurrence of one or more of the following events shall constitute a default under this Agreement, and City shall thereupon be entitled, at its option, to declare all indebtedness referred to in this Agreement immediately due and payable and City shall be entitled to all legal recourse against Borrower and to pursue and enforce, either successively or concurrently, all rights and remedies set forth in this Agreement or any collateral instrument held by City or accruing to City by law, and such other rights and remedies as a lender may have, default being:

9.1.1 Failure of Borrower to perform any of the covenants or agreements on its part contained in this Agreement or in any collateral instrument made by Borrower in favor of City with respect to the Predevelopment Loan as evidenced by this Agreement or the Predevelopment Loan Documents; or the intentional or unintentional misrepresentation of any statement or warranty made by Borrower in connection with this Agreement or the Predevelopment Loan Documents; or

9.1.2 The filing of a complaint for receivership against Borrower, or the filing of a voluntary or involuntary petition for bankruptcy or for re-organization by the Borrower (unless such complaint or petition be released, discharged or stayed within forty five (45) days of such filing); or if Borrower shall become insolvent or make a general assignment for the benefit of creditors or consent to the appointment of a receiver of all or any of its assets, or voluntarily suspends its usual business.

City shall advise Borrower in writing of any default under this Section and may deliver notices of default to Borrower personally, by certified mail or by registered mail. Borrower shall have thirty (30) days from the date of the receipt of the notice to cure such default, except in a case where a default is not susceptible to cure within thirty (30) days, and the Borrower initiates cure within the thirty (30) day period and diligently pursues the cure proceedings. In this event, Borrower shall have such additional time as is reasonably necessary to complete cure of the default, but in no event longer than one hundred fifty (150) days.

9.2 Default by City.

9.2.1 The failure of City to perform any of its obligations under this Agreement or the Predevelopment Loan Documents shall entitle Borrower to pursue an action for specific

performance only. Borrower shall have no other remedy or recourse at law or in equity and hereby waives any and all claims and legal recourse against the City for damages of any nature and description.

9.2.2 Borrower shall advise the City in writing of any default under this Section and the Borrower may deliver notices of default to the City personally or by certified or registered mail. The City shall have thirty (30) days from the date of receipt of the notice to cure the default, except in a case where a default is not susceptible to cure within thirty (30) days, and the City initiates cure within the thirty (30) day period and diligently pursues the cure proceedings. In this event, the City shall have such additional time as Borrower determines is reasonably necessary to complete cure of the default.

ARTICLE 10 MISCELLANEOUS PROVISIONS

10.1 Conformity with Law and Safety. Borrower shall carry out and shall cause its consultants and contractors to carry out its obligations under this Agreement and the construction of the Project in conformity with all applicable federal, state and local laws, rules, ordinances and regulations, including without limitation, all applicable federal and state labor laws and standards, including Prevailing Wage Laws and Environmental Laws, applicable provisions of the California Public Contracts Code, the City zoning and development standards, building, plumbing, mechanical and electrical codes, all other provisions of the City's Municipal Code, and all applicable disabled and handicapped access requirements, including without limitation, the Americans with Disabilities Act, 42 U.S.C. Section 12101, *et seq.*, Government Code Section 4450, *et seq.*, Government Code Section 11135, *et seq.*, and the Unruh Civil Rights Act, Civil Code Section 51, *et seq.* (collectively, the “**Applicable Laws**”). Borrower agrees to defend, indemnify and hold the Indemnitees harmless from any and all Claims arising out of any non-compliance with, or violations of, such Applicable Laws by Borrower.

10.2 Prevailing Wage Requirements. If required by applicable federal or state law, Borrower and its contractors, subcontractors and agents shall comply with California Labor Code Section 1720 *et seq.* and the regulations adopted pursuant thereto (and if required by applicable federal law, the Davis Bacon Act and implementing regulations) (all of the foregoing, “**Prevailing Wage Laws**”), and shall be responsible for carrying out the requirements of such provisions to the extent applicable. If applicable, Borrower shall submit to City a plan for monitoring payment of prevailing wages and at Borrower’s expense shall implement such plan and comply with all applicable reporting and recordkeeping requirements.

10.3 Indemnity. To the greatest extent allowed by law, Borrower shall indemnify, defend (with counsel approved by City in its sole discretion) and hold the Indemnitees harmless from and against all Claims which directly or indirectly, in whole or in part, are caused by, arise in connection with, result from, relate to, or are alleged to be caused by, arise in connection with, or relate to, the payment or requirement of payment of prevailing wages (including without limitation, all claims that may be made by contractors, subcontractors or other third party claimants pursuant to Labor Code Sections 1726 and 1781) or the requirement of competitive bidding in connection with the Project, the failure to comply with any applicable state or federal labor laws, regulations or standards in connection with this Agreement, including but not limited

to the Prevailing Wage Laws, or any act or omission of Borrower related to this Agreement with respect to the payment or requirement of payment of prevailing wages or the requirement of competitive bidding, whether or not any insurance policies shall have been determined to be applicable to any such Claims. The provisions of this Section shall survive the expiration or earlier termination of this Agreement. The Borrower’s indemnification obligations set forth in this Section shall not apply to Claims to the extent arising from the gross negligence or willful misconduct of the Indemnitees.

10.4 Notices. Except as otherwise specified in this Agreement, all notices to be sent pursuant to this Agreement shall be made in writing and sent to the Parties at their respective addresses specified below or to such other address as a Party may designate by written notice delivered to the other Parties in accordance with this Section. All such notices shall be sent by: (i) personal delivery, in which case notice is effective upon delivery; (ii) certified or registered mail, return receipt requested, in which case notice shall be deemed delivered on receipt if delivery is confirmed by a return receipt; or (iii) nationally recognized overnight courier, with charges prepaid or charged to the sender’s account, in which case notice is effective on delivery if delivery is confirmed by the delivery service.

CITY: City of Capitola
420 Capitola Avenue
Capitola, CA 95010
Attn: Jamie Goldstein, City Manager

With a copy to: Burke, Williams & Sorensen, LLP
1 California Street, Suite 3050
San Francisco, CA 94111-5432
Attn: Samantha W. Zutler

BORROWER: **MP Rail Trail Associates, L.P.**
c/o MidPen Housing Corporation
303 Vintage Park Drive, Suite 250
Foster City, CA 94404
Attn: Director of Real Estate Development

With a copy to: []

10.5 Waivers; Modification. No waiver of any breach of any covenant or provision of this Agreement shall be deemed a waiver of any other covenant or provision hereof, and no waiver shall be valid unless in writing and executed by the waiving Party. An extension of time for performance of any obligation or act shall not be deemed an extension of the time for performance of any other obligation or act, and no extension shall be valid unless in writing and executed by the Party granting the extension. This Agreement may be amended or modified only by a written instrument executed by the Parties.

10.6 Survival. All representations made by Borrower hereunder and Borrower's obligations specifically identified to survive shall survive the expiration or termination of this Agreement.

10.7 Headings; Interpretation; Statutory References. The section headings and captions used herein are solely for convenience and shall not be used to interpret this Agreement. The Parties acknowledge that this Agreement is the product of negotiation and compromise on the part of both Parties, and the Parties agree, that since both Parties have participated in the negotiation and drafting of this Agreement, this Agreement shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

10.8 Action or Approval. Whenever action and/or approval by City is required under this Agreement, the City's Authorized Representative or his or her designee may act on and/or approve such matter unless specifically provided otherwise, or unless the City's Authorized Representative determines in his or her discretion that such action or approval requires referral to City Council for consideration.

10.9 Entire Agreement. This Agreement, including Exhibits A through D attached hereto and incorporated herein by this reference, together with the Predevelopment Note contains the entire agreement between the Parties with respect to the subject matter hereof, and supersedes all prior written or oral agreements, understandings, representations or statements between the Parties with respect to the subject matter hereof. If the Exhibits to this Agreement are inconsistent with this Agreement, the more restrictive requirements shall control, as determined by the City Manager. In the event of a conflict between this Agreement and the Predevelopment Note, the more restrictive requirements shall control, as determined by the City Manager.

10.10 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which taken together shall constitute one instrument. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto having additional signature pages executed by the other Party. Any executed counterpart of this Agreement may be delivered to the other Party by facsimile and shall be deemed as binding as if an originally signed counterpart was delivered.

10.11 Severability. If any term, provision, or condition of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall continue in full force and effect unless an essential purpose of this Agreement is defeated by such invalidity or unenforceability.

10.12 No Third Party Beneficiaries. Except as expressly set forth herein, nothing contained in this Agreement is intended to or shall be deemed to confer upon any person, other than the Parties and their respective successors and assigns, any rights or remedies hereunder.

10.13 Time of the Essence; Calculation of Time Periods. Time is of the essence for each condition, term, obligation and provision of this Agreement. Unless otherwise specified, in

computing any period of time described in this Agreement, the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is not a business day, in which event the period shall run until the next business day. The final day of any such period shall be deemed to end at 5:00 p.m., local time at the Property. For purposes of this Agreement, a “business day” means a day that is not a Saturday, Sunday, a federal holiday or a state holiday under the laws of the State of California.

10.14 No Partnership or Joint Venture. The relationship between the City and Borrower created by this Predevelopment Loan Agreement shall not be one of partnership or joint venture, but rather shall be one of lender and borrower.

10.15 Usury. If a court of competent jurisdiction determines, by way of final, unappealable order or judgment, that the interest rate charged under the Note is usurious, then such rate shall automatically and retroactively be reduced to the maximum rate allowed under applicable law.

10.16 Conflict of Interest Prohibited. Neither Borrower nor an employee, officer, director, partner or member of Borrower, or immediate family member of any preceding, shall have served as an elected officer, an employee, or a City or City board, committee or commission member, who has directly or indirectly influenced the making of this Agreement.

In accordance with Government Code Section 1090 and the Political Reform Act, Government Code section 87100 et seq., no person who is a director, officer, partner, trustee or employee or consultant of the Borrower, or immediate family member of any of the preceding, shall make or participate in a decision, made by the City, the City or a City or City board, commission or committee, if it is reasonably foreseeable that the decision will have a material effect on any source of income, investment or interest in real property of that person or Borrower.

Interpretation of this section shall be governed by the definitions and provisions used in the Political Reform Act, Government Code section 87100 et seq., its implementing regulations manual and codes.

10.17 Audit. The City may conduct an audit of Borrower's financial, performance and compliance records maintained in connection with Borrower's obligations under this Agreement and the Note. In the event of such audit, Borrower's employees shall make all such financial, performance and compliance records available to the City. City agrees to provide Borrower an opportunity to discuss and respond to any findings before a final audit report is filed.

10.18 Non-Discrimination. Borrower hereby agrees to take steps to ensure that the Borrower, as well as any person who contracts with the Borrower, shall not, on the basis of race, color, religion, ancestry, national origin, age, sex, pregnancy, marital status, disability, sexual orientation, or AIDS be excluded from participation in the development, leasing and/or sale of the Property or the Project.

10.19 Governing Law; Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California without regard to principles of conflicts of

laws. Any action to enforce or interpret this Agreement shall be filed and heard in the Superior Court of Santa Cruz County, California.

10.20 Exhibits. The following Exhibits are attached to this Agreement and incorporated by this reference:

- A Legal Description of the City Property
- B Approved Predevelopment Costs
- C Form of Predevelopment Promissory Note
- D Form of Predevelopment Deed of Trust – Short Form

SIGNATURES ON FOLLOWING PAGE(S).

IN WITNESS WHEREOF, the Parties have entered into this Agreement effective as of the date first written above.

CITY:

**CITY OF CAPITOLA,
a California municipal corporation**

By: _____
Jamie Goldstein, City Manager

ATTEST:

_____, City Clerk

APPROVED AS TO FORM:

BURKE, WILLIAMS, & SORENSON, LLP

Samantha Zutler, City Attorney

BORROWER:

MP Rail Trail Associates, L.P.
a California limited partnership

By: MP Rail Trail LLC,
a California limited liability company,
its general partner

By: Mid-Peninsula San Carlos Corporation,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____
Matthew O. Franklin, President/CEO

Exhibit A

LEGAL DESCRIPTION OF THE PROPERTY

The land referred to is situated at 1098 38th Avenue, in the City of Capitola, County of Santa Cruz, State of California, and legally described as follows:

Exhibit B

APPROVED PREDEVELOPMENT COSTS

Architectural Design Services	\$200,000.00
Civil Engineering, Design & Surveying	\$ 30,200.00
Geotechnical Investigation & Analysis	\$ 19,800.00

Exhibit C

FORM OF PREDEVELOPMENT PROMISSORY NOTE

\$250,000.00

Capitola, California
_____, 2023

FOR VALUE RECEIVED, MP Rail Trail Associates, L.P., a California limited partnership (“**Borrower**”) hereby promises to pay to the order of the City of Capitola, a California municipal corporation (the “**City**”), Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00) (or so much as has been advanced), plus interest thereon as set forth below.

1. Borrower's Obligation. This promissory note (the “**Predevelopment Note**”) evidences Borrower's obligation to pay City the principal sum of Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00) (“**Predevelopment Loan**”) plus interest thereon for the funds loaned to Borrower by City to finance certain predevelopment costs associated with the development of the Project pursuant to the Predevelopment Loan Agreement (the “**Agreement**”) between Borrower and City of approximately even date herewith. All capitalized terms not otherwise defined in this Predevelopment Note shall have the meanings set forth in the Agreement.

2. Interest. The Predevelopment Loan shall bear simple interest at the rate of three percent (3%) simple interest per annum from the date of initial disbursement.

3. Term and Repayment Requirements. The term of this Predevelopment Note (the “**Term**”), shall commence as of the Effective Date of the Agreement and shall expire in accordance with Section 1.3.1 of the Agreement. This Predevelopment Note may be prepaid in whole or in part at any time, and from time to time, without notice or penalty. This Predevelopment Note shall be due and payable as set forth in Section 1.3.2 and Section 3.1 of the Agreement.

4. No Assumption. This Predevelopment Note shall not be assumable by the successors and assigns of Borrower without the prior written consent of City.

5. Terms of Payment.

(a) All payments due under this Predevelopment Note shall be paid in currency of the United States of America, which at the time of payment is lawful for the payment of public and private debts.

(b) All payments on this Predevelopment Note shall be paid to City at: City of Capitola, 420 Capitola Avenue, Capitola, CA 95010, attention: Finance Department or to such other person or place as City may from time to time designate.

(c) All payments on this Predevelopment Note shall be without expense to City, and Borrower agrees to pay all costs and expenses, including re-conveyance fees and reasonable attorney's fees of City, incurred in connection with the payment of this Predevelopment Note and the release of any security hereof.

(d) Notwithstanding any other provision of this Predevelopment Note, or any instrument securing the obligations of Borrower under this Predevelopment Note, if, for any reason whatsoever, the payment of any sums by Borrower pursuant to the terms of this Predevelopment Note would result in the payment of interest which would exceed the amount that City may legally charge under the laws of the State of California, then the amount by which payments exceeds the lawful interest rate shall automatically be deducted from the principal balance owing on this Predevelopment Note, so that in no event shall Borrower be obligated under the terms of this Predevelopment Note to pay any interest which would exceed the lawful rate.

(e) This Predevelopment Note shall be nonrecourse against Borrower, as further set forth in Section 3.3 of the Agreement.

6. Default.

(a) Any of the following shall constitute an event of default under this Predevelopment Note:

(i) Any failure to pay, in full, any payment required under this Predevelopment Note within ten (10) calendar days of written notice that such payment is due;

(ii) Any failure in the performance by Borrower of any term, condition, provision or covenant set forth in this Predevelopment Note subject to the notice and cure period set forth in the Agreement;

(iii) The occurrence of any event of default under the Agreement or any other instrument securing the obligations of Borrower under this Predevelopment Note or under any other promissory notes hereafter issued by Borrower to City pursuant to the Agreement, subject to notice and cure periods, if any, set forth therein.

(b) Upon the occurrence of such an event of default, the entire unpaid principal balance, together with all interest thereon, and together with all other sums then payable under this Predevelopment Note shall at the option of City become immediately due and payable upon written notice by City to Borrower without further demand.

(c) The failure to exercise the remedy set forth in Subsection 6(b) above or any other remedy provided by law upon the occurrence of one or more of the foregoing events of default shall not constitute a waiver of the right to exercise any remedy at any subsequent time in respect to the same or any other default. The acceptance by City

hereof of any payment which is less than the total of all amounts due and payable at the time of such payment shall not constitute a waiver of the right to exercise any of the foregoing remedies or options at that time or at any subsequent time or nullify any prior exercise of any such remedy or option, without the express consent of City, except as and to the extent otherwise provided by law.

7. Waivers.

(a) Borrower hereby waives diligence, presentment, protest, and demand, and notice of protest, notice of demand, notice of dishonor and notice of non-payment of this Predevelopment Note. Borrower expressly agrees that this Predevelopment Note or any payment hereunder may be extended from time to time, and that City may accept further security or release any security for this Predevelopment Note, all without in any way affecting the liability of Borrower.

(b) No extension of time for payment of this Predevelopment Note or any installment hereof made by agreement by City with any person now or hereafter liable for payment of this note shall operate to release, discharge, modify, change or affect the original liability of Borrower under this Predevelopment Note, either in whole or in part.

(c) The obligations of Borrower under this Predevelopment Note shall be absolute and Borrower waives any and all rights to offset, deduct or withhold any payments or charges due under this Predevelopment Note for any reason whatsoever.

8. Miscellaneous Provisions.

(a) All notices to City or Borrower shall be given in the manner and at the addresses set forth in the Agreement, or to such addresses as City and Borrower may hereinafter designate.

(b) Borrower promises to pay all costs and expenses, including reasonable attorney's fees, incurred by City in the enforcement of the provision of this Predevelopment Note, regardless of whether suit is filed to seek enforcement.

(c) This Predevelopment Note may not be changed orally, but only by an agreement in writing signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

(d) This Predevelopment Note shall be governed by and construed in accordance with the laws of the State of California.

(e) The times for the performance of any obligations hereunder shall be strictly construed, time being of the essence.

SIGNATURES ON FOLLOWING PAGE(S).

This document, together with the Agreement and Predevelopment Deed of Trust, contains the entire agreement between the Parties as to the Predevelopment Loan. It may not be modified except upon written consent of the Parties.

BORROWER:

MP Rail Trail Associates, L.P.
a California limited partnership

By: MP Rail Trail LLC,
a California limited liability company,
its general partner

By: Mid-Peninsula San Carlos Corporation,
a California nonprofit public benefit corporation,
its sole member/manager

By: _____
Matthew O. Franklin, President/CEO

Exhibit D

FORM OF PREDEVELOPMENT DEED OF TRUST – SHORT FORM

[see attached]

Capitola City Council

Agenda Report



Meeting: November 9, 2023
From: City Manager Department
Subject: Resolution Against Banning Materials

Recommended Action: Adopt a resolution against banning books and materials in the Santa Cruz Public Library system. **(Continued from October 26, 2023)**

Background: The Santa Cruz Public Libraries (SCPL) system delivers information, education, and enrichment through a network of ten neighborhood libraries. In addition, SCPL maintains a web-based digital library, a Bookmobile, and community-based programming. Residents can explore a wide range of interests from academic research, book clubs and literacy programs to digital photography, locally produced music, and local history.

The City of Capitola is home to a Santa Cruz County Public Library, located at 2005 Wharf Road. The library has been open since 2021. Other branch locations include Aptos, Boulder Creek, Branciforte, Downtown Santa Cruz, Felton, Garfield Park, La Selva Beach, Live Oak and Scotts Valley.

On October 12, 2023, City Council Member Brown requested that staff bring forward a resolution against the banning of books and materials at the Santa Cruz Public Libraries system.

Discussion: The City of Capitola supports the Santa Cruz Public Libraries' values of relevance, inclusiveness, community engagement, responsive service, and safe environment. According to the American Library Association (ALA), there were 32 attempts in California to restrict access to books in 2022. The City of Capitola supports the SCPL's commitment to provide open access and information, as well as allowing free inquiry, and opposes banning books and materials.

Fiscal Impact: There is no fiscal impact associated with the proposed resolution.

Attachments:

1. Resolution

Report Prepared By: Julia Gautho, City Clerk

Approved By: Jamie Goldstein, City Manager

RESOLUTION NO. XXXX**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA
AGAINST BANNING BOOKS AND MATERIALS IN THE SANTA CRUZ PUBLIC LIBRARIES
SYSTEM**

WHEREAS, the role of libraries is to provide works and information reflective of diverse perspectives and lived experiences; and

WHEREAS, the Santa Cruz Public Library's Strategic Plan for 2022-2025 has a goal to "create an organizational culture of equity and inclusion and provide equitable and relevant services to all;" and

WHEREAS, we appreciate our library staff who are often on the front lines of the fight for the freedom to read; and

WHEREAS, according to the American Library Association (ALA), there were 1,269 attempts to censor materials in public libraries in 2022, nearly double the previous year; and

WHEREAS, according to the ALA, there were 32 attempts in California to restrict access to books in 2022, covering 87 titles, with the most challenged titles being Gender Queer: A Memoir and Beyond Magenta: Transgender Teens Speak Out; and

WHEREAS, according to the Office for Intellectual Freedom at the ALA, six of the top seven titles requested to be banned nationwide in 2022 featured LGBTQ+ content (the seventh was Toni Morrison's The Bluest Eye); and

WHEREAS, book banning is incompatible with a healthy democracy;

WHEREAS, governing bodies in Missouri, Virginia, Arkansas, Texas, Florida, and others have endorsed banning books and have defunded public libraries or threatened to cut funding for public libraries who do not comply.

NOW, THEREFORE, MAY IT BE RESOLVED, that the City of Capitola supports the Library Advisory Commission's commitment to open access and information as well as allowing free inquiry throughout the Santa Cruz Public Library system, and opposes banning books and materials.

MAY IT BE FURTHER RESOLVED, that the City Council of the City of Capitola affirms that library funding will not be affected by choices in material selection.

I HEREBY CERTIFY that the foregoing Resolution was passed and adopted by the City Council of the City of Capitola on the XX day of XX, 2023, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Margaux Keiser, Mayor

ATTEST:

Julia Gautho, City Clerk



RESOLUTION AGAINST BOOK/MATERIAL BAN

October 26, 2023



Background

- ❑ 10/11/2023: City Council received a request from the Library Advisory Commission (LAC) to adopt resolution against banned materials in the Santa Cruz Public Library System
- ❑ 10/12/2023: Vice Mayor Brown requested staff bring the item for City Council consideration
- ❑ 10/26/2023: Council Member Clarke pulled the item for discussion, following public comment



Recommended Action

- Adopt a resolution against banning books and materials in the Santa Cruz Public Library system.

Capitola City Council

Agenda Report

Meeting: November 9, 2023
From: Police Department
Subject: 2023 Special Event Report



Recommended Action: Receive report on 2023 special events; provide direction regarding changes to specific special event permit conditions; and approve recurring minor and general special events for 2024.

Background: In February 2002, the City Council approved Resolution No. 3202, adopting a special event permit program and fee schedule. The purpose of the program was to provide regulations and guidelines for special events occurring within the City limits and to recover costs associated with those events.

Special events are divided into two categories: general special events and minor special events. General special events are those with more than 200 attendees or notable impacts on City services or a neighborhood. Minor special events are activities with fewer than 200 people and limited impacts. Minor special events can be approved by the City Manager, while all applications for new general special events must be presented to the City Council for review and consideration.

If there are no significant modifications and there are no major problems with the event, recurring special events may be approved by the City Manager for the upcoming calendar year. The City Council has the discretion to request a review of a recurring special event if there is an identifiable concern related to past events.

The purpose of this report and presentation is to review the 2023 special events, identify any issues, and determine if any additional review should be required for any recurring events in 2024. If no issues are identified for an event, and the event organizer proposes no significant changes, staff will issue permits for those recurring special events in 2024.

Discussion: This year's special events returned to pre-pandemic levels. In 2020, staff issued 12 general special event permits, 27 minor special event permits, and five Art and Cultural Commission event permits. Below are the planned reoccurring events for 2024.

Planned 2024 General Special Events

- Surfer's Path 10K/5K
- Surfer's Path Half Marathon
- Capitola Custom Classic Car Show
- Twilight Concerts (12)
- Wharf to Wharf Race
- Movies at the Beach (3)
- Capitola Art & Wine Festival
- Capitola Beach Festival
- Mermaid Triathlon/Duathlon
- Monte Fireworks Extravaganza
- Wahine 10K/6K
- Women on Waves Surf Contes

Planned 2024 Minor Special Events

- Village Sip & Stroll #1
- Operation Surf
- Good Friday Paddle Out
- Village Easter Egg Hunt
- AIDS/Lifecycle Bicycle Ride
- Food Truck Fridays at Monterey Park (4)
- Sunday Art at the Beach (3)
- California Coast Classic

- Village Sip & Stroll #2
- Skate-tola
- Walk for Angelman's Syndrome
- Fill the Boot for MDA
- Veteran Surf Alliance Paddle Out
- First Responder Surf Contest
- Halloween Parade
- Village Sip & Stroll #3
- Surfing Santa

Future Special Events: Staff from Planning, Police, Public Works, and Recreation have been working with the City Attorney's office to review the current Capitola Municipal Code and policies regarding special events. Staff intends to present a comprehensive update to the City Council for consideration by the end of the year. The goal of this comprehensive update is to:

- Review and revise the Municipal Code (noise ordinance, objective standards for special events, regulations for use of City public spaces);
- Streamline the approval process for special event permits;
- Redefine thresholds for special events (general vs. minor);
- Review cost sharing and fees for staff time (overtime costs, lifeguard costs).

Fiscal Impact: Each special event requires additional work from City staff. In addition to the overtime hours listed below, each event requires scheduling changes, additional trash pickup, and cleaning services.

- Art & Wine – 151.5 overtime hours from Police Department staff
- Capitola Beach Festival- 51.5 overtime hours from Police Department staff
- Capitola Custom Classic Car Show- 22 overtime hours from Police Department staff
- Surfers Path – 17 overtime hours from Police Department staff
- Wharf to Wharf- 79 overtime hours from Police Department staff

The total amount of overtime staff costs reimbursed to the City was approximately \$39,544.

Report Prepared By: Sarah Ryan, Police Captain

Reviewed By: Julia Gautho, City Clerk; Andy Dally, Police Chief; Jim Malberg, Finance Director

Approved By: Jamie Goldstein, City Manager

Art and Wine Festival OT Hours

Item 7 B.

Officer	PEO OT	CSO OT	Officer OT	Sergeant OT	Grand Total for 2023 Art & Wine Festival
	12.5	12	2	1	
	2	2	2	12	
	2.5	13	12.5	3	
	12		2		
	2.5		9.5		
			2		
			2		
			12		
			2		
			12		
			4		
			12		
			2		
			1		
0	31.5	27	77	16	151.5

Capitola Custom Classic Car Show OT Hours

Item 7 B.

Officer	PEO OT	CSO OT	Officer OT	Sergeant OT	Grand Total for 2023
6	2.5	1.5	2.5		
7	2.5				
13	5	1.5	2.5	0	22

Surfer's Path OT Hours

Item 7 B.

Officer	PEO OT	CSO OT	Officer OT	Sergeant OT	Grand Total for 2023
4	4			5	
4					
8	4	0	0	5	17

Wharf to Wharf OT Hours

Item 7 B.

Officer	PEO OT	CSO	Officer OT	Sergeant OT	Grand Total for 2023 Wharf to Wharf
7	6.5	7	7	1.5	
7			7	2	
			6	7	
			1		
			7		
			5		
			1		
			7		
14	6.5	7	41	10.5	79

Capitola Beach Festival OT Hours

Item 7 B.

Officer	PEO OT	CSO OT	Officer OT	Sergeant OT	Grand Total for 2023 Capitola Beach Festival
5.5			2	6	
			6		
			2		
			6		
			6		
			6		
			6		
			6		
			6		
			6		
5.5	0	0	40	6	51.5

Parking Costs -

Saturday and Sunday:

101, 201, 202, 203, 204, 205, 206 = 7 Spaces x \$18 Per Day = \$126 x 2 Days = **\$252**

Saturday Only:

102, 148, 149 = 3 Spaces x \$18 Per Day = **\$54**

Sunday Only:

128, 129 = 2 Spaces x \$18 Per Day = **\$36**



Sarah Ryan, Police
Captain

2023 SPECIAL EVENT PERMITS

Purpose

- Receive Report on 2023 Special Events
- Provide direction regarding changes to specific recurring special events, permits
- Determine need for additional review of planned recurring 2024 special events



Special Event Background

- Police Department issues SE permits
 1. General SE Permits - > 200 attendees and impacts to city services
 2. Minor SE Permits - < 200 attendees and minimal impacts to city services
 3. Art & Cultural Commission/City Events

2023 Staff Issued 10 General SE Permits, 26 Minor SE Permits, and 5 Permits to the Art & Cultural Commission



10 General Special Events

- Beyond the Flood Benefits Concert
- February Surfer's Path 10k/5k
- Capitola Art & Wine Festival
- May Surfer's Path Half Marathon
- Capitola Beach Festival
- Capitola Custom Classic Car Show
- Women on Waves
- Wharf to Wharf
- October Surfer's Path Wahine 10k/6k
- Oktoberfest



26 Minor Special Events

- Village Sip and Stroll (3 total)
- California Coast Classic Ride
- Operation Surf
- Veteran Surf Alliance Paddle Out
- Fill the Boot for Muscular Dystrophy
- Halloween Parade
- Skate-Tola
- Surfing Santa
- Walk for Angelman's Syndrome
- Food Truck Fridays Event at Monterey Park
- First Responder's Surf Contest
- AIDS/Lifecycle Bicycle Ride



Six City-Organized Special Events

- Sunday Art/Music at the Beach
- Wednesday Night Twilight Concerts
- Friday Night Movies at the Beach
- Ukrainian Cultural Event (Art at the Beach)
- Beyond the Flood benefit concert
- Jojo's Birthday Celebration



2023 Recap

- Joint Command with Central FD- Incident Command System
- Capitola Lifeguard Program
- Staff billed organizers 321 police hours, 66 public works hours.
- Staff committee project: update and improve processes and guidelines



Future Special Event Process

- Review and revise Municipal Codes
- Streamline approval process
- Redefine thresholds for special events (general vs minor)
- Review cost sharing and fees for staff time (overtime costs, lifeguard costs)



Recommendation

- Provide direction regarding changes to specific recurring special event permit conditions, and
 - Determine if any additional review should be required for any planned recurring 2024 special events
-

Capitola City Council

Agenda Report



Meeting: November 9, 2023

From: Recreation Division

Subject: Capitola Lifeguard Season Overview

Recommended Action: Receive a report on Capitola Lifeguard service season statistics and approve the proposed operation schedule for future summer and fall seasons.

Background: On July 28, 2022, the City Council approved changes to the Recreation Coordinator job description to include the development and supervision of the Capitola Lifeguard Service. The Recreation Coordinator: Beach Lifeguard Services assisted in developing and supervising the Capitola Lifeguard Service's first season of operations, which concluded in October.

Previously, the City held an agreement with the City of Santa Cruz Fire Department (Santa Cruz) for lifeguard services, which ended in September 2022. The contract with Santa Cruz provided for lifeguard services from Memorial Day Weekend to Labor Day Weekend, after which Santa Cruz would reduce their seasonal staff pool and shift services based on conditions and demand. This 2023 season the City provided lifeguard services during that same time period, plus weekend-only services from the weekend after Labor Day until October 15, which the City Council approved in the Fiscal Year 2023-24 budget.

In September 2023, staff applied to become a Certified Open Water Lifeguard Agency through the United States Lifesaving Association (USLA). USLA is a national organization that certifies lifeguard agencies and ensures that their training program meets or exceeds professional standards. The application has been reviewed and approved at the regional level under the California Surf Lifesaving Association (CSLSA) and will progress to USLA for final approval in November 2023.

Discussion: The City has a responsibility, as a USLA Certified Agency, to provide annual statistics that contribute to USLA national data collection. The City uses a web-based software, Watchtower, to record incidents and identify data trends based on activity on the beach. Below is a summary of data collected from beach activity from Summer and Fall 2023:

- Top two public events that created the most contacts/enforcement actions by lifeguards: July 4th and Art & Wine Festival
- Beach attendance (contacts/enforcement actions) dropped after August 19th (schools returned)
- Following August 19th, majority of activity shifted to weekends, with the exception of Labor Day weekend

Staff is in the process of preparing an update to the City's Special Event Permit process for City Council review. This work has led to questions about when to bill for lifeguard services in response to events that involve activities in, or adjacent to, the ocean, and other events that draw large crowds to Capitola Beach.

Special events regularly require increased staffing levels or workloads. Examples include increased Police Department staffing, parking and/or road closures, and additional garbage pickup. Currently, event producers are billed for staff time related to the extra services necessary for their event. Dense crowds and alcohol are significant risk factors for beach safety, and staff recommends that costs for increased lifeguard services should be expensed to event producers.

Lifeguard operation staff consists of an on-duty Lifeguard Lieutenant (LT) and the appropriate number of Lifeguards (LG) for operations (two per tower). In circumstances where the towers are not able to be used, this is still the appropriate staffing during the busy season or events. The minimum staffing level is one LT and two LGs on Tower 1. The addition of Tower 2 provides faster response time and is needed when the beach is crowded and when the visual workload of scanning demands particular attention. When crowd size, conditions, or an emergency response requires additional lifeguard staffing, beyond the minimum staffing levels, it is referred to as a “callback”. During events, any callbacks due to an emergency would not be billed to the event producer.

Based on the data obtained during Summer 2023 and the pending new Special Event Permit process, staff has recommended operation schedules for future summer and fall lifeguard services.

Summer Season

Staff Recommendation: Operate both towers from Memorial Day weekend to Labor Day weekend, seven days a week. During the last half of August, staff will monitor conditions and crowds at the beach and reduce staffing to Tower 1 if necessary.

Alternative: Operate from Memorial Day weekend to mid-August, seven days a week. After mid-August, when school has returned, beach lifeguards would be provided on weekends (Saturday & Sunday) until mid-October. This option would reduce the number of days lifeguards are working by 14 days.

Fall Season

Staff Recommendation: Operate Tower 1 on weekends for beach public safety from the end of the summer season (Labor Day weekend) to mid-October. Events that operate during this season would be billed for staffing of Tower 2 and any callbacks necessary to support the large crowd and/or if the event includes activities in the ocean (e.g. swim races, paddling events, etc.).


Alternative: Operate Tower 1 and Tower 2 on weekends for beach public safety from the end of the summer season to mid-October. Events that operate during this season would be billed for callbacks necessary to support the large crowd, or if the event requires City lifeguard staff specifically dedicated to the event.

Fiscal Impact: The direct daily cost of Tower 1 operation (1 LT & 2 LG) is \$557 per 8-hour day. The addition of Tower 2 (2 LG) is \$353 for a direct cost total of \$910/day to operate the two towers. For billing purposes, the City overhead is an additional 30%. Callbacks due to excessive crowds could be billed and could include up to 4 additional lifeguards.

Report Prepared By: Nikki Bryant LeBlond; Recreation Division Manager

Reviewed By: Julia Gautho, City Clerk

Approved By: Jamie Goldstein, City Manager



Capitola Lifeguard Service season statistics and operation schedule

BACKGROUND

- Staff from Planning, Police, Public Works and Recreation have been reviewing the code and polices regarding special events.
- Staff intends to present an update to Council by the end of the year.
 - Review and Revise Municipal Code
 - Streamline approval process for Special Event Permits
 - Redefine Thresholds for Special Events
 - Review cost sharing and fee for staff time



BACKGROUND

- Capitola Lifeguard Service's first season concluded in October.
- Season began May 26- Memorial Day Weekend
 - Seven days a week
 - Ended after Labor Day Monday
- After Labor Day Weekend, service provided on weekends until October 15
 - Events and Weekend visitors



BACKGROUND

- Staff applied to United States Lifesaving Association (USLA) in September
 - Certified Open Water Lifeguard Agency
- On November 4th, the City was approved as a USLA Certified Lifeguard Agency.
 - November 2026



What does Lifeguard Service accomplish?

- Community Outreach
 - Educate
 - Guide
 - Represent the City of Capitola
- Emergency Response
 - Anticipate
 - Prevent
 - Respond



Higher Risk Populations of Drowning

Youth

Males

Race and
Ethnicity

Epilepsy





Activities Associated with Drowning



Swimming



Boating

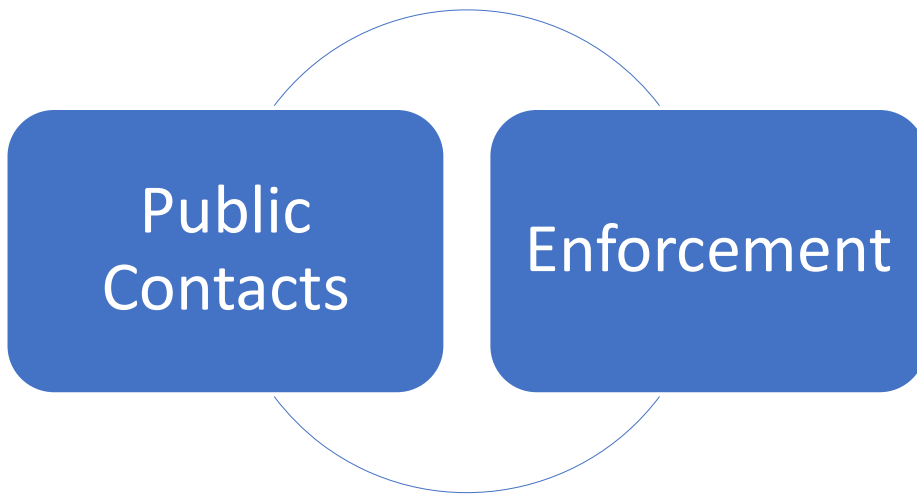


Diving



Alcohol
Consumption

Prevention Action



Public Safety Contact

- Educate Beachgoers
 - Beach and Water Hazards
 - Unsafe Activities
 - Water Conditions
 - General Information



ENFORCEMENT

- Lifeguard role in enforcement
 1. Educate beachgoers
 2. Inform the public on City Municode
 3. Update PD on beach activity that requires their service



Resources 🔍

5. Mobile Units

EMT Truck 071

6. LG1

JG Instructor Rover




7. Command Staff

Captain Howard Lieutenant

8. External Agencies

AMR Central Fire Dept Coast Guard Harbor Patrol Police

Santa Cruz City Lifeguards State Parks Lifeguards



Digital Command Center

Legal Documentation

Statistics

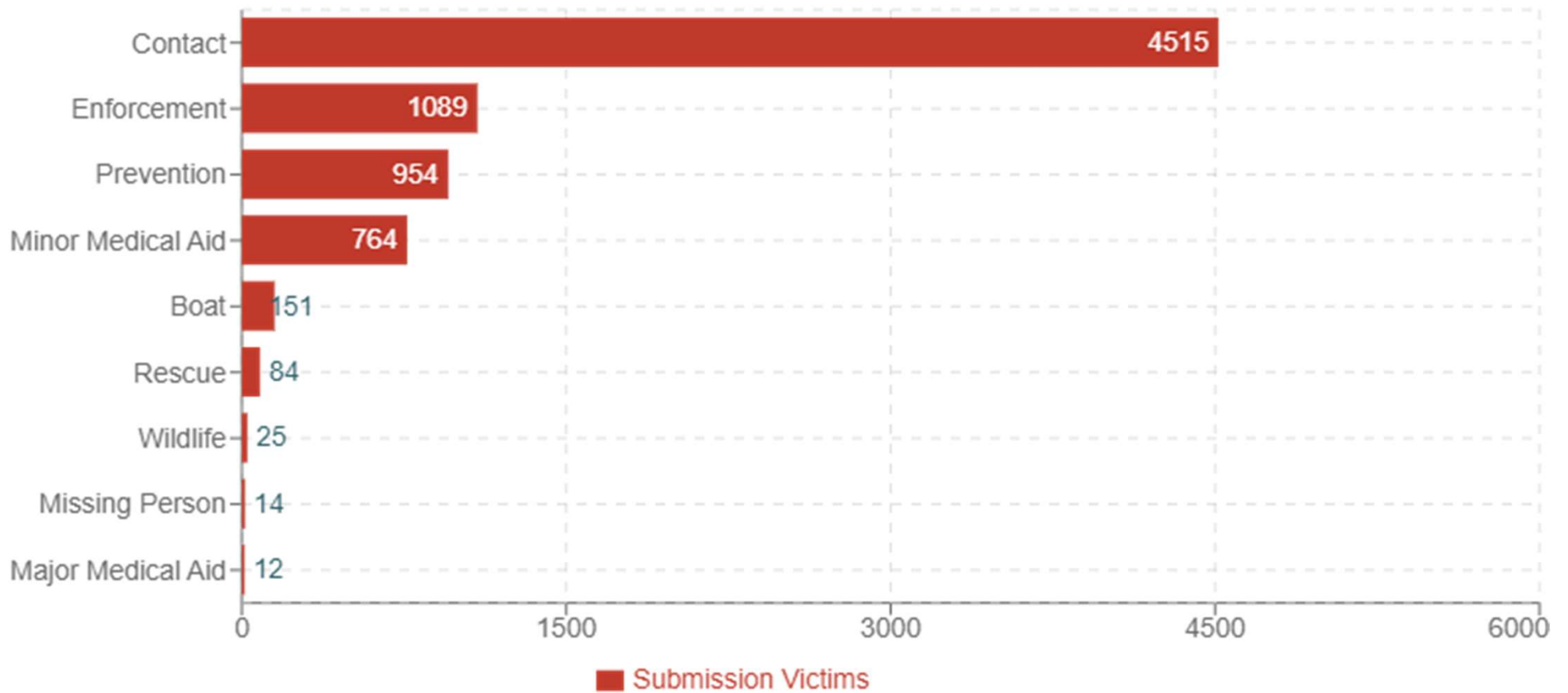
Correlates External Factors with Calls for Service

Quality of service

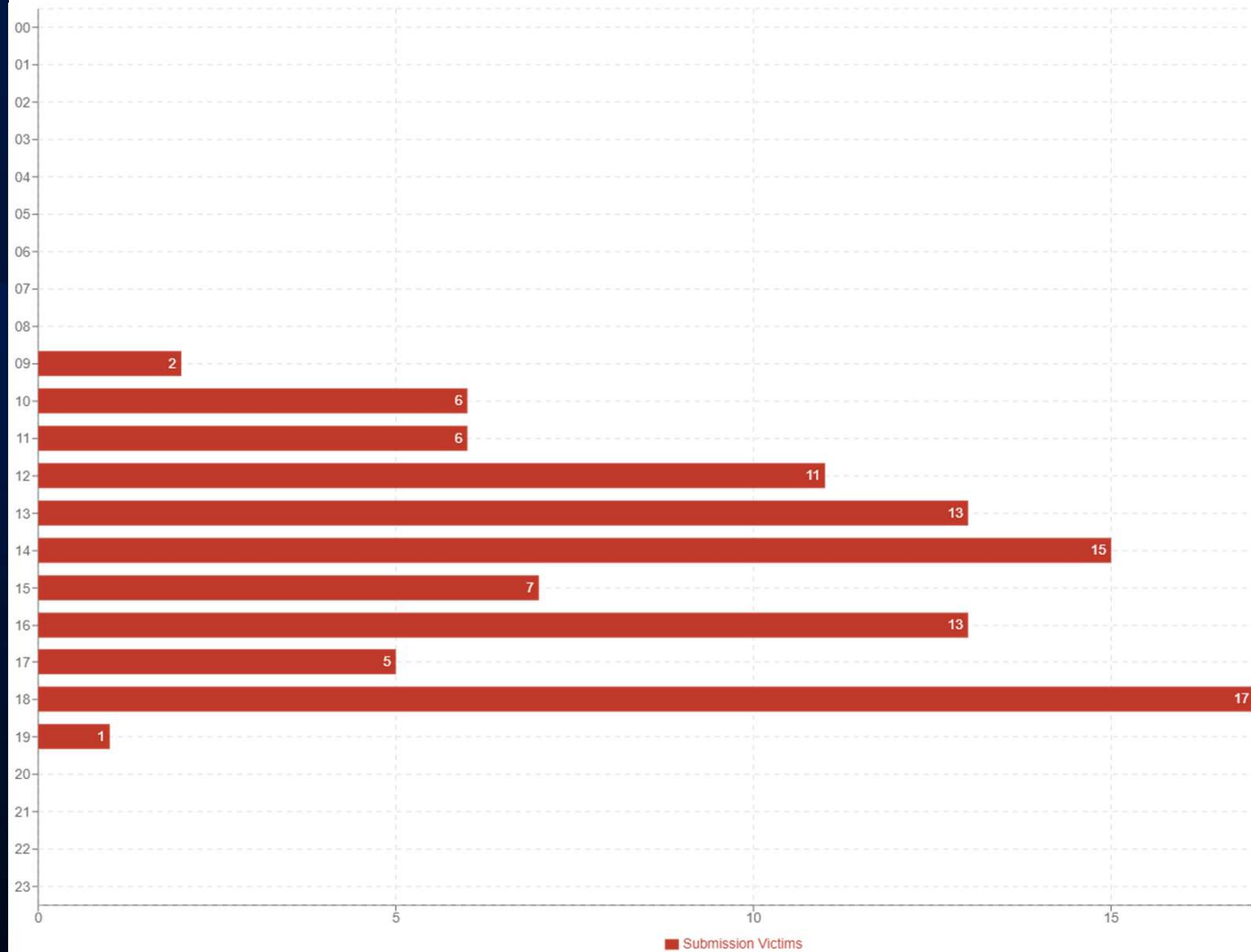
Document statistics for USLA

Shows us how we can protect our community in a more significant way

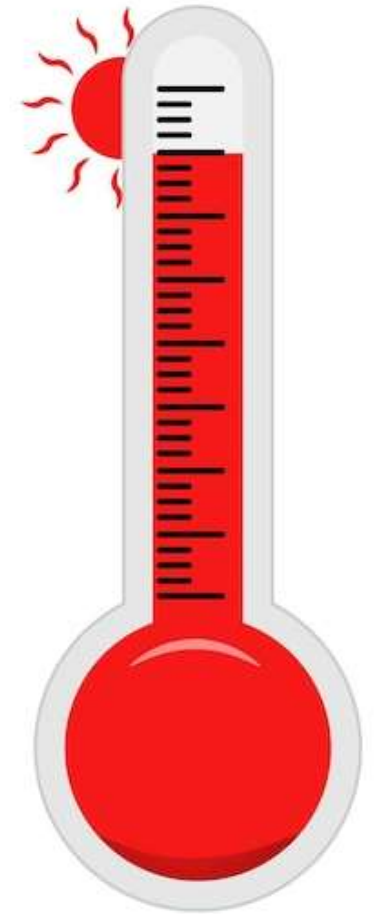
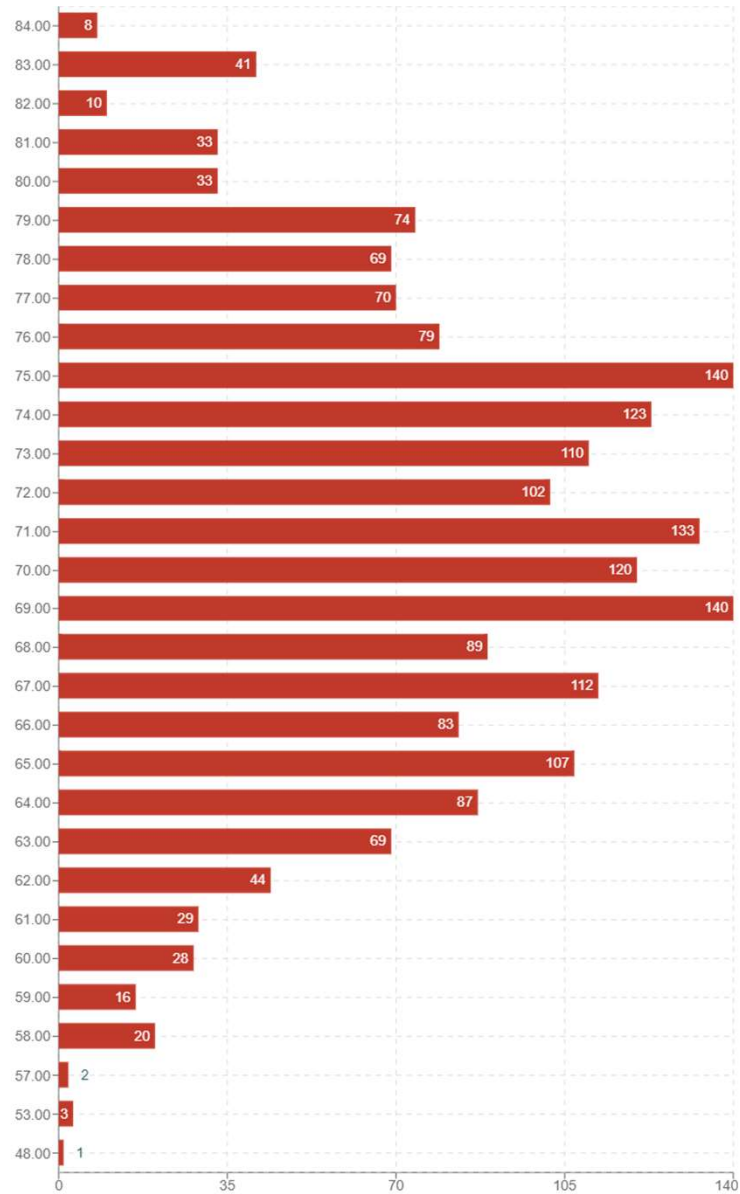
End of Season Statistics



Major Medical & Rescues X hour of the day



Calls for Service X Air Temperature



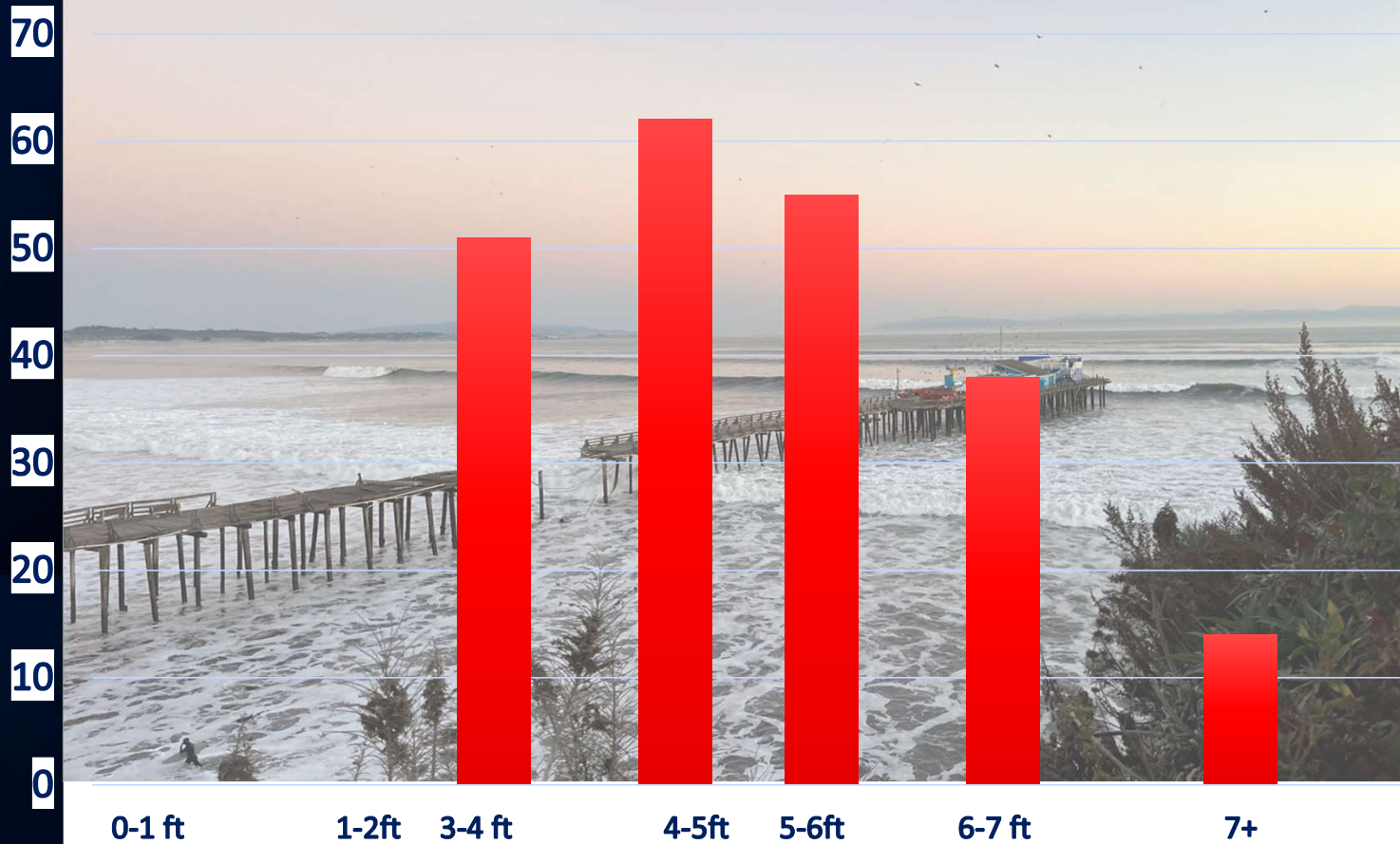
Tide Height X Rescues & Assists

80
70
60
50
40
30
20
10
0

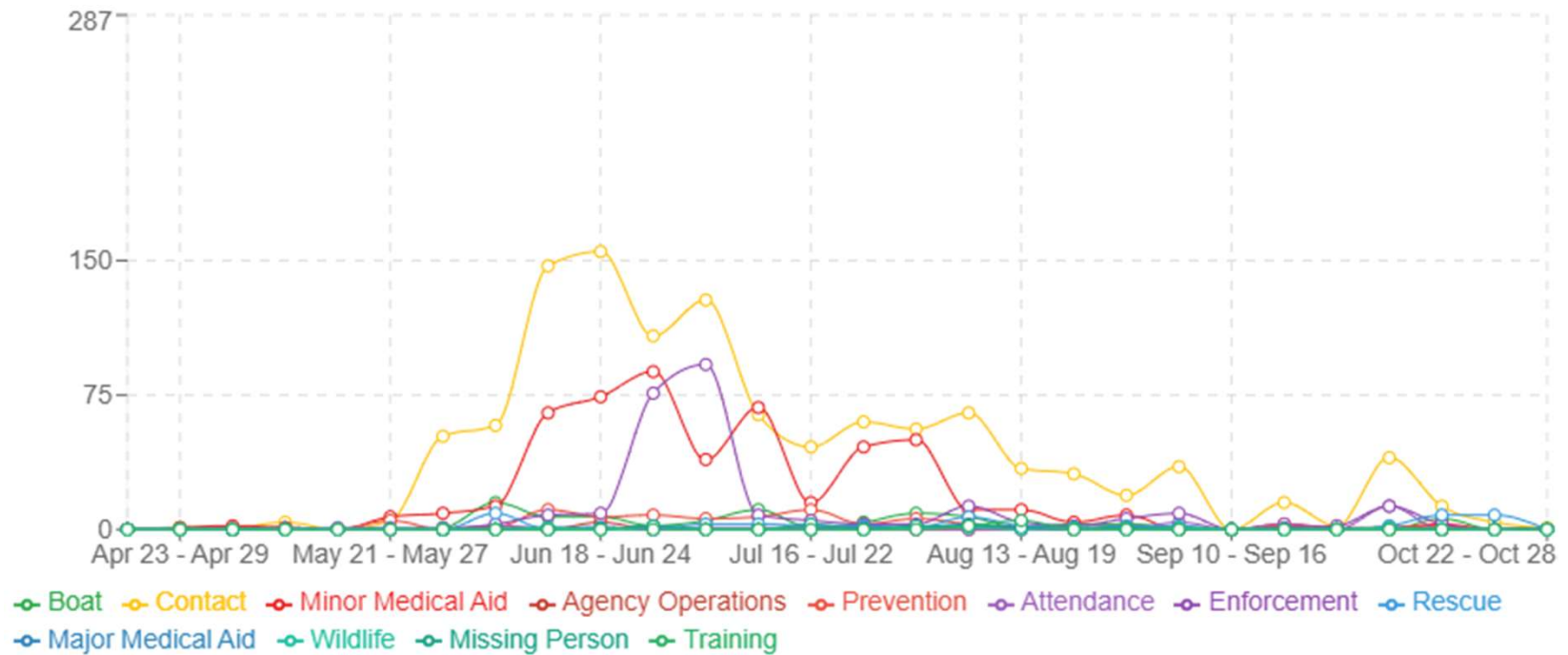


0-1 ft 1-2ft 3-4 ft 4-5ft 5-6ft 6-7 ft

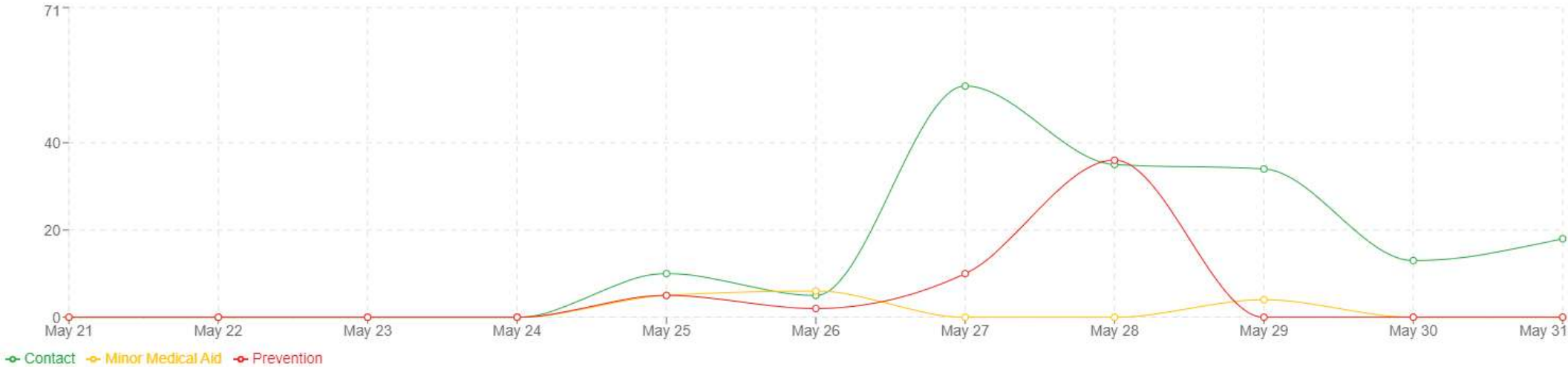
Swell Height X Rescue & Assists



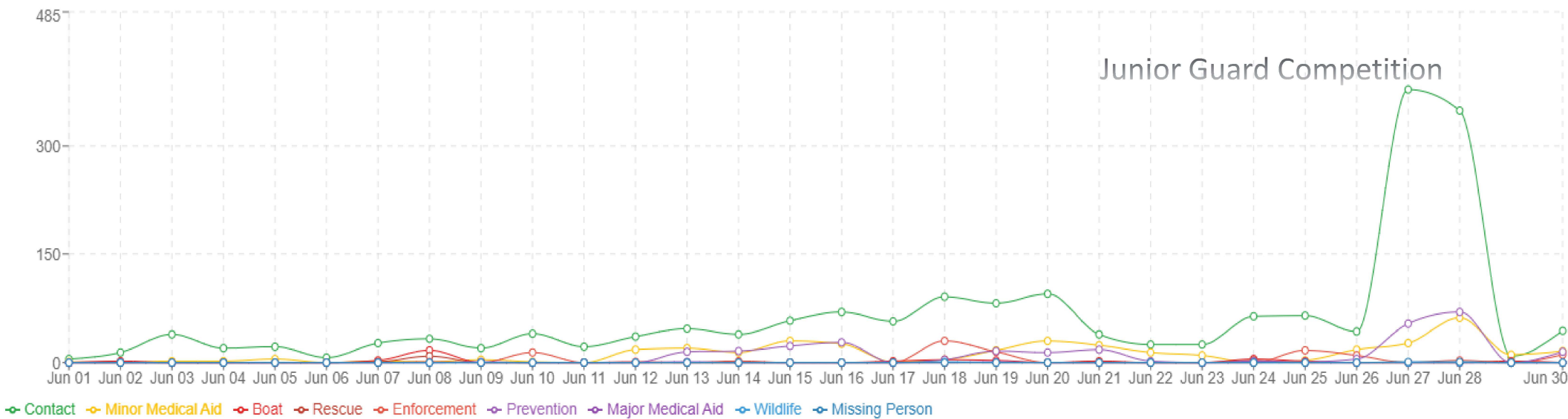
2023 Season Graph Monthly



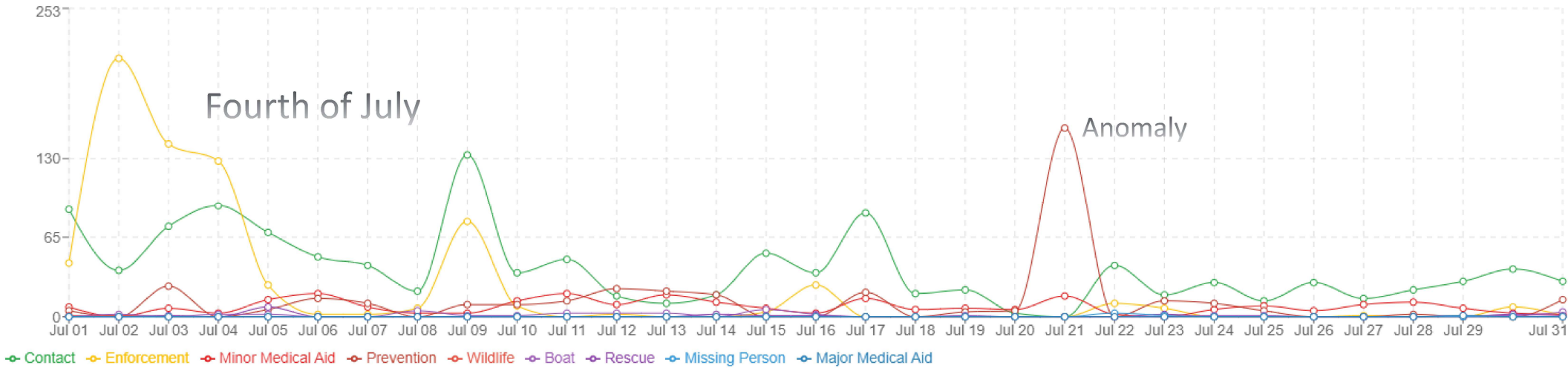
May Graph Day to Day



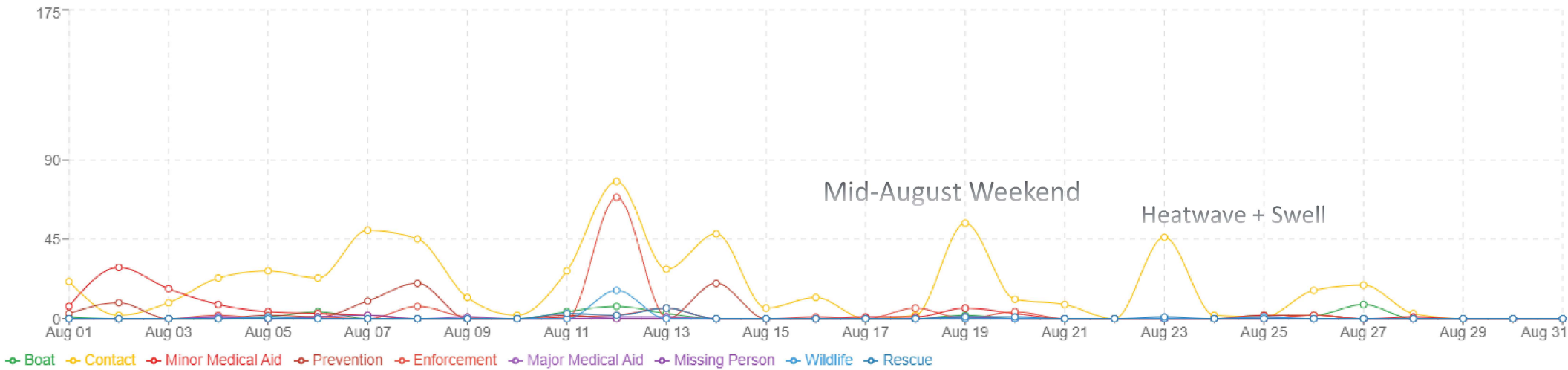
June Graph Day to Day



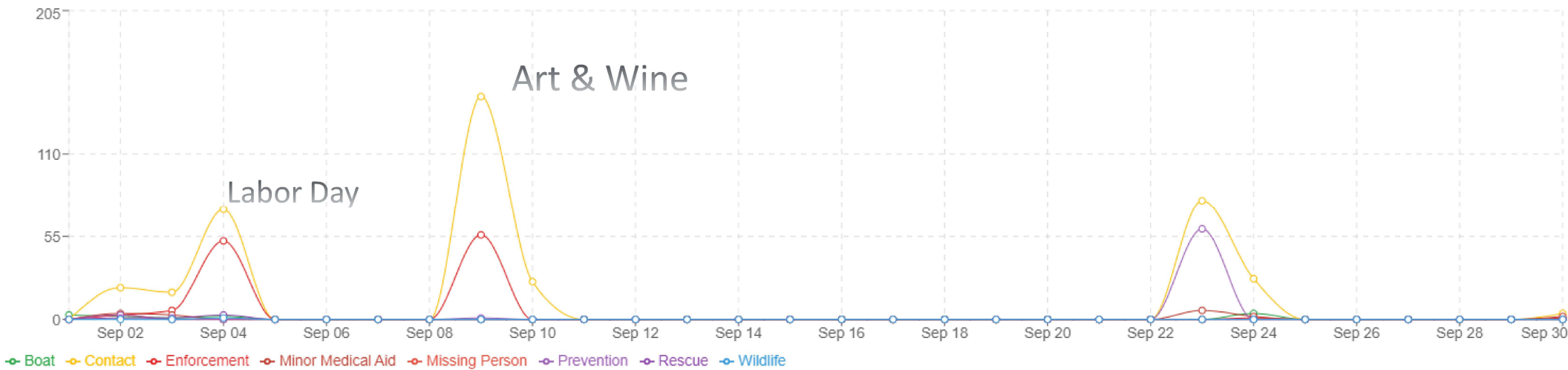
July Graph Day to Day



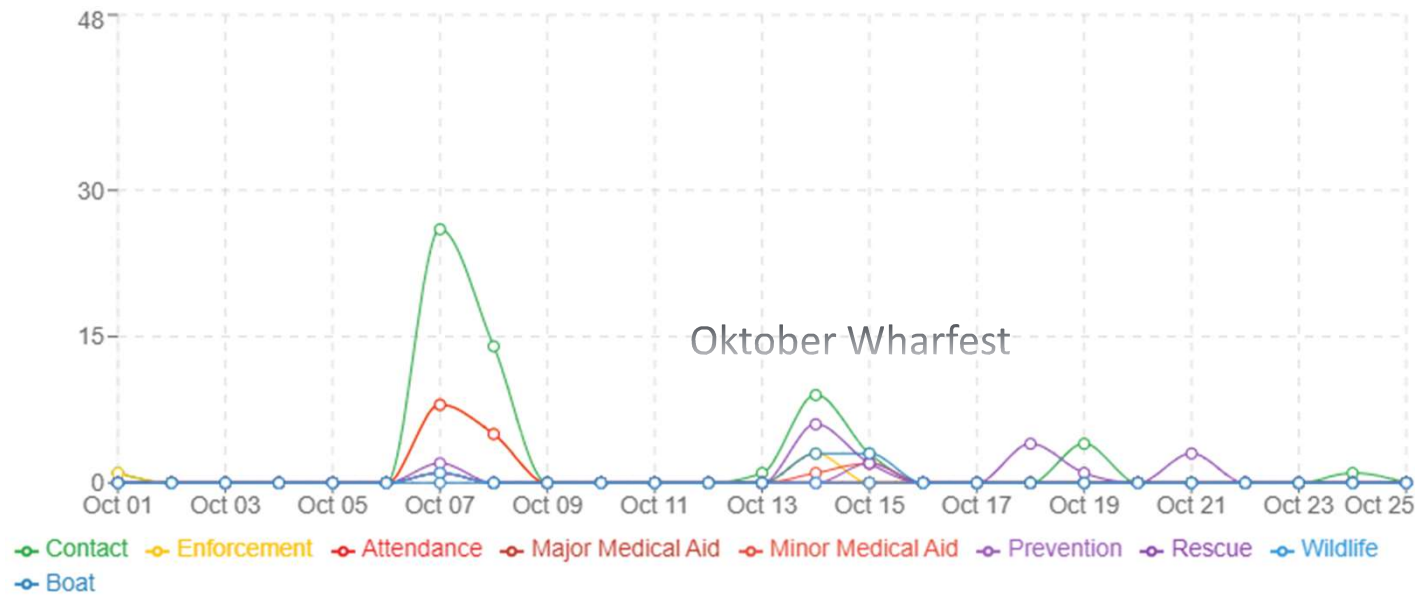
August Graph Day to Day



September Graph Day to Day



October Graph Day to Day



DISCUSSION

- Review of the Special Event Permit policies led to questions regarding billing for staff time
- Current practice to bill for staff time specifically dedicated to the event
- Lifeguard services should be included in event planning and billing when:
 - The event will create a dense crowd (also likely to include alcohol)
 - Includes a water element that requires specific LG staffing



DISCUSSION

- Lifeguard Operation Staffing
 - One Lifeguard Lieutenant (LT)/Supervisor
 - Lifeguards (LG) two per tower (4 total)
- Minimum Staffing
 - 1 LT & 2 LG
 - Regardless if towers are available
- Dense crowds increases risk and demand more from LG
 - Tower 2 is necessary in this circumstance
- Callback: lifeguards that are not scheduled but available during an emergency or conditions



FISCAL IMPACT

Total direct cost to operate
Tower 1 & 2: \$910.24 per 8-
hour day

	Direct Cost (8-hour day)	Overhead for Billing
Tower 1	\$557: City expense	0%
Tower 2	\$352: billed to event	30%
Up to 4 LG	\$22.06 per hour per person	30%

RECOMMENDED ACTION

Summer Season Operation

Recommended Option: Operate as in the past. Memorial Day weekend to Labor Day weekend, seven days a week, both towers.

- 2nd half of August staffing reduced to Tower 1 if conditions and crowds are favorable

Alternative: Operate from Memorial Day weekend to mid-August, seven days a week.

- Reduction of about 14 working days



RECOMMENDED ACTION

Fall Season Operation

Recommended Option: Operate Tower 1 for beach public safety on weekends

- Scope begins after the summer season until mid-October
- Events would be billed for Tower 2 staffing, water elements and callbacks related to event

Alternative: Operate Tower 1 & 2 for beach public safety on weekends

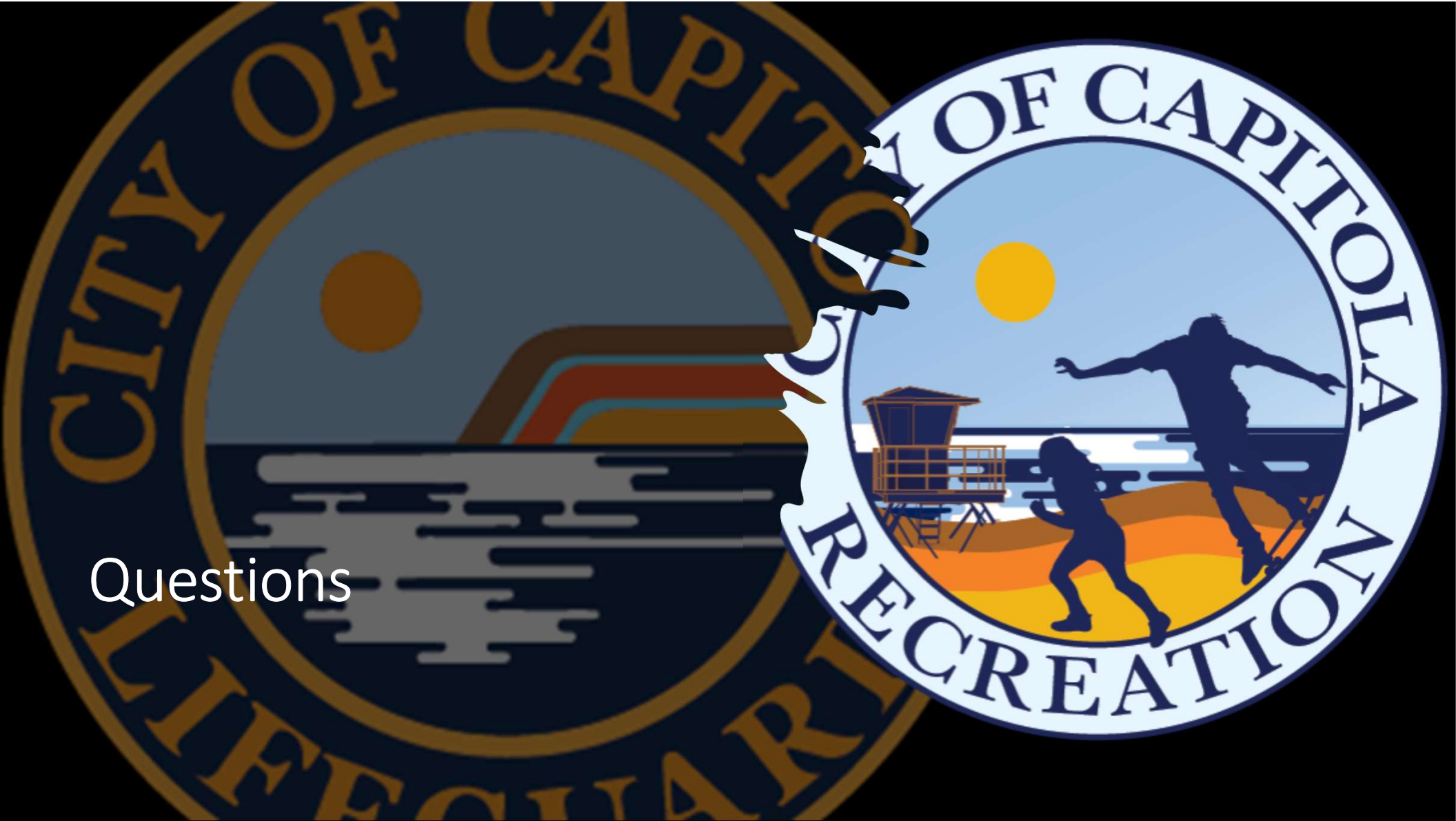
- Events would be billed for water elements and callbacks related to event



RECOMMENDED ACTION

Approve staff's recommended operational schedule for Summer and Fall Lifeguard Service.





Questions

Capitola City Council

Agenda Report



Meeting: November 9, 2023
From: Community Development Department
Subject: Citywide Housing Element Adoption

Recommended Action: Adopt a resolution to adopt the Addendum to the General Plan Update Environmental Impact Report and the 6th Cycle Housing Element, and direct staff to submit the Housing Element to the State of California for certification.

Background: In accordance with applicable State housing law, local jurisdictions are legally required to adopt plans and programs for housing that provide opportunities for, and do not unduly constrain, housing development. The Housing Element, which is one of seven State-mandated components of the City's General Plan, is a mechanism by which the State requires local jurisdictions to provide a variety of housing options and strive toward reaching regional housing needs. The Housing Element should also maintain civic and local responsibility toward economic, environmental, and fiscal factors and community goals stated within adopted General Plan documents.

Housing Elements are required to be updated every eight years. The City's current Housing Element was adopted by the Capitola City Council in 2015 and certified by the State of California in 2016 and will be in effect through December 2023. The City is required by law to update the Housing Element for the 2023-2031 planning period (also known as the sixth cycle) and have the updated Housing Element adopted and sent to the California Department of Housing and Community Development (HCD) for certification by December 15, 2023.

On May 12, 2022, the City Council authorized an agreement with RRM Design Group (RRM) for the preparation of the 2023-2031 Housing Element. Staff worked with RRM to assess existing and projected housing needs, reviewed the existing Housing Element, and began work on the updated Housing Element.

Pursuant to applicable State housing law, the City solicited public input from all segments of the community in the preparation of the Housing Element. Public comment was accepted at each of the meetings below:

- Stakeholder meetings (November 2022)
- Two community workshops (February 16, 2023, and May 16, 2023)
- Online housing survey (November 2022 – March 2023)
- Planning Commission meetings (February 2, May 4, June 1, October 5, October 19)
- City Council meetings (February 9, June 8, October 12)
- Joint Planning Commission and City Council work session (March 16, 2023)

On May 10, 2023, a draft of the Housing Element was published for public review. Following the thirty-day publishing period (during which the draft Housing Element was mentioned during a Planning Commission meeting and a City Council meeting), the initially published draft was updated to incorporate additional information as requested during the public review period.

On July 5, 2023, Capitola's Housing Element was submitted to the State of California Department of Housing and Community Development (HCD), initiating the required 90-day review process. Since submission to HCD, staff has received two rounds of preliminary comments from the State. In response to each round of comments, the Housing Element was updated, republished for public review, and resubmitted to HCD (August 29, 2023, and September 19, 2023).

On October 3, 2023, the City received official comments from the HCD (Attachment 3). The letter included requests for additional information and incorporating new strategies that go beyond SB9 and ADU laws to create additional housing mobility opportunities within single-family neighborhoods. In response to the request, the housing element consultant team is suggesting a program to allow duplexes on corner lots in single-family neighborhoods. This program has been accepted by HCD in other jurisdictions with certified Housing Elements.

On October 5, 2023, the Planning Commission received an update on the Housing Element and directed staff to incorporate HCD recommendations, as well as edits to state lands, the shopping center program, and the community benefits incentives program into the draft, and prepare the document for adoption hearings. The Planning Commission recommended adding a new program to work with the State during the 6th Cycle to initiate discussions and possible planning for housing opportunities on state lands, including the DMV site and New Brighton State Park. They also asked staff to modify the shopping center program and community benefits incentives program to ensure deliverables are based on the outcome of the current mall redevelopment land-use study.

On October 12, 2023, the City Council received an update on the Housing Element and directed staff to incorporate public comment, Planning Commission, and the California Department of Housing and Community Development recommendations into the Draft Housing Element, and to update and prepare the document for adoption.

On October 17, 2023, City staff met with HCD staff and received additional comments on the updated draft related to missing middle housing, sites capacity, public-owned sites, and environmental constraints.

On October 19, 2023, the Planning Commission had a special meeting and forwarded a unanimous positive recommendation to the City Council to adopt the draft housing element, with additional modifications to the timing of deliverables, missing middle housing, sites capacity, public-owned sites, and environmental constraints. The current draft for adoption incorporates all edits recommended by the Planning Commission and HCD staff.

Discussion: The purpose of this agenda item is to officially adopt the 6th Cycle Housing Element and the addendum to the General Plan EIR.

The latest draft, published on October 13, 2023, is available in hard copy at Capitola City Hall and the Capitola Library. The Housing Element is also available on the City's website Housing Element Update page at the following link: <https://www.cityofcapitola.org/communitydevelopment/page/2023-2031-housing-element-update>.

Revisions to HCD's first response can be found in blue font. Revisions to HCD's second response can be found in blue font with yellow highlight. The third revisions based on the Planning Commission and City Council direction are in blue font with blue highlight. The most recent revision based on Planning Commission recommendation for adoption are in blue font with green highlight.

As mentioned above, City staff received two rounds of comments and attended three meetings with HCD. The HCD comments varied from minor edits and requests for additional information, to requiring greater commitments to programs, adding new programs, and modifying the sites inventory. With regards to the sites inventory, the City received comments from HCD and the public related to overreliance on the mall site, distribution of sites City-wide, and no net loss.

During the October Planning Commission and City Council updates, staff received direction to incorporate the following into the final draft for adoption:

1. Add Mobility Strategies. Revisit density on low and medium multifamily zones. Allow duplexes on corner lots in single-family zone with objective standards;
2. Amend Community Benefits Overlay and incorporate objective standards;
3. Provide additional information on Capitola Mall, religious sites, small lot consolidation, and constraints;

4. Revise the programs on Community Benefits and Shopping Centers to align with the outcome of the mall study;
5. Add a program to initiate discussion related to housing and state lands;
6. Incorporate feedback provided within public comments; and
7. Update the timing of commitments to ensure on-time completion.
8. Include additional information on missing middle housing, sites capacity, public-owned sites, and environmental constraints

The following identifies the next steps for the Housing Element update.

<u>Next Steps</u>	<u>Date</u>
City Council Adoption	November 9, 2023
Submit Housing Element to HCD for Certification	November 10, 2023
HCD Certification	60 days review

CEQA: An addendum to the General Plan Update Environmental Impact Report for the 2023-2031 Housing Element is included as Attachment 4. The General Plan Update EIR is available at <https://www.cityofcapitola.org/communitydevelopment/page/capitola-general-plan>.

Fiscal Impact: The General Plan update includes numerous commitments to affordable housing projects. Staff intends to apply for grants to fund future project commitments.

Attachments:

1. Resolution
2. HCD Response Letter
3. Addendum to General Plan EIR
4. Draft Housing Element available at the following link:
<https://www.cityofcapitola.org/communitydevelopment/page/2023-2031-housing-element-update>.

Report Prepared By: Katie Herlihy, Community Development Director

Reviewed By: Julia Gautho, City Clerk; Samantha Zutler, City Attorney

Approved By: Jamie Goldstein, City Manager

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA ADOPTING AN ADDENDUM TO THE GENERAL PLAN UPDATE ENVIRONMENTAL IMPACT REPORT AND ADOPTING A GENERAL PLAN AMENDMENT REPLACING THE 2015-2023 HOUSING ELEMENT WITH AN UPDATED 2023-2031 HOUSING ELEMENT, INCLUDING POLICIES AND PROGRAMS AFFIRMATIVELY FURTHERING FAIR HOUSING

WHEREAS, the California legislature has found that “California has a housing supply and affordability crisis of historic proportions. The consequences of failing to effectively and aggressively confront this crisis are hurting millions of Californians, robbing future generations of the chance to call California home, stifling economic opportunities for workers and businesses, worsening poverty and homelessness, and undermining the state’s environmental and climate objectives.” (Gov. Code Section 65589.5.); and

WHEREAS, the legislature has further found that “Among the consequences of those actions are discrimination against low-income and minority households, lack of housing to support employment growth, imbalance in jobs and housing, reduced mobility, urban sprawl, excessive commuting, and air quality deterioration.” (Gov. Code Section 65589.5.); and

WHEREAS, the legislature adopted the Housing Crisis Act of 2019 (SB 330) which states that “California needs an estimated 180,000 additional homes annually to keep up with population growth, and the Governor has called for 3.5 million new homes to be built over 7 years”; and

WHEREAS, State Housing Element Law (Government Code Sections 65580 et seq.) requires that the City Council adopt a Housing Element for the eight-year period 2023-2031 to accommodate the City of Capitola’s (City’s) regional housing need allocation (RHNA) of 1336 housing units, comprised of 430 very-low income units, 282 low-income units, 168 moderate-income units, and 455 above moderate-income units; and

WHEREAS, to comply with State Housing Element Law, the City has prepared the Capitola 2023-2031 Housing Element (the Housing Element); and

WHEREAS, as provided in Government Code Section 65350 et. seq., the Housing Element constitutes a General Plan Amendment; and

WHEREAS, as provided in Government Code Section 65352.3, the City contacted California Native American tribes on the contact list provided by the Native American Heritage Commission and informed them of the opportunity for consultation under SB 18; and

WHEREAS, no California Native American tribe requested consultation; and

WHEREAS, as provided in Government Code Section 65352, the City referred the Housing Element to appropriate agencies;

WHEREAS, the City has prepared the Housing Element in accordance with State Housing Element Law; and

WHEREAS, State law requires that the City take meaningful steps to promote and affirmatively further fair housing (Gov. Code Section 65583(c)(5)); and

WHEREAS, the Housing Element must be adopted to comply with State law, accommodate the RHNA, affirmatively further fair housing, and facilitate and encourage a variety of housing types for all income levels, including multifamily housing (Gov. Code Sections 65583.2 and 65583(c)); and

WHEREAS, the preparation, adoption, and implementation of the Housing Element requires a diligent effort to include all economic segments of the community; and

WHEREAS, the City conducted an extensive community outreach program including an conducting an online housing needs survey from November 2022 through March 2023, conducting stakeholder interviews in November 2022, engaging the development community and housing advocates, facilitating community workshops on February 16, 2023 and May 16, 2023, and holding study sessions with the Planning Commission and City Council on February 2, 2023, February 9, 2023, and March 16, 2023; and

WHEREAS, staff published a draft Housing Element on May 10, 2023, for a 30-day public review and comment period. During the public review and comment period, the draft was presented during a virtual community meeting on May 16, 2023, a Planning Commission meeting on June 1, 2023, and a City Council meeting on June 8, 2023; and

WHEREAS, staff received comments and made extensive revisions to the draft in response to public input; and

WHEREAS, in accordance with Government Code Section 65585(b), on July 5, 2023, the City submitted the draft Housing Element to the State Department of Housing and Community Development (HCD) for its review; and

WHEREAS, on July 26, 2023, the City met with HCD to review the draft Housing Element prior to HCD's issuance of its findings letter; and

WHEREAS, on August 29, 2023, the City posted the second draft of the Housing Element on its website, with redlined modifications for public review.

WHEREAS, on September 6, 2023 the City met with HCD to review the draft Housing Element prior to HCD's issuance of its findings letter; and

WHEREAS, on September 19, 2023, the City posted the third draft of the Housing Element on its website, with all additional modifications highlighted in yellow for public review; and

WHEREAS, on October 3, 2023, the City received a letter from HCD providing its findings regarding the draft Housing Element. The findings stated that while the draft Housing Element addressed many statutory requirements, revisions would be necessary to comply with State Housing Element Law (Article 10.6 of the Government Code); and

WHEREAS, on October 5, 2023, staff provided a briefing to the Planning Commission on HCD's findings, and on October 12, 2023 staff provided a briefing to the City Council on HCD's findings, including opportunities for public comment; and

WHEREAS, the City systematically analyzed HCD's findings and identified areas needing responses or revisions; and

WHEREAS, the City has responded to each of these issues and revised the Housing Element so that it substantially complies with all Government Code requirements; and

WHEREAS, the City notified all interested parties of the availability of the updated draft, the opportunity to provide comments, and the dates of upcoming public hearings; and

WHEREAS, the City provided notice of the October 19, 2023 Planning Commission special meeting as required by law; and

WHEREAS, on October 17, 2023, the City met with HCD and received additional comments on the Housing Element;

WHEREAS, on June 26, 2014 the City Council certified a Final Environmental Impact Report (SCH 2013072002) (FEIR) for the General Plan Update, adopting the Mitigation Monitoring and Reporting Program and Statement of Overriding Considerations; and

WHEREAS, an EIR Addendum (Addendum) to the FEIR has been prepared in accordance with Section 15162 of the California Environmental Quality Act (CEQA) Guidelines, which demonstrates that none of the conditions requiring preparation of a subsequent EIR or negative declaration have occurred, and that the changes that are part of the Housing Element update would not result in any significant impacts not considered under the original EIR; and

WHEREAS, on October 19, 2023, the Planning Commission held a duly noticed public hearing at which time it reviewed the Housing Element and all pertinent maps, documents and exhibits, the staff report and all attachments, and oral and written public comments, and determined the Housing Element to be consistent with State law and the General Plan of the of the City of Capitola, and adopted a Resolution recommending that the City Council adopt the 2023-2031 Housing Element with revisions necessary to obtain certification from HCD; and

WHEREAS, the City provided notice of the November 9, 2023 City Council meeting as required by law; and

WHEREAS, on November 9, 2023, the City Council conducted a duly and properly noticed public hearing to take public testimony and consider this Resolution regarding the Addendum and the proposed Housing Element, reviewed the Housing Element and all pertinent maps, documents and exhibits, including HCD’s findings, the City’s response to HCD’s findings, the staff report and all attachments, and oral and written public comments.

NOW, THEREFORE, BE IT RESOLVED, that the City Council hereby finds that, based on substantial evidence in the record:

1. The foregoing recitals are true and correct and are incorporated by reference into this action.
2. The City Council has reviewed and considered the Addendum to the General Plan Update Environmental Impact Report for the Housing Element, and finds that none of the conditions requiring preparation of a subsequent EIR or negative declaration have occurred, and that the changes that are part of the Housing Element update would not result in any significant impacts not considered under the original EIR.
3. The proposed 2023-2031 Housing Element is consistent with the objectives, policies, general land uses and programs specified in the General Plan. The Housing Element is consistent with the General Plan Land Use Element goals and policies set forth below:
 - Goal LU-1 Maintain and enhance Capitola’s distinctive identity and unique sense of place.
 - Goal LU-4 Protect and enhance the special character of residential neighborhoods.
 - Goal LU-5 Ensure that new residential development respects the existing scale, density, and character of neighborhoods; Policy LU-5.1 Neighborhood Characteristics -- Require new residential development to strengthen and enhance the unique qualities of the neighborhood in which it is located.
 - Goal LU-8 Support the long-term transformation of Capitola Mall into a more pedestrian-friendly commercial district with high quality architecture and outdoor amenities attractive to shoppers and families; Policy LU-8.2 Parking Lot Redevelopment -- Encourage the development of commercial and mixed-use structures on existing Capitola Mall surface parking lots located adjacent to 41st Avenue and Capitola Road including both sides of 41st Avenue; and Action LU-8.2 Infrastructure Improvement Funding -- Identify funding sources for infrastructure improvements that will stimulate investment and redevelopment of the Capitola Mall property and provide urban amenities attractive to residential and mixed-use development.
 - Goal LU-9 Encourage high quality development within the 41st Avenue corridor that creates an active and inviting public realm; Policy LU-9.3 Destination -- Establish 41st Avenue as an attractive destination with activities for families and people of all ages that occur throughout the day and night. Where feasible, incorporate public art into public spaces; and Policy LU-9.5 Neighborhood Impacts. Minimize negative impacts — particularly traffic, parking, and noise — on residential neighborhoods adjacent to the corridor. Incorporate design or mitigation measures into projects to avoid or minimize neighborhood impacts.

- Goal LU-12 Utilize key public facilities and properties in a manner that enhances the quality of life of Capitola’s residents.

Furthermore, the 2023-2031 Housing Element is consistent with the following 2015-2023 Housing Element goals: Goal 1.0 Housing Production -- Diversity in housing type and affordability level to accommodate the needs of Capitola Residents; Goal 2.0 Affordable Housing Development -- Increased and protected supply of housing affordable to extremely-low, very- low, low and moderate-income households; Goal 3.0 Housing for Persons with Special Needs -- Accessible housing and appropriate supportive services that provide equal housing opportunities for special needs populations; Goal 4.0 Housing Assistance -- Increased Assistance for extremely low, very low, low and moderate income residents to rent or purchase homes; Goal 5.0 Neighborhood Vitality -- Maintain, preserve and improve the character of existing residential neighborhoods; Goal 6.0 Resource Conservation -- Fulfill the City’s housing needs while promoting an environmentally sensitive, compact community that is a pedestrian oriented, neighborhood-centered community, using resources in a sustainable manner.

4. The 2023-2031 Housing Element is consistent with the General Plan and City of Capitola Municipal Code because the Housing Element includes implementation programs to study amendments to ensure consistency with the General Plan and Municipal Code.

5. Based on substantial evidence in the record, the non-vacant sites identified in the Housing Element site inventory to accommodate the RHNA do not constitute an impediment to planned residential development on the site during the planning period.

Section 65583.2(g)(2) of the Government Code requires that any jurisdiction relying on non-vacant sites to meet more than 50 percent of the RHNA for lower-income households must make findings that the existing use on the non-vacant site is not an impediment to residential development during the planning period. The findings must be made on substantial evidence that the existing use is likely to be discontinued during the planning period. The City has provided such substantial evidence in the Housing Element that the existing uses have already been or will be discontinued, or will incorporate residential components into existing uses during the planning period. This is based on the physical characteristics, existing uses, redevelopment potential (including improvement to land value ratio, floor area ratio, and known developer interest), location and context, local knowledge, and environmental and infrastructure constraints.

The sites inventory analysis demonstrates that all of the selected sites represent the best opportunities to add significant numbers of units to the City’s housing stock and possess the highest potential for becoming available for residential development over the 8-year planning period. Several non-vacant parcels selected to accommodate lower-income units where a property owner or developer has stated recent interest to the City in developing residential uses include:

- Six parcels along 41st Avenue
- 3720 Capitola Road
- 1404 38th Avenue
- 4148 and 4160 Clares Avenue
- 1098 38th Avenue

- 1840 41st Avenue
- 4243 Capitola Road
- Two sites at 4401 Capitola Road
- 4450 Capitola Road
- 1430 41st Avenue

The sites inventory analysis has also identified at least eight non-vacant parcels, selected to accommodate lower-income units, that already contain discontinued uses (which have a greater likelihood of being redeveloped with residential units):

- 1430 41st Avenue
- 1210 41st Avenue
- 3825 Clares Street
- 1098 38th Avenue
- Four sites at 911 Capitola Avenue

The sites inventory analysis has also identified approximately 23 non-vacant parcels selected to accommodate lower-income units which have the potential for lot consolidation based on adjacency with like properties. Further, sites with newer business or known long-term leases were not included, as they have a lower probability of redeveloping within the next housing cycle. The age of construction, potential for lot consolidation, vacancy rate, under-developed/under-utilized nature of the site, and owner interest where applicable indicate that reuse of these sites with housing or mixed use mixed-use development during the planning period is likely.

6. As required by Government Code Section 65585(e), the City Council has considered the findings made by HCD in HCD's letter to the City dated October 3, 2023, as required by Government Code Section 65585(f). The City has revised the draft Housing Element to address each of the findings in the HCD letter to substantially comply with the requirements of Article 10.6 of the Government Code as interpreted by HCD or has included an explanation as to why no changes were necessary, all as described in Attachment A, which is incorporated by this reference.

7. The Housing Element substantially complies with Housing Element Law, as provided in Government Code 65580 et seq. and contains all provisions required by Housing Element Law.

8. The City Council of the City of Capitola hereby adopts the Addendum to the General Plan Update Final Environmental Impact Report as prepared in compliance with the California Environmental Quality Act, as shown in Attachment B to this Resolution, incorporated herein, and directs the City Clerk to file or cause to be filed a Notice of Determination in compliance with State law.

9. The 2015-2023 Housing Element is hereby repealed in its entirety, and the 2023-31 Housing Element, as shown in Attachment C to this Resolution, incorporated herein, is adopted.

10. This Resolution shall become effective upon adoption by the City Council.

11. The Community Development Director or designee is hereby authorized and directed to file all necessary material with the Department of Housing and Community Development for the Department to find that the Housing Element is in conformance with State Housing Element Law no later than December 15, 2023, with a request for a compliance determination, and is further directed and authorized to make all non-substantive changes to the Housing Element to make it internally consistent or to address any non-substantive changes or amendments requested by the Department to achieve certification.

12. The Community Development Director or designee is hereby authorized directed to distribute copies of the Housing Element in the manner provided in Government Code Sections 65357 (requiring that copies be provided to specific public entities and persons submitting comments, as well as made available to the general public) and 65589.7 (requiring that copies be submitted to water and sewer service providers).

I HEREBY CERTIFY that the above and foregoing resolution was passed and adopted by the City Council of the City of Capitola at its regular meeting held on the 9th day of November, 2023, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

Mayor

ATTEST: _____
City Clerk

ATTACHMENT A

Pursuant to Government Code section 65585, subdivision (b), HCD reviewed the draft Housing Element and reported the results of its review.

The following changes were requested by HCD:

1. General HCD Comment Topic Area 1: Promote and affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, color, familial status, or disability, and other characteristics... (Gov. Code, § 65583, subd. (c)(5).)

HCD Finding 1a: Goals, Actions, Metrics, and Milestones: Promoting housing mobility removes barriers to higher opportunity and income areas and strategically enhances access to housing choices and affordability. The element must include significant actions to promote housing mobility within the City and relative to the region to promote more inclusive communities. While the element includes some potentially meaningful actions, largely, these actions are limited to the regional housing need allocation (RHNA) or geographically targeted to high and highest resource areas which is the entire City. Instead, programs to promote housing mobility should consider geographic targeting such as highest resource and relatively higher median income areas or areas of lesser intensity. In addition, the element should consider additional actions with numerical targets (e.g., 200 units) beyond rehabilitation, accessory dwelling units (ADU) and following state laws. Examples of additional actions could include upzoning areas, increasing housing choices (e.g., duplexes to fourplexes), targeting funding, allowing conversion of existing space beyond state ADU and junior accessory dwelling unit (JADU) laws and homesharing.

City Response 1a: The analysis has been updated to address HCD’s finding. To further facilitate affordable housing in the City, Capitola has included the following provisions in the Development Standards program of the Housing Element (p. 3-18):

- Corner lot duplexes in the R-1 zone: Allow corner lots in single-family neighborhoods to accommodate duplex units. Such a strategy is intended to provide flexibility compared to SB 9 requirements, with the goal of introducing moderately priced homes in the neighborhoods. Objective development standards will be used for these projects.
- Examine the maximum densities in the RM-L and RM-M zones to determine if higher density limits will help facilitate multi-family development in the City.
- The Fair Housing Actions table in the Housing Element expands on facilitating housing production using these actions.

p. 5-39 and 5-40 (Table 5-1)

The City is also implementing the following strategies to meet 200-unit numerical target:

- ADUs SB9 (Program 1.9)
- Shared housing program

2. General HCD Comment Topic Area 2: An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality’s housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites. (Gov. Code, § 65583, subd. (a)(3).)

Identify actions that will be taken to make sites available during the planning period with appropriate zoning and development standards and with services...(Gov. Code, § 65583, subd. (c)(1).)

HCD Finding 2a: Capitola Mall: While the element provides information regarding the current uses on the Capitola Mall site, it must still describe the extent to which existing uses may continue to constitute an impediment to residential development. For example, the element cites a previous application and trends in commercial uses but should also evaluate the extent to which existing commercial uses may preclude residential development in the planning period. For example, the element could address existing lease agreements, easements or property conditions that may preclude residential development, whether uses will discontinue or how uses will continue through redevelopment, replacement parking and site planning consideration, potential phasing of the project, development on non-commercial portions of the site, and other factors that support the site’s redevelopment during the planning period.

Additionally, given the reliance on the Capitola Mall site to meet the RHNA, the element should include a program that commits to facilitating development and monitoring approvals of the projects (e.g., coordination with applicants to approve entitlements, supporting funding applications, expanding approvals, and monitoring of project progress, including rezoning or identification of additional sites, if necessary).

City Response 2a: The analysis has been updated to address HCD’s finding and describe existing leases in more detail and describe phasing. Language has also been added to p. 5-11 for the City to develop alternative strategies to meet the RHNA requirement if it becomes apparent that the mall development is not achievable.

HCD Finding 2b: Realistic Capacity: While the element lists recent projects in the MU-N and C-C zones to estimate realistic development capacity on those sites, the element must further analyze the likelihood of 100 percent nonresidential development and account for this likelihood in the calculation of residential capacity.

City Response 2b: The analysis has been updated to address HCD’s finding. Language has been added to p. 4-7 to discuss the likelihood of 100 percent nonresidential development.

HCD Finding 2c: Suitability of Nonvacant Sites and Zoning for Lower-Income Households: The element includes sites in the R-1 zone (with a maximum density of 8.7 du/ac) with existing congregational or educational uses currently listed as sites appropriate to meet the lower-income RHNA. However, the element must demonstrate densities appropriate to accommodate housing for lower-income households. For communities with densities that meet specific standards (at least 20 units per acre for Capitola), no analysis is required. (Gov. Code, § 65583.2, subd. (c)(3).) Otherwise, an analysis must demonstrate appropriate densities based on factors

such as market demand, financial feasibility, and development experience within identified zones. In addition, the element should further evaluate the extent existing uses impede additional development. For example, the element mentions excess surface parking and underutilized buildings but should discuss whether those uses will continue or discontinue and if continuing, how the use impacts additional development. Based on the outcomes of this analysis, the element should add or modify programs, including, if applicable, meeting by right requirements pursuant to Government Code section 65583.2, subdivision (h) and (i).

City Response 2c: The analysis has been updated to address HCD’s finding. Information about density under SB 4 has been added to page 4-31; additional narrative has been added to pg. 4-28; additional narrative about underutilized sites and parking have been added to pg. 4-3. In addition, school sites will no longer include lower-income units.

HCD Finding 2d: Small Sites: Sites smaller than half an acre are deemed inadequate to accommodate housing for lower-income households unless it is demonstrated, with sufficient evidence, that sites of equivalent size and affordability were successfully developed during the prior planning period or other evidence demonstrates the suitability of these sites. The element mentions some past production on small sites and reports that most of the small sites are under common ownership but should also discuss the potential for consolidation. For example, the element could evaluate the circumstances potentially leading to consolidation such as existing shared access, necessity for consolidation to share access, necessity for consolidation to promote financial feasibility, meet development standards or facilitate site planning. Based on the outcomes of this analysis, the element should add or modify action to encourage lot consolidation. For example, the element could consider graduated density as an additional incentive to promote lot consolidation.

City Response 2d: The analysis has been updated to address HCD’s finding. Additional narrative has been added to p. 4-24. Additional discussion has been added to facilitate shared access and provide needed densities for lower income units

HCD Finding 2e: Publicly-Owned Sites: The element mentions publicly-owned sites but should also discuss their suitability for development in the planning period, including status, anticipated schedule and any known barriers to development in the planning period. Based on the outcomes of this analysis, programs should be added or modified to comply with surplus land act requirements, if applicable, target numerical objectives consistent with the inventory and commit to a schedule of actions to facilitate development, including alternative actions if necessary.

City Response 2e: The analysis has been updated to address HCD’s finding. Additional narrative has been added to p. 4-28. In addition, a new Program (1.10) added to pg. 5-13 to address school sites and the Planning Commission’s desire to facilitate discussions about future housing on State-owned properties. Income allocations on school-owned sites have been changed from low income to moderate and above moderate income.

HCD Finding 2f: Environmental Constraints: While the element generally describes a few environmental conditions within the City, it must relate those conditions to identified sites and

describe any other known environmental or other constraints that could impact housing development on identified sites in the planning period, such as lot shape, access, contamination, overlays, and easements.

City Response 2f: The analysis has been updated to address HCD's finding. Responsive language has been added to pp. 4-39, 4-42. Maps have been added to Constraints section.

HCD Finding 2g: Electronic Sites Inventory: For your information, pursuant to Government Code section 65583.3, the City must submit an electronic sites inventory with its adopted housing element. The City must utilize standards, forms, and definitions adopted by HCD. Please see HCD's housing element webpage at <https://www.hcd.ca.gov/planning-and-community-development/housing-elements> for a copy of the form and instructions. The City can reach out to HCD at sitesinventory@hcd.ca.gov for technical assistance.

City Response 2g: City has noted, will submit after Housing Element adoption.

HCD Finding 2h: Programs: Based on the results of a complete sites inventory and analysis, the City may need to add or revise programs to address a shortfall of sites or zoning available to encourage a variety of housing types.

City Response 2h: The analysis has been updated to address HCD's finding. Language has been added to Program 1.6 (p. 5-8), and a new Program 1.10 has been added (p. 5-13) about publicly owned lands.

3. General HCD Comment Topic Area 3: An analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including... land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures...(Gov. Code, § 65583, subd. (a)(5).)

Address and, where appropriate and legally possible, remove governmental and nongovernmental constraints to the maintenance, improvement, and development of housing, including housing for all income levels and housing for persons with disabilities...(Gov. Code, § 65583, subd. (c)(3).)

HCD Finding 3a: Fees and Exaction: While the element provides a general overview of fees in the City, it should further analyze the total fees as a proportion to the overall development cost. Upon this analysis, the element may need to add or modify programs to reduce fees, as appropriate.

City Response 3a: The analysis has been updated to address HCD's finding (see p. 3-28).

HCD Finding 3b: Other Locally Adopted Ordinances – Incentives for Community Benefit: While the element provides some general information on the City's Incentives for Community Benefit Ordinance, it should analyze the Ordinance's impact on housing supply and affordability. For example, the element should describe the process which applicants must go through to qualify for these incentives, including any discretionary hearings or standards that might apply. Upon this analysis, the element may need to add or modify a program, as appropriate.

City Response 3b: The analysis has been updated to address HCD's finding (see pp. 3-13, 3-18). In addition, Program 1.6 has language about Community Benefits Zoning Code requirements being amended to meet objective standards (p. 5-9).

HCD Finding 3c: Constraints on Housing for Persons with Disabilities: Program 3.4 commits to permit large residential care facilities in zones where residential uses are permitted but should also clarify these uses will be permitted regardless of licensing and similar to other uses of the same type in the same zone.

City Response 3c: The analysis has been updated to address HCD's finding (see p. 3-26).

HCD Finding 3d: Programs: Upon a complete analysis of potential governmental constraints, the City may need to revise or add programs and address and remove or mitigate any identified constraints.

City Response 3d: The analysis and programs have been modified to address HCD's finding. See Program 1.6; Program 3.4.

Addendum to the Capitola General Plan Update Environmental Impact Report for the 2023-2031 Housing Element

LEAD AGENCY:



City of Capitola
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Capitola, CA 95010

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Draft
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This document has been produced for double-sided printing to conserve natural resources.



TABLE OF CONTENTS

1.0	Introduction.....	1-1
1.1	Statutory Authority and Requirements.....	1-1
1.2	Purpose of an Initial Study	1-3
1.3	Responsible and Trustee Agencies.....	1-3
1.4	Incorporation by Reference	1-4
2.0	Project Description	2-1
2.1	Project Location.....	2-1
2.2	Environmental Setting.....	2-1
2.3	Existing General Plan and Zoning	2-1
2.4	Project Description	2-1
2.5	Permits and Approvals	2-11
3.0	Supplemental Environmental Checklist Form	3-1
4.0	Environmental Analysis	4-1
4.1	Aesthetics	4-7
4.2	Agriculture and Forestry Resources	4-11
4.3	Air Quality.....	4-15
4.4	Biological Resources	4-21
4.5	Cultural and Tribal Cultural Resources	4-27
4.6	Energy.....	4-33
4.7	Geology and Soils	4-35
4.8	Greenhouse Gases.....	4-43
4.9	Hazards and Hazardous Materials.....	4-47
4.10	Hydrology and Water Quality.....	4-53
4.11	Land Use and Planning	4-63
4.12	Mineral Resources.....	4-67
4.13	Noise.....	4-69
4.14	Population and Housing	4-73
4.15	Public Services	4-77
4.16	Recreation	4-81
4.17	Transportation.....	4-85
4.18	Utilities and Service Systems.....	4-91
4.19	Wildfire.....	4-103
4.20	Addendum Determination	4-109
4.21	References.....	4-111
4.22	Report Preparation Personnel.....	4-113



List of Exhibits

Exhibit 2-1 Regional Location Map 2-2

List of Tables

Table 2-1 Regional Housing Needs Assessment 2023-2031..... 2-8
Table 2-2 Comparison of Sites Inventory and RHNA..... 2-9
Table 2-3 Inventory of Land Suitable for Residential Development Summary 2-9
Table 2-4 Summary of Housing Units 2-10
Table 4.14-1 2020 and 2040 Population and Housing Projections 4-75
Table 4.18-1 Soquel Creek Water District Projected Demands for Water 4-96
Table 4.18-2 City of Santa Cruz Water Department Projected Demands for Water 4-97



1.0 INTRODUCTION

The Capitola General Plan 2023-2031 Housing Element (herein referenced as the “project,” “proposed project,” or “2023-2031 Housing Element”) involves adoption and implementation of these General Plan components. Following a preliminary review of the proposed project, the City of Capitola has determined that the proposed project is subject to the guidelines and regulations of the *California Environmental Quality Act (CEQA)*.

1.1 STATUTORY AUTHORITY AND REQUIREMENTS

This environmental document has been prepared in conformance with *CEQA (California Public Resources Code [PRC] Section 21000 et seq.)*; *CEQA Guidelines (California Code of Regulations [CCR], Title 14, Section 15000 et seq.)*; and the rules, regulations, and procedures for implementation of CEQA, as adopted by the City of Capitola.

In accordance with *CEQA Guidelines* Sections 15051 and 15367, the City of Capitola (City) is identified as the Lead Agency for the proposed project. This document has been prepared in accordance with CEQA Guidelines Sections 15164 (Addendum to an EIR on Negative Declaration) and 15168 (Program EIR) to explain the rationale for determining that the proposed Capitola 2023-2031 Housing Element would not create any new or substantially more severe significant effects on the environmental that were not analyzed in the Capitola General Plan Update Environmental Impact Report (EIR).

In determining whether an Addendum is the appropriate document to analyze modifications to the General Plan EIR, CEQA Guidelines Section 15164 states:

- (a) The lead agency or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred.
- (b) An addendum to an adopted negative declaration may be prepared if only minor technical changes or additions are necessary or none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.
- (c) An addendum need not be circulated for public review but can be included in or attached to the final EIR or adopted negative declaration.
- (d) The decision-making body shall consider the addendum with the final EIR or adopted negative declaration prior to making a decision on the project.
- (e) A brief explanation of the decision not to prepare a subsequent EIR pursuant to Section 15162 should be included in an addendum to an EIR, the lead agency’s required findings on the project, or elsewhere in the record. The explanation must be supported by substantial evidence.

Since the Capitola General Plan EIR has been certified, the environmental impacts of subsequent activities proposed under the General Plan must be examined in light of the impact analysis in the certified EIR to determine if additional CEQA documentation must be prepared. One of the standards that applies is whether, under Public Resources Code Section 21166 and CEQA Guidelines Sections 15162, there are new significant effects or other grounds that require preparation of a subsequent EIR in support of further agency action on the project. Under these guidelines, a subsequent shall be prepared if any of the following criteria are met:



- (a) When an EIR has been certified or negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following:
- 1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
 - 2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
 - 3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
 - A. The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - B. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - C. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - D. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.

As demonstrated in the environmental analysis contained herein in the Addendum, none of the conditions that had been analyzed in the Capitola General Plan EIR would change with adoption of the proposed 2023-2031 Housing Element. Furthermore, no new information of substantial importance meeting the criteria listed in CEQA Guidelines Section 15162 has been identified in the environmental analysis.

The environmental documentation, which is ultimately selected by the City in accordance with CEQA, is intended as an informational document undertaken to provide an environmental basis for subsequent discretionary actions relevant to the project. The resulting documentation is not, however, a policy document and its approval and/or certification neither presupposes nor mandates any actions on the part of those agencies from whom permits and other discretionary approvals would be required.



1.2 PURPOSE OF AN INITIAL STUDY

The purposes of an Initial Study are to:

1. Identify environmental impacts;
2. Provide the lead agency with information to use as the basis for deciding whether to prepare an EIR or a negative declaration;
3. Enable an applicant or lead agency to modify a project, mitigating adverse impacts before an EIR is required to be prepared;
4. Facilitate environmental assessment early in the design of the project;
5. Document the factual basis of the finding in a negative declaration that a project would not have a significant environmental effect;
6. Eliminate needless EIRs;
7. Determine whether a previously prepared EIR could be used for the project; and
8. Assist in the preparation of an EIR, if required, by focusing the EIR on the effects determined to be significant, identifying the effects determined not to be significant, and explaining the reasons for determining that potentially significant effects would not be significant.

CEQA Guidelines Section 15063 identifies specific disclosure requirements for inclusion in an Initial Study. Pursuant to those requirements, an Initial Study shall include:

- A description of the project, including the location of the project
 - Identification of the environmental setting
 - Identification of environmental effects by use of a checklist, matrix, or other method, provided that entries on a checklist or other form are briefly explained to indicate that there is some evidence to support the entries
 - Discussion of ways to mitigate significant effects identified, if any
 - Examination of whether the project is compatible with existing zoning, plans, and other applicable land use controls
 - The name(s) of the person(s) who prepared or participated in the preparation of the Initial Study
9. With regards to the context of an Addendum, the Initial Study serves as the basis for substantial evidence that none of the elements of CEQA Guidelines Section 15162 requiring a subsequent EIR are triggered.

1.3 RESPONSIBLE AND TRUSTEE AGENCIES

Certain projects or actions undertaken by a Lead Agency require subsequent oversight, approvals, or permits from other public agencies in order to be implemented. Such other agencies are referred to as Responsible Agencies and Trustee Agencies. Pursuant to *CEQA Guidelines* Sections 15381 and 15386, as amended, Responsible Agencies and Trustee Agencies are respectively defined as follows:



Addendum to the Capitola General Plan Update For the 2023-2031 Housing Element

“Responsible Agency” means a public agency, which proposes to carry out or approve a project, for which [a] Lead Agency is preparing or has prepared an EIR or Negative Declaration. For the purposes of *CEQA*, the term “responsible agency” includes all public agencies other than the Lead Agency, which have discretionary approval power over the project. (Section 15381)

“Trustee Agency” means a state agency having jurisdiction by law over natural resources affected by a project, which are held in trust for the people of the State of California. Trustee Agencies include; The California Department of Fish and Wildlife, The State Lands Commission; The State Department of Parks and Recreation and The University of California with regard to sites within the Natural Land and Water Reserves System. (Section 15386)

For this project, the City of Capitola is the Lead Agency and has the sole responsibility of processing and approving the project. There are no Responsible or Trustee Agencies that have oversight, approval, or permit responsibility associated with the project, or require consultation with the City of Capitola. In addition, no other agency is required to approve the 2023-2031 Housing Element, but the 2023-2031 Housing Element will be reviewed by the California Department of Housing and Community Development for the purpose of determining whether it complies with the requirements of State Housing Element law.

1.4 INCORPORATION BY REFERENCE

Pertinent documents relating to this Initial Study have been cited in accordance with *CEQA Guidelines* Section 15150, which encourages incorporation by reference as a means of reducing redundancy and length of environmental reports. The following documents are hereby incorporated by reference into this EIR. Information contained within these documents has been utilized for this Initial Study. These documents are available for review at the City of Capitola Community Development Department located at 420 Capitola Avenue, Capitola, California 95010, and online, if available, with the links provided below.

The Capitola General Plan. The Capitola General Plan (General Plan) is the City's "blueprint" for all future development and conservation within the community. The General Plan has seven State-mandated elements: Land Use; Housing; Open Space; Conservation; Safety; Noise; and Mobility, and includes an optional, Economic Development Element.

On June 26, 2014, the Capitola City Council adopted the General Plan Update to replace the City's previous 1989 General Plan. The General Plan Update provides new goals and policies to promote sustainability, improve protections of residential neighborhoods and historic resources, and enhance economic vitality. The 2015-2023 Housing Element was adopted by the Capitola City Council on November 25, 2015 and certified by the California Department of Housing and Community Development (HCD) on February 4, 2016. The Land Use Element of the General Plan was updated on March 13, 2019.

[Capitola General Plan | City of Capitola California](#)

The Capitola General Plan Update Environmental Impact Report. The Environmental Impact Report (EIR) for the City of Capitola General Plan Update (State Clearinghouse Number [SCH No.] 2013072002) evaluates the environmental effects associated with the adoption and implementation of the General Plan Update initiated by the City of Capitola.



Addendum to the Capitola General Plan Update For the 2023-2031 Housing Element

General Plan Update EIR Conclusions. The General Plan Update (GPU) EIR reviewed the following topics: Aesthetics, Air Quality, Biological Resources, Cultural Resources, Geology, Soils and Seismicity, Hazards and Hazardous Materials, Hydrology and Water Quality, Land Use and Planning, Noise, Population and Housing, Public Services (Fire Protection and Emergency Medical Services, Police Protection, School Services, Library Services), Parks and Recreation, Transportation and Traffic, and Utilities and Service Systems, and Greenhouse Gas Emissions.

The GPU EIR concluded the following significant unavoidable impacts:

- Air Quality – Impacts AIR-2 and AIR-6
- Hydrology and Water Quality – Impacts HYDRO -2 and HYDRO -9
- Transportation and Traffic – Impacts TRANS-1 and TRANS-6
- Utilities and Service Systems – Impacts UTIL-1, UTIL-2, and UTIL-3
- Greenhouse Gas Emissions – Impacts GHG-1 and GHG-3

The GPU EIR concluded all other impacts were less than significant.

The City Council certified the GPU EIR on June 26, 2014, as well as adopted a Statement of Overriding Considerations for significant, unavoidable impacts, and adopted a Mitigation Monitoring and Reporting Program.

The GPU EIR can be found on the City’s website using the following link under the Supporting Documents heading.

[Capitola General Plan | City of Capitola California](#)

Capitola Municipal Code. The Capitola Municipal Code (Municipal Code), codified through Ordinance 1060, passed June 8, 2023, consists of codes and ordinances adopted by the City. These include standards intended to regulate land use, development, health and sanitation, water quality, public facilities, and public safety.

Title 15 of the Municipal Code, Buildings and Construction (revised March 2023), specifies rules and regulations for construction, alteration, and building for uses of human habitation and occupation. Title 16 of the Municipal Code, Subdivisions (revised April 2023), regulates and controls the division of land within the city. Title 17 of the Municipal Code, Zoning (revised April 2023), identifies land uses permitted and prohibited according to the zoning category of particular parcels and establishes the development standards and regulations for each zone.

[Capitola Municipal Code \(codepublishing.com\)](#)



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2.0 PROJECT DESCRIPTION

2.1 PROJECT LOCATION

Capitola is a coastal community located along the Monterey Bay. The City of Capitola is centrally located in Santa Cruz County, east of the City of Santa Cruz; Refer to [Exhibit 2-1, Regional Location Map](#). With a land area of 1.7 square miles, Capitola is home to a population of approximately 10,000 residents. Highway 1 runs east-west along the northern border of the City. Highway 17 is located northwest of Capitola and connects the coastal communities to Silicon Valley and San Francisco Bay Area to the north.

2.2 ENVIRONMENTAL SETTING

2.2.1 EXISTING LAND USES

Capitola is a unique coastal community with its own special sense of place. Capitola is a popular visitor destination due to its beaches, historic charm, visitor amenities, and scenic location. The heart of Capitola is the Village, which features an assortment of shops, restaurants, vacation rentals, and recreational amenities. An assortment of residential neighborhoods contributes to the unique identity and family-friendly character of the community. Capitola is also home to the Capitola Mall, King’s Plaza, and other region-serving retail establishments along 41st Avenue.

Capitola has been fully urbanized for many years, and development includes a mix of housing types, employment districts with commercial and industrial uses, park and recreational amenities, and convenient transportation choices.

2.3 GENERAL PLAN AND ZONING DESIGNATIONS

Not Applicable (Citywide).

2.4 PROJECT DESCRIPTION

The project is the adoption and implementation of the 2023-2031 Housing Element. The 2023-2031 Housing Element represents an update of the City’s 2015-2023 Housing Element. The Housing Element is an integral component of the City’s General Plan, as it addresses existing and future housing needs of all types for persons of all economic segment groups in the City. The Housing Element serves as a tool for decision-makers and the public in understanding and meeting housing needs in Capitola. While the law does not require local governments to actually construct housing to meet identified needs, it does require that the community address housing needs in its discretionary planning actions.



Exhibit 2-1 Regional Location Map



Source: City of Capitola General Plan Update EIR (December 2013)



PURPOSE AND ORGANIZATION OF THE HOUSING ELEMENT

The Housing Element is one of the seven mandatory elements of a General Plan. Through policies, procedures, and incentives, it provides an action-plan for maintaining and expanding the housing supply in the City of Capitola.

The Housing Element is organized into the following sections and appendices.

Sections	Appendices
Executive Summary	Appendix A: Glossary of Terms
Chapter 1: Introduction	Appendix B: Community Outreach Summary
Chapter 2: Housing Needs Assessment	Appendix C: 2015-2023 Housing Element Program Evaluation
Chapter 3: Constraints on Housing Production	Appendix D: Sites Inventory
Chapter 4: Housing Need and Opportunities	Appendix E: Affirmatively Furthering Fair Housing (AFFH)
Chapter 5: Housing Plan	

Capitola’s Housing Element for the 6th cycle planning period of June 30, 2023 to December 15, 2031 describes policies and programs that include:

- Identification and analysis of existing and projected housing needs, resources, and constraints;
- A statement of goals, policies, quantified objectives, and scheduled programs for preservation, improvement and development of housing;
- Identification of adequate sites for housing; and
- Adequate provision for existing and projected needs of all economic segments of the community.

Element

Pursuant to *Government Code* Section 65583, the housing element contains four basic parts:

1. Analysis of demographic, social, and housing characteristics, current and future housing needs due to population growth and change, and other factors affecting housing need;
2. Analysis of governmental and nongovernmental constraints that affect the development, maintenance, and improvement of housing for all income groups and people with disabilities;
3. Inventory of resources available to address the City’s housing needs, including available land for housing, as well as the financial resources and administrative capacity to manage housing programs; and
4. Specific actions or programs to address the development, improvement, and conservation of housing to meet current and future needs. This includes goals, policies, and specific housing programs.



HOUSING GOALS AND POLICIES

The 2023-2031 Housing Element goals and policies are listed below. Refer to the 2023-2031 Housing Element (separate document) for a full description of the programs associated with each goal.

GOAL 1.0 HOUSING PRODUCTION

Diversity in housing types and affordability levels to accommodate the needs of Capitola residents.

Housing Production Policies

- Policy 1.1 Provide adequate sites and supporting infrastructure to accommodate present and future housing needs of Capitola residents.
- Policy 1.2 Encourage mixed-use developments.
- Policy 1.3 Provide opportunities for the development of alternative housing options, such as Accessory Dwelling Units.
- Policy 1.4 Periodically review development regulations, permit processes, and fees and their effect on development to ensure that such requirements facilitate housing production and rehabilitation.

GOAL 2.0 AFFORDABLE HOUSING DEVELOPMENT

Increased and protected supply of housing affordable to extremely-low, very-low, low, and moderate-income households.

Affordable Housing Policies

- Policy 2.1 Encourage continued affordability of affordable rental housing supply in existing mobile home parks, subsidized rental housing, and special needs housing.
- Policy 2.2 Continue participation in state and federally sponsored programs designed to maintain housing affordability, including the HUD Housing Choice Voucher (HCV) Program.
- Policy 2.3 Preserve existing unrestricted affordable rental housing during the Housing Element planning period.
- Policy 2.4 Promote the development of affordable housing.
- Policy 2.5 Maintain the City’s Housing Trust Fund.
- Policy 2.6 Encourage the production of affordable ownership and rental housing through the City’s Affordable “Inclusionary” Housing Ordinance.

GOAL 3.0: HOUSING FOR PERSONS WITH SPECIAL NEEDS

Accessible housing and appropriate supportive services that provide equal housing opportunities for special needs populations.

Special Housing Needs Policies

- Policy 3.1 Support and facilitate programs that address the housing needs of special needs groups, including the elderly population, homeless persons, single-parent headed households, large households,



extremely low-income households, and persons with disabilities, including developmental disabilities.

- Policy 3.2 Continue the provision of city-initiated incentives to encourage affordable units in development projects.
- Policy 3.3 Support the development of accessible and affordable housing that is designed to serve all ages and is readily accessible to support services.
- Policy 3.4 Provide assistance for seniors and disabled to maintain and improve their homes.
- Policy 3.5 Facilitate and encourage the development of rental units appropriate for families with children, including the provision of supportive services such as childcare.
- Policy 3.6 Encourage the integration of special needs housing in residential environments, readily accessible to public transit, shopping, public amenities, and supportive services.
- Policy 3.7 Encourage the provision of supportive services for persons with special needs to further the greatest level of independence and equal housing opportunities.
- Policy 3.8 Investigate and encourage the development of a variety of housing options for seniors including Congregate Housing, Continuing Care Retirement Communities (CCRCs), Assisted Living, Mobile Home Parks, co-housing, accessory dwelling units, and Independent Living.
- Policy 3.9 Encourage the establishment of childcare centers and family childcare homes in all appropriate zoning districts.

GOAL 4.0: HOUSING ASSISTANCE

Increased assistance for extremely low, very low, low, and moderate income residents to rent or purchase homes.

Housing Assistance Policies

- Policy 4.1 Maintain the City’s rental and ownership assistance programs.
- Policy 4.2 Explore and pursue City participation in other affordable homeownership assistance programs in the private market.
- Policy 4.3 Support the provision of childcare services, employment training, rental assistance, and other supportive services to enable households to be self-sufficient.
- Policy 4.4 Seek and support collaborative partnerships of nonprofit organizations and the development community to aid in the provision of affordable housing.

GOAL 5.0: NEIGHBORHOOD VITALITY

Maintain, preserve, and improve the character of existing residential neighborhoods.

Neighborhood Vitality Policies

- Policy 5.1 Ensure a compatible relationship between new housing and circulation patterns and encourage pedestrian and bicycle-friendly communities to minimize traffic impacts on quality of life.



- Policy 5.2 Protect the integrity of existing single-family and multifamily neighborhoods by promoting balanced site design and architecture.
- Policy 5.3 Assist individual neighborhoods in establishing their own identity through the development of neighborhood amenities (e.g., pocket parks, lighting, signs), mixed-use neighborhood nodes, and pedestrian and sustainability improvements.
- Policy 5.4 Promote the repair, improvement, and rehabilitation of housing and encourage replacement of substandard housing to enhance quality of life in neighborhoods.
- Policy 5.5 Improve the quality of housing and neighborhoods by educating landlords, tenants, and property owners about code compliance issues and enforcing compliance with building and property maintenance standards.

GOAL 6.0: RESOURCE CONSERVATION

Fulfill the City’s housing needs while promoting an environ-mentally sensitive, compact community that is pedestrian-oriented and neighborhood-centered, using resources in a sustainable manner.

Resource Conservation Policies

- Policy 6.1 Encourage the use of alternative modes of transportation.
- Policy 6.2 Strive to maintain a jobs/housing balance.
- Policy 6.3 Promote Green Building techniques, development, and construction standards that provide for resource conservation.
- Policy 6.4 Promote the use of renewable energy technologies (such as solar and wind) in new and rehabilitated housing when possible.
- Policy 6.5 Ensure that adequate water supplies and sewer services continue to be available for residents and businesses.

GOAL 7.0: AFFIRMATIVELY FURTHERING FAIR HOUSING

Equal access to housing opportunities regardless of one’s unique characteristics as protected by local, state and federal fair housing laws.

Fair Housing Policies

- Policy 7.1 Promote meaningful and informed participation of residents, community groups, and governmental agencies in all local housing and community development activities.
- Policy 7.2 Comply with federal, state, and local Fair Housing and anti-discrimination laws, and affirmatively further fair housing for all, ensuring equal access to housing regardless of their special circumstances as protected by fair housing laws.
- Policy 7.3 Promote housing mobility by expanding housing choices and increasing housing opportunities in higher resource areas.
- Policy 7.4 Protect tenants from discriminatory housing practices and displacement.



- Policy 7.5 Promote the integration of affordable and special needs housing projects in existing neighborhoods.
- Policy 7.6 Collaborate with and support efforts of organizations dedicated to eliminating housing discrimination.

REGIONAL HOUSING NEEDS ASSESSMENT

California *Government Code* Article 10.6, Section 65580 – 65589.8, Chapter 3 of Division 1 of Title 7 sets forth the legal requirements for a housing element and encourages the provision of affordable and decent housing in suitable living environments for all communities to meet statewide goals. The 2023-2031 Housing Element is a statement by the City of Capitola of its current and future housing needs identified in a policy document that sets forth the City’s goals, policies, and programs to address those identified needs.

Specifically, *Government Code* Section 65580 states the housing element shall consist of “...an identification and analysis of existing and projected housing needs and a statement of goals, polices, quantified objectives, financial resources and scheduled programs for the preservation, improvement, and development of housing.” The housing element must also contain a housing plan with quantified objectives for the implementation of the goals and objectives described in the housing element. State law requires the housing element be updated every eight years or as otherwise required by State law.

Government Code Article 10.6, Section 65589 – 65589.8, Chapter 3 of Division 1 of Title 7 sets forth the legal requirements for a housing element and encourages the provision of affordable and decent housing in all communities to meet statewide goals. This Initial Study evaluates the environmental effects of the adoption and implementation of the Capitola 2023-2031 Housing Element. The planning period is from June 30, 2023 through December 15, 2031.

Government Code Section 65583 requires that housing elements include the following components:

- A review of the previous element’s goals, policies, programs, and objectives to ascertain the effectiveness of each of these components, as well as the overall effectiveness of the Housing Element;
- An assessment of housing needs and an inventory of resources and constraints related to the meeting of these needs;
- An analysis and program for preserving assisted housing developments;
- A Statement of community goals, quantified objectives, and policies relative to the preservation, improvement and development of housing;.
- A program which sets forth an eight-year schedule of actions that the City is undertaking or intends to undertake, in implementing the policies set forth in the Housing Element.

Several factors influence the demand for housing in the City of Capitola. Four major “needs” categories considered in the Housing Element include:

- 1) housing needs resulting from overcrowding;
- 2) housing needs that result when households are paying more than they can afford for housing;



- 3) housing needs of "special needs groups" such as the elderly, large families, female heads of households, households with persons with disabilities (including persons with developmental disabilities), and the homeless;
- 4) housing needs resulting from population growth in the City and surrounding region

California housing element law requires that each city and county develop local housing programs designed to meet their "fair share" of housing needs for all income groups. The California Department of Housing and Community Development (HCD), Housing Policy Division develops the Regional Housing Needs Assessments (RHNA) for each region of the State, represented by councils of governments. The Association of Monterey Bay Area Governments (AMBAG) determines the housing allocation for each city and county within its three-county jurisdiction, which includes Santa Cruz County. AMBAG assigned Capitola a housing allocation of 1,336 units, as shown in *Table 2-1, Regional Housing Needs Allocation 2023-2031*. The RHNA covers the period of June 30, 2023 through December 15, 2031.

**TABLE 2-1
REGIONAL HOUSING NEEDS ALLOCATION 2023-2031**

Income Category	Number of Units
Extremely Low Income	215
Very Low Income	215 ¹
Low Income	282
Moderate Income	169
Above Moderate Income	455
Total Units	1,336
Source: City of Capitola, 2023-2031 Housing Element (July 2023)	
Notes: 1. The City has a RHNA allocation of 430 very low income units (inclusive of extremely low income units). While the RHNA did not separately define housing needs for extremely low income households, the very low income allocation can be split evenly between very low- and extremely low income households.	

Residential Sites Inventory

The inventory is detailed in 2023-2031 Housing Element Chapter 4: Housing Need and Opportunities.

Comparison of Sites Inventory and RHNA

Properties identified in the sites inventory have the combined capacity to accommodate approximately 1,453 additional housing units on underutilized sites. These sites, and the associated existing land use regulations, can facilitate the production of 448 extremely low-/very low-income units, 298 low-income units, 239 moderate-income units, and 468 above-moderate-income units during the planning period. Refer to *Table 2-2*.



**TABLE 2-2
 COMPARISON OF SITES INVENTORY AND RHNA**

	LOWER	MODERATE	ABOVE MODERATE	TOTAL
RHNA	712	169	455	1,336
Site Inventory				
Recyclable Land*	840	195	455	1,480
Rezone/Overlay Sites*	0	0	0	0
Accessory Dwelling Units (ADUs)	10	30	10	50
TOTAL	850	225	455	1,530
Surplus/Deficit	+138	+56	--	+194
Source: City of Capitola, 2023-2031 Housing Element Table 4-7 (October 2023)				
Notes: *Includes vacant sites, underutilized land, and pending projects				

An inventory of land suitable for residential development is shown in [Table 2-3](#).

**TABLE 2-3
 INVENTORY OF LAND SUITABLE FOR RESIDENTIAL DEVELOPMENT SUMMARY**

	EXTREMELY LOW / VERY LOW INCOME	LOW INCOME	MODERATE INCOME	ABOVE MODERATE INCOME	TOTAL RESIDENTIAL CAPACITY
6th Cycle RHNA	430	282	169	455	1,336
R-1 (Churches)	6	4	---	---	10
RM-L	5	3	4	6	18
RM-M	31	21	1	2	55
MU-N	49	33	30	61	173
C-R	297	198	119	274	888
C-C	105	76	41	102	324
CF	7	5	---	---	12
ADUs	6	4	30	10	50
TOTAL	506	344	225	455	1,530
Source: City of Capitola, 2023-2031 Housing Element Table 4-8 (October 2023)					
Notes: *Includes vacant sites, underutilized land, and pending projects					



Summary of Residential Capacity on Vacant, Recyclable, and ADU Sites

The analysis indicates that the City’s inventory of underutilized/recyclable sites, along with entitled units under plan review and potential Accessory Dwelling Unit (ADU) production has the potential for the development of 1,453 residential units on existing residential properties and within existing zoning categories. A detailed sites inventory table is also presented in 2023-2031 Housing Element Appendix D.

Table 2-4 shows the distribution of the City’s RHNA allocation and low and very-low income units. While the projects focus on areas rich in transit and other amenities, the projections are spread throughout the City in various districts and neighborhoods. This includes infill single-family, ADUs and multiple-family, high density corridors, urban density corridors, and transit-oriented development.

TABLE 2-4
SUMMARY OF HOUSING UNITS

SUB-AREA	LOW AND VERY LOW INCOME UNITS	TOTAL UNITS	PERCENT OF RHNA
Residential Recycling			
Single Family Zone (Religious Sites Only)	10	10	0.7%
Multi-Family Residential Zones	60	73	5.4%
Commercial Zones That Permit Residential Projects	676	1,212	90.8%
Mixed Use Neighborhood Zone	82	173	12.9%
Community Facility Zone (Schools Only)	12	12	0.9%
Accessory Dwelling Units (ADUs)	10	50	3.7%
TOTAL*	850	1,530	114.5%
Source: City of Capitola, 2023-2031 Housing Element Table 4-9 (October 2023)			
Notes: *Total RHNA for lower and very low: 712; total RHNA is 1,336			

The 2023-2031 Housing Element identifies sites evaluated previously for potential environmental impacts in the *General Plan Update EIR*. The 2023-2031 Housing Element Update identifies a range of tentatively reserved sites that could be developed to meet the City’s 6th cycle RHNA throughout Capitola. Some of these sites may differ from those identified in the *City of Capitola General Plan* and could require land use changes in the future that would allow for increased density or other provisions.

Government Code Section 65583 (c)(1)(A) states that cities have up to three years from the time a Housing Element is adopted to rezone sites, including adoption of minimum density and development standards. The sites inventory (provided in 2023-2031 Housing Element Appendix D) yields housing units that provide more than 100 percent of the RHNA requirements. Furthermore, each future development proposal associated with implementation of the Housing Element would be subject to environmental analysis, as applicable, pursuant to *CEQA Guidelines* Section 15168(c) and as required by State law, to evaluate potential impacts specific to that proposal.



Housing Element Assumptions

This document is based on the following assumptions:

1. **General Plan Consistency.** The 2023-2031 Housing Element is consistent with the adopted *City of Capitola General Plan*. As the General Plan is updated in the future, the City will ensure that the updated General Plan is consistent with the policies contained in the Housing Element.
2. **Purpose of Housing Element Environmental Review.** This Initial Study is not intended to and does not address the particular impacts of future housing projects on any site identified in the 2023-2031 Housing Element. The Initial Study is limited to the review of potential environmental impacts resulting from the adoption and implementation of the 2023-2031 Housing Element and is not intended to analyze impacts of current or future specific development activities.
3. **Project-Specific Environmental Review.** In the City of Capitola, all housing development proposals are subject to a CEQA review process.

2.5 PERMITS AND APPROVALS

The City of Capitola is the Applicant. The project requires the following City of Capitola legislative/discretionary approvals:

- General Plan Amendment



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3.0 SUPPLEMENTAL ENVIRONMENTAL CHECKLIST FORM

FOR USE WHEN THE CITY IS REVIEWING SUBSEQUENT DISCRETIONARY ACTIONS PURSUANT TO A PREVIOUSLY APPROVED OR CERTIFIED ENVIRONMENTAL DOCUMENT.

1.	Project Title: 2023-2031 Housing Element
2.	Lead Agency Name and Address: City of Capitola 11333 Valley Boulevard Capitola, CA 91731
3.	Contact Person and Phone Number: Ms. Katie Herlihy, AICP, Community Development P: 831.475.7300 ext 216 E: kherlihy@ci.capitola.ca.us
4.	Project Location: The City of Capitola is centrally located in Santa Cruz County, east of the City of Santa Cruz with a land area of 1.7 square miles; Refer to <u>Exhibit 2-1, Regional Location Map</u> . The project applies to all properties within the municipal boundaries of the City of Capitola.
5.	Project Sponsor’s Name and Address: City of Capitola 420 Capitola Avenue, Capitola, CA 95010
6.	General Plan Designation: Not Applicable (Citywide)
7.	Zoning: Not Applicable (Citywide)
8.	<p>Previous Environmental Document: Please describe the previously adopted ND or MND or the previously certified EIR (include the date the document was adopted or certified, the date the project was approved by the City, the date the NOD was filed with the County, and a summary of potentially significant effects identified in the CEQA document).</p> <p>The <i>Capitola General Plan Update Environmental Impact Report</i> concluded the following significant unavoidable impacts:</p> <ul style="list-style-type: none"> ▪ Air Quality – Impacts AIR-2 and AIR-6 ▪ Hydrology and Water Quality – Impacts HYDRO -2 and HYDRO -9 ▪ Transportation and Traffic – Impacts TRANS-1 and TRANS-6 ▪ Utilities and Service Systems – Impacts UTIL-1, UTIL-2, and UTIL-3 ▪ Greenhouse Gas Emissions – Impacts GHG-1 and GHG-3 <p>The <i>GPU EIR</i> concluded all other impacts were less than significant.</p> <p>The City Council certified the <i>GPU EIR</i> on June 26, 2014, as well as adopted a Statement of Overriding Considerations for significant unavoidable impacts, and adopted a Mitigation Monitoring and Reporting Program.</p>



9.	Description of the Project: Refer to <u>Section 2.4, Project Description</u> .
10.	Surrounding Land Uses and Setting: Capitola is a coastal community located along the Monterey Bay. The City of Capitola is centrally located in Santa Cruz County, east of the City of Santa Cruz. Highway 1 runs east-west along the northern border of the City. Highway 17 is located northwest of Capitola and connects the coastal communities to Silicon Valley and San Francisco Bay Area to the north.
11.	Other public agencies whose approval is required (e.g., permits, financing approval or participation agreement). Refer to <u>Section 2.5, Permits and Approvals</u> .
12.	Have California Native American tribes traditionally and culturally affiliated with the project area requested consultation pursuant to Public Resources Code Section 21080.3.1? If so, is there a plan for consultation that includes, for example, the determination of significance of impacts to tribal cultural resources, procedures regarding confidentiality While not required, the City complied with Tribal Cultural Resources consultation requirements and formal notification was sent to eight tribes. The City received no requests for consultation.



4.0 ENVIRONMENTAL ANALYSIS

EVALUATION OF ENVIRONMENTAL IMPACTS

In accordance with CEQA, *Public Resources Code* Sections 21000-21178.1, this Modified Initial Study has been prepared to analyze whether any new or more significant environmental impacts could occur from implementation of the proposed project. The purpose of this Initial Study is to inform the decision makers, affected agencies, and the public of potential environmental impacts associated with the implementation of the proposed project. This section analyzes the potential environmental impacts associated with the proposed project. The issue areas evaluated in this Initial Study include those cited in [Section 3.0](#).

As the General Plan EIR has been certified, the environmental impacts of subsequent activities proposed under the General Plan must be examined in light of the impact analysis in the certified EIR to determine if additional CEQA documentation must be prepared. One of the standards that applies is whether, under *Public Resources Code* Section 21166 and CEQA Guidelines Sections 15162 and 15163, there are new significant effects or other grounds that require preparation of a subsequent EIR or supplemental EIR in support of further agency action on the project. Under these guidelines, a subsequent or supplemental EIR shall be prepared if any of the following criteria are met:

- (a) When an EIR has been certified or negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in light of the whole record, one or more of the following:
 - 1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
 - 2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
 - 3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or the negative declaration was adopted, shows any of the following:
 - A. The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
 - B. Significant effects previously examined will be substantially more severe than shown in the previous EIR;
 - C. Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative; or
 - D. Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.



As demonstrated in Environmental Analysis Sections 4.1 through 4.19, none of the conditions that had been analyzed in the General Plan EIR would change with adoption of the 2023-2031 Housing Element. Furthermore, no new information of substantial importance meeting the criteria listed in CEQA Guidelines Section 15162 has been identified.

A Housing Element does not propose or require development of any residential use, rather, it establishes local goals, policies, and actions the City would implement and/or facilitate to address identified housing issues. In accordance with State law, Housing Elements must be updated every eight years to establish current housing and land use strategies reflective of changing needs, resources, and conditions.

The 2023-2031 Housing Element is a policy document that would not change land use designations or in and of themselves authorize any development within the City. While the City is required by State law to facilitate development commensurate with its allocated share of regional housing needs, no change in the location or nature of allowable development would be authorized by the 2023-2031 Housing Element.

Future development proposals would be required to comply with all applicable regulations and development standards, along with project-specific conditions and mitigation measures to reduce potential impacts required as part of the development review and environmental impact processes.

- 1) A finding of “No New Impact/No Impact” means that the potential impact was fully analyzed and/or mitigated in the prior CEQA document and no new or different impacts will result from the proposed activity. A brief explanation is required for all answers except “No New Impact/No Impact” answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A “No New Impact/No Impact” answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g. the project falls outside a fault rupture zone). A “No New Impact/No Impact” answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).
- 2) A finding of “New Mitigation is Required” means that the project may have a new potentially significant impact on the environment or a substantially more severe impact than analyzed in the previously approved or certified CEQA document and that new mitigation is required to address the impact.
- 3) A finding of “New Potentially Significant Impact” means that the project may have a new potentially significant impact on the environment or a substantially more severe impact than analyzed in the previously approved or certified CEQA document that cannot be mitigated to below a level of significance or be avoided.
- 4) A finding of “Reduced Impact” means that a previously infeasible mitigation measure is now available, or a previously infeasible alternative is now available that will reduce a significant impact identified in the previously prepared environmental document.
- 5) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.
- 6) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
 - a) Earlier Analyses Used. Identify and state where they are available for review.



- b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis. Describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the proposed action.
 - c) Infeasible Mitigation Measures. Since the previous EIR was certified or previous ND or MND was adopted, discuss any mitigation measures or alternatives previously found not to be feasible that would in fact be feasible or that are considerably different from those previously analyzed and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measures or alternatives.
 - d) Changes in Circumstances. Since the previous EIR was certified or previous ND or MND was adopted, discuss any changes in the project, changes in circumstances under which the project is undertaken and/or "new information of substantial importance" that cause a change in conclusion regarding one or more effects discussed in the original document.
- 7) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g. general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.
- 8) Supporting Information Sources. A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
- 9) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.
- 10) The explanation of each issue should identify:
- a) the significance criteria or threshold, if any, used to evaluate each question;
 - b) differences between the proposed activity and the previously approved project described in the approved ND or MND or certified EIR; and
 - c) the previously approved mitigation measure identified, if any, to reduce the impact to less than significance.



NEW SIGNIFICANT ENVIRONMENTAL EFFECTS OR SUBSTANTIALLY MORE SEVERE SIGNIFICANT ENVIRONMENTAL EFFECTS COMPARED TO THOSE IDENTIFIED IN THE PREVIOUS CEQA DOCUMENT

The subject areas checked below were determined to be new significant environmental effects or to be previously identified effects that have a substantial increase in severity either due to a change in project, change in circumstances or new information of substantial importance, as indicated by the checklist and discussion in [Section 4.1](#) through [Section 4.19](#).

	Aesthetics		Land Use and Planning
	Agriculture and Forestry Resources		Mineral Resources
	Air Quality		Noise
	Biological Resources		Population and Housing
	Cultural and Tribal Cultural Resources		Public Services
	Energy		Recreation
	Geology and Soils		Transportation
	Greenhouse Gas Emissions		Utilities and Service Systems
	Hazards and Hazardous Materials		Wildfire
	Hydrology and Water Quality		



LEAD AGENCY DETERMINATION

On the basis of this evaluation:

- No substantial changes are proposed in the project and there are no substantial changes in the circumstances under which the project will be undertaken that will require major revisions to the previous approved ND or MND or certified EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. Also, there is no "new information of substantial importance" as that term is used in CEQA Guidelines Section 15162(a)(3). Therefore, the previously adopted ND or MND or previously certified EIR adequately discusses the potential impacts of the project without modification.
- No substantial changes are proposed in the project and there are no substantial changes in the circumstances under which the project will be undertaken that will require major revisions to the previous approved ND or MND or certified EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. Also, there is no "new information of substantial importance" as that term is used in CEQA Guidelines Section 15162(a)(3). Therefore, the previously adopted ND, MND or previously certified EIR adequately discusses the potential impacts of the project; however, minor changes require the preparation of an ADDENDUM.
- Substantial changes are proposed in the project or there are substantial changes in the circumstances under which the project will be undertaken that will require major revisions to the previous ND, MND or EIR due to the involvement of significant new environmental effects or a substantial increase in the severity of previously identified significant effects. Or, there is "new information of substantial importance," as that term is used in CEQA Guidelines Section 15162(a)(3). However, all new potentially significant environmental effects or substantial increases in the severity of previously identified significant effects are clearly reduced to below a level of significance through the incorporation of mitigation measures agreed to by the project applicant. Therefore, a SUBSEQUENT MND is required.
- Substantial changes are proposed in the project or there are substantial changes in the circumstances under which the project will be undertaken that will require major revisions to the previous environmental document due to the involvement of significant new environmental effects or a substantial increase in the severity of previously identified significant effects. Or, there is "new information of substantial importance," as that term is used in CEQA Guidelines Section 15162(a)(3). However, only minor changes or additions or changes would be necessary to make the previous EIR adequate for the project in the changed situation. Therefore, a SUPPLEMENTAL EIR is required.
- Substantial changes are proposed in the project or there are substantial changes in the circumstances under which the project will be undertaken that will require major revisions to the previous environmental document due to the involvement of significant new environmental effects or a substantial increase in the severity of previously identified significant effects. Or, there is "new information of substantial importance," as that term is used in CEQA Guidelines Section 15162(a)(3). Therefore, a SUBSEQUENT EIR is required.



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4.1 AESTHETICS

Would the project, except as provided in Public Resources Code Section 21099:	New Potentially Significant Impact	New Impact Requiring New Mitigation	No New Impact/ No Impact	Reduced Impact
A. Have a substantial adverse effect on a scenic vista?			✓	
B. Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?			✓	
C. In nonurbanized areas, substantially degrade the existing visual character or quality of public views of the site and its surroundings? (Public views are those that are experienced from publicly accessible vantage point). In an urbanized area, would the project conflict with applicable zoning and other regulations governing scenic quality?			✓	
D. Create a new source of substantial light or glare, which would adversely affect day or nighttime views in the area?			✓	
Note: Certain projects within a transit priority area need not evaluate aesthetics (<i>Public Resources Code</i> Section 21099).				

PRIOR ENVIRONMENTAL FINDINGS

General Plan Update EIR

The table below summarizes the aesthetics impacts and mitigation measures, if applicable.

AESTHETICS – SUMMARY OF IMPACTS AND MITIGATION MEASURES			
Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
AES-1: The proposed Plan would not have a substantial adverse effect on a scenic vista.	Less Than Significant Impact	Not Applicable	
AES-2: The proposed Plan would not substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings, within a State scenic highway.	No Impact	Not Applicable	
AES-3: The proposed Plan would not result in substantial degradation of the existing visual character or quality of Capitola or its surroundings.	Less Than Significant Impact	Not Applicable	
AES-4: The proposed Plan would not create a new source of substantial light or glare which would adversely affect day or nighttime views in the area.	Less Than Significant Impact	Not Applicable	
AES-5: The proposed Plan, in combination with past, present, and reasonably foreseeable projects, would result in less than significant cumulative impacts with respect to aesthetics.	Less Than Significant Impact	Not Applicable	

Source: Capitola General Plan Update Environmental Impact Report (June 2014), Table 1-1, Summary of Impacts and Mitigation Measures



IMPACT ANALYSIS

The 2023-2031 Housing Element includes policies and programs that are applicable City-wide and are designed to facilitate the construction of housing units to meet the City’s share of the regional housing need. The 2023-2031 Housing Element Chapter 4, Housing Need and Opportunities identifies potential residential sites and densities, inclusive of recyclable residential land, religious facility sites and State land housing, vacant and non-vacant land, and the Capitola Mall site. The 2023-2031 Housing Element Chapter 5, Housing Plan identifies the Goals, Policies, and Programs and Quantified Objectives that are based upon expected availability of resources to address the City’s housing needs, expectations regarding future housing development, as well as prior objectives established in earlier housing plans.

The 2023-2031 Housing Element is a policy document that would not change land use designations or in and of themselves authorize any development within the City. While the City is required by State law to facilitate development commensurate with its allocated share of regional housing needs, no change in the location or nature of allowable development would be authorized by the 2023-2031 Housing Element.

A. WOULD THE PROJECT HAVE A SUBSTANTIAL ADVERSE EFFECT ON A SCENIC VISTA?

The *GPU EIR* identified that one of the guiding principles of the *General Plan* includes the protection and enhancement of natural resources including the beaches, creek, ocean, and lagoon which contribute to Capitola’s scenic beauty. Future development under the *General Plan* would be subject to existing laws and regulations that serve to protect scenic vistas in the Plan Area. The City’s zoning ordinance includes provisions that regulate building height, building placement, and establish standards for lot coverage and usable open space.

The *General Plan* includes policies and actions relevant to the protection of scenic vistas: Policy LU-4.7 Planning Projects, Action LU-5.1 Design Review, Policy LU-6.9 Capitola Wharf, Policy LU-7.3 Scenic Resources, Action LU-7.1 Village Design Guidelines, and Policy LU-10.1 New Development. The *GPU EIR* concluded less than significant impacts to a scenic vista with implementation of the aforementioned *General Plan* policies and actions, and regulatory requirements.

The City of Capitola is a largely built out community with a mix of residential, commercial/industrial, and parks/open space uses. One of the *General Plan* guiding principles includes the protection and enhancement of natural resources including the beaches, creek, ocean, and lagoon which contribute to Capitola’s scenic beauty. There are no officially designated scenic vistas or view corridors in Capitola. However, there are many places in the City that allow for expansive views of the community, ocean to the southwest and foothills to the north.

B. WOULD THE PROJECT PROPOSED PLAN HAVE A SUBSTANTIAL ADVERSE EFFECT ON A SCENIC VISTA.

The *General Plan* includes policies and actions relevant to scenic vistas: Policy LU-4.7 Planning Projects, Action LU-5.1 Design Review, Policy LU-6.9 Capitola Wharf, Policy LU-7.3 Scenic Resources, Action LU-7.1 Village Design Guidelines, and Policy LU-10.1 New Development. The *GPU EIR* concluded less than impacts to scenic vistas with implementation of the aforementioned *General Plan* policies and actions, and regulatory requirements.



The proposed project does not involve construction on any particular site in the City. Future development proposals associated with implementation of the proposed project would be required to comply with all applicable regulations and development standards, along with project-specific conditions and mitigation measures to reduce potential impacts required as part of the development review and environmental impact processes. This can include, but is not limited to, *Municipal Code* requirements; and *General Plan* goals, policies, and implementation programs, including those identified in the proposed project.

Adoption and implementation of the proposed project would not substantially alter the visual character of the City, nor would it have adverse impacts relative to the scenic vistas. Thus, impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

C. WOULD THE PROJECT SUBSTANTIALLY DAMAGE SCENIC RESOURCES, INCLUDING, BUT NOT LIMITED TO, TREES, ROCK OUTCROPPINGS, AND HISTORIC BUILDINGS WITHIN A STATE SCENIC HIGHWAY?

The *General Plan* includes policies relevant to scenic resources: Policy LU-10.4 Highway 1 Interchange and Policy LU-12.6 McGregor Property. The *GPU EIR* concluded no impacts to scenic resources within a State scenic highway with implementation of the aforementioned *General Plan* policies and regulatory requirements.

There are no officially designated scenic highways within the City limits of Capitola. However, Highway 1 which passes through Capitola is eligible to become officially designated. No scenic vistas, trees, rock outcroppings, or state scenic highways occur within the City of Capitola. The proposed project applies to the entire City, and the 2023-2031 Housing Element only identifies sites where new housing may be developed consistent with adopted land use policy. The proposed project does not involve construction at any particular site in the City. Thus, adoption and implementation of the proposed project ensures impacts remain as no impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

C. IN NONURBANIZED AREAS, WOULD THE PROJECT SUBSTANTIALLY DEGRADE THE EXISTING VISUAL CHARACTER OR QUALITY OF PUBLIC VIEWS OF THE SITE AND ITS SURROUNDINGS? (PUBLIC VIEWS ARE THOSE THAT ARE EXPERIENCED FROM PUBLICLY ACCESSIBLE VANTAGE POINT). IN AN URBANIZED AREA, WOULD THE PROJECT CONFLICT WITH APPLICABLE ZONING AND OTHER REGULATIONS GOVERNING SCENIC QUALITY?

The *General Plan* includes goals, policies, and actions relevant to the protection of scenic vistas and the preservation of the character of existing distinct neighborhoods: Policy LU-1.1 Community Character, Policy LU-1.2 Design Quality, Action LU-1.1 Design Guidelines, Goal LU-2, Policy LU-2.1 Historic Structures, Policy LU-2.2 Modification Standards, Policy LU-2.3 Preservation Incentives, Policy LU-2.4 Public Awareness, Policy LU-3.1 Historic Structures, Policy LU-3.3 Infill Development, Goal LU-4, Policy LU-4.2 Neighborhood Diversity, Policy LU-4.3 Existing Housing, Policy LU-4.5 Neighborhood Amenities, Policy LU-4.6 Natural Features, Goal LU-5, Policy LU-5.1 Neighborhood Characteristics, Policy LU-5.2 Development Impacts, Policy LU-5.3 Mass and Scale, Policy LU-5.5 Architectural Character, Action LU-5.1 Design Review, Policy LU-7.1 New Development Design. The *GPU EIR*



concluded less than significant visual character impacts with implementation of the aforementioned *General Plan* goals, policies, and actions.

The City of Capitola is considered an urbanized area. The proposed project involves a policy-level document, and as such, does not include any site-specific development designs or proposals. Therefore, it is not possible at this time to conduct an assessment of potential site-specific visual impacts relative to future development proposals associated with implementation of the proposed project.

However, future development proposals associated with implementation of the proposed project would be required to comply with all applicable regulations and development standards, along with project-specific conditions and mitigation measures to reduce potential impacts required as part of the development review and environmental impact processes. This can include, but is not limited to, *Municipal Code* requirements; and *General Plan* goals, policies, and implementation programs, including those identified in the proposed project. Thus, adoption and implementation of the proposed project ensures visual character and scenic quality impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

E. WOULD THE PROJECT CREATE A NEW SOURCE OF SUBSTANTIAL LIGHT OR GLARE WHICH WOULD ADVERSELY AFFECT DAY OR NIGHTTIME VIEWS IN THE AREA?

The City of Capitola is located within a moderately urbanized context. Future development under the *General Plan* would create new sources of light and glare. However, regulations in the *Municipal Code* and policies in the *General Plan* would substantially minimize adverse impacts. The *General Plan* includes a policy relevant to light and glare: Policy LU-5.2 Development Impacts. The *GPU EIR* concluded less than significant light and glare impacts with implementation of the aforementioned *General Plan* policy.

The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals, nor does it address new lighting sources. As such, it is not possible at this time to conduct an assessment of potential site-specific light and glare impacts relative to future development proposals associated with implementation of the proposed project. Generally, potential glare and lighting glare impacts can be mitigated through use of non-reflective building materials and lighting that is shielded downward.

Future development proposals associated with implementation of the proposed project would be required to comply with all applicable regulations and development standards, along with project-specific conditions and mitigation measures to reduce potential impacts required as part of the development review and environmental impact processes. This can include, but is not limited to, *Municipal Code* requirements; and *General Plan* goals, policies, and implementation programs, including those identified in the proposed project. The case-by-case review of future development proposals associated with implementation of the proposed project ensures that light and glare impacts are addressed through minimization and/or mitigation. Thus, adoption and implementation of the proposed project ensures impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.



4.2 AGRICULTURE AND FORESTRY RESOURCES

In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Department of Conservation as an optional model to use in assessing impacts on agriculture and farmland. In determining whether impacts to forest resources, including timberland, are significant environmental effects, lead agencies may refer to information compiled by the California Department of Forestry and Fire Protection regarding the state's inventory of forest land, including the Forest and Range Assessment Project and the Forest Legacy Assessment project; and forest carbon measurement methodology provided in Forest Protocols adopted by the California Air Resources Board.

Would the project:	New Potentially Significant Impact	New Impact Requiring New Mitigation	No New Impact/ No Impact	Reduced Impact
A. Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?			✓	
B. Conflict with existing zoning for agricultural use, or a Williamson Act contract?			✓	
C. Conflict with existing zoning for, or cause rezoning of, forest land (as defined in Public Resources Code Section 12220(g)), timberland (as defined by Public Resources Code Section 4526), or timberland zoned Timberland Production (as defined by Government Code Section 51104(g))?			✓	
D. Result in the loss of forest land or conversion of forest land to non-forest use?			✓	
E. Involve other changes in the existing environment, which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use or conversion of forest land to non-forest use?			✓	

PRIOR ENVIRONMENTAL FINDINGS

General Plan Update EIR

CEQA Guidelines Section 15128 allows environmental issues for which there is no likelihood of significant impact to be “scoped out” and not analyzed further in an EIR. It was determined that the proposed Plan (*General Plan*) would not result in significant impacts with respect to Agriculture and Forestry Resources, and as such were not analyzed in the *GPU EIR*.



IMPACT ANALYSIS

The 2023-2031 Housing Element includes policies and programs that are applicable City-wide and are designed to facilitate the construction of housing units to meet the City’s share of the regional housing need. The 2023-2031 Housing Element Chapter 4, Housing Need and Opportunities identifies potential residential sites and densities, inclusive of recyclable residential land, religious facility sites and State land housing, vacant and non-vacant land, and the Capitola Mall site. The 2023-2031 Housing Element Chapter 5, Housing Plan identifies the Goals, Policies, and Programs and Quantified Objectives that are based upon expected availability of resources to address the City’s housing needs, expectations regarding future housing development, as well as prior objectives established in earlier housing plans.

The 2023-2031 Housing Element is a policy document that would not change land use designations or in and of themselves authorize any development within the City. While the City is required by State law to facilitate development commensurate with its allocated share of regional housing needs, no change in the location or nature of allowable development would be authorized by the 2023-2031 Housing Element.

A. WOULD THE PROJECT CONVERT PRIME FARMLAND, UNIQUE FARMLAND, OR FARMLAND OF STATEWIDE IMPORTANCE (FARMLAND), AS SHOWN ON THE MAPS PREPARED PURSUANT TO THE FARMLAND MAPPING AND MONITORING PROGRAM OF THE CALIFORNIA RESOURCES AGENCY, TO NON-AGRICULTURAL USE?

The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals. No properties in Capitola are designated as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland). Thus, adoption and implementation of the proposed project ensures impacts remain as no impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

B. WOULD THE PROJECT CONFLICT WITH EXISTING ZONING FOR AGRICULTURAL USE, OR A WILLIAMSON ACT CONTRACT?

The City and surrounding area are developed and urbanized. No agricultural land exists or is zoned for agricultural use within the City, and no property within the City is under a Williamson contract. The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals. Therefore, the proposed project would not affect any land zoned for agricultural uses and would not conflict with a Williamson Act Contract. Thus, adoption and implementation of the proposed project ensures impacts remain as no impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.



C. WOULD THE PROJECT CONFLICT WITH EXISTING ZONING FOR, OR CAUSE REZONING OF, FOREST LAND (AS DEFINED IN PUBLIC RESOURCES CODE SECTION 12220(G)), TIMBERLAND (AS DEFINED BY PUBLIC RESOURCES CODE SECTION 4526), OR TIMBERLAND ZONED TIMBERLAND PRODUCTION (AS DEFINED BY GOVERNMENT CODE SECTION 51104(G))?

There is no zoning designation for forest land in the City of Capitola, and no areas within the City are classified as forest or timberland as defined by *Public Resources Code* Section 4526. Forestry operations do not occur within the City. Also, no property within the City supports trees capable of 10 percent native tree cover of any species, including hardwoods, under natural conditions, or that allows for management of one or more forest resources, including timber, aesthetics, fish and wildlife, biodiversity, water quality, recreation, and other public benefits. The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals. Therefore, the proposed project would not result in the rezoning of forest land, timberland, or timberland zoned Timberland Production. Thus, adoption and implementation of the proposed project ensures impacts remain as no impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

D. WOULD THE PROJECT RESULT IN THE LOSS OF FOREST LAND OR CONVERSION OF FOREST LAND TO NON-FOREST USE?

Refer to Response 4.2.C.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

E. WOULD THE PROJECT INVOLVE OTHER CHANGES IN THE EXISTING ENVIRONMENT, WHICH, DUE TO THEIR LOCATION OR NATURE, COULD RESULT IN CONVERSION OF FARMLAND, TO NON-AGRICULTURAL USE OR CONVERSION OF FOREST LAND TO NON-FOREST USE?

The City contains no forest land, nor is any property within the City zoned for agriculture. The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals. Therefore, the proposed project would not result in changes to the environment that lead to the conversion of farmland to a non-agricultural use or forest land to a non-forest use. Thus, adoption and implementation of the proposed project ensures impacts remain as no impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.



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4.3 AIR QUALITY

Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations.

Would the project:	New Potentially Significant Impact	New Impact Requiring New Mitigation	No New Impact/ No Impact	Reduced Impact
A. Conflict with or obstruct implementation of the applicable air quality plan?			✓	
B. Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard?			✓	
C. Expose sensitive receptors to substantial pollutant concentrations?			✓	
D. Result in other emissions (such as those leading to odors) adversely affecting a substantial number of people?			✓	

PRIOR ENVIRONMENTAL FINDINGS

General Plan Update EIR

The table below summarizes the air quality impacts and mitigation measures, if applicable.

AIR QUALITY – SUMMARY OF IMPACTS AND MITIGATION MEASURES			
Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
AIR-1: Citywide construction activities under the proposed Plan would result in a considerable increase of criteria pollutants, and thus, could violate air quality standards.	Significant	AIR-1a AIR-1b	Less Than Significant
AIR-2: Implementation of the proposed Plan could result in an overall increase in mobile and stationary source emissions within the City, which could exceed Monterey Bay Unified Air Pollution Control District air quality standards.	Significant	AIR-2: No Mitigation Available	Significant Unavoidable
AIR-3: Implementation of the proposed Plan could result in an overall increase in odors within the City.	Less Than Significant	Not Applicable	Less Than Significant
AIR-4: Implementation of the Capitola General Plan could result in an overall increase in localized and carbon monoxide hotspot emissions within the city, which could exceed Monterey Bay Unified Air Pollution Control District air quality standards.	Less Than Significant	Not Applicable	Less Than Significant
AIR-5: The proposed Plan may conflict with or hinder implementation of the Association of Monterey Bay Area Government’s regional comprehensive plan guidelines and the Monterey Bay Unified Air Pollution Control District Air Quality Management Plan.	Less Than Significant	Not Applicable	Less Than Significant
AIR-6: Regional air quality emissions resulting from operational buildout of the Capitola General Plan could impact regional air quality levels on a cumulatively considerable basis.	Significant	AIR-6	Significant Unavoidable

Source: Capitola General Plan Update Environmental Impact Report (June 2014), Table 1-1, Summary of Impacts and Mitigation Measures



IMPACT ANALYSIS

The 2023-2031 Housing Element includes policies and programs that are applicable City-wide and are designed to facilitate the construction of housing units to meet the City’s share of the regional housing need. The 2023-2031 Housing Element Chapter 4, Housing Need and Opportunities identifies potential residential sites and densities, inclusive of recyclable residential land, religious facility sites and State land housing, vacant and non-vacant land, and the Capitola Mall site. The 2023-2031 Housing Element Chapter 5, Housing Plan identifies the Goals, Policies, and Programs and Quantified Objectives that are based upon expected availability of resources to address the City’s housing needs, expectations regarding future housing development, as well as prior objectives established in earlier housing plans.

The 2023-2031 Housing Element is a policy document that would not change land use designations or in and of themselves authorize any development within the City. While the City is required by State law to facilitate development commensurate with its allocated share of regional housing needs, no change in the location or nature of allowable development would be authorized by the 2023-2031 Housing Element.

- A. WOULD THE PROJECT CONFLICT WITH OR OBSTRUCT IMPLEMENTATION OF THE APPLICABLE AIR QUALITY PLAN?**

- B. WOULD THE PROJECT RESULT IN A CUMULATIVELY CONSIDERABLE NET INCREASE OF ANY CRITERIA POLLUTANT FOR WHICH THE PROJECT REGION IS NON-ATTAINMENT UNDER AN APPLICABLE FEDERAL OR STATE AMBIENT AIR QUALITY STANDARD?**

The *General Plan* includes the following relevant goals, policies, and actions: Goal OSC-3, Policy OSC-3.1 Air Quality Management Plans, Policy OSC-3.2 Development Design, Policy OSC-3.3 Best Management Practices, Policy OSC-3.6 Sensitive Receptors, Policy OSC-3.7 Roadway Materials, Policy SN-4.4 Green Building, Goal OSC-4, Policy OSC-4.1 On-Site Energy Generation, Policy OSC-4.2 Grid-Neutral Development, Policy OSC-4.3 Photovoltaic Panels, Policy OSC-4.4 Solar Heaters, Policy OSC-4.5 Solar Access, Policy OSC-4.6 Passive Solar Design, Goal OSC-11, Policy OSC-11.1 Solid Waste Diversion, Policy OSC-11.2 City Diversion Rate, Policy OSC-11.3 Demolition Material Recycling, Policy OSC-11.4 Building Design, Policy OSC-11.5 Recycling and Composting Space, Policy OSC-11.6 Reusable Goods, Policy OSC-11.7 Consumption/Waste Reduction, Action OSC-11.1, Action OSC-11.3 Recycled Asphalt Pavement, Goal LU-3, Policy LU-3.1 Land Use Diversity, Policy LU-3.2 Walkability, Policy LU-3.4 Transit and Pedestrian Access, Policy LU-3.5 Pedestrian and Bicycle Connections, Policy LU-3.7 Regional Outlook, Goal MO-1, Policy MO-1.1 Responsive Transportation Services, Policy MO-1.2 Reduced Vehicle Trips, Policy MO-1.3 Regional Collaboration, Policy MO-1.4 Highway 1 Capacity, Action MO-1.2 Regional Plan Implementation, Action MO-1.3 Highway 1 Crossings, Goal MO-2, Policy MO-2.1 Complete Streets, Policy MO-2.3 Community Context, Policy MO-2.4 Maintenance, Policy MO-2.5 Existing Rights-of-Way, Policy MO-2.6 Non-Motorized Connectivity, Action MO-2.1 Complete Street Standards, Action MO-2.2 Capital Improvement Program, Action MO-2.3 Dedications, Action MO-3.2 Signal Timing, Policy MO-6.5 Transportation Alternatives, Policy MO-7.1 Regional Cooperation, Policy MO-7.2 Transit-Friendly Development, Policy MO-7.6 Rail Service, Action MO-7.1 Improved Transit Coverage, Policy MO-8.1 Bicycle Transportation Plan, Policy MO-8.2 Regional System, Action MO-8.3 Bicycle Connections, and Action MO-8.5 Highway 1 Interchanges.

The *GPU EIR* concluded that buildout of the *General Plan* would have significant unavoidable impacts relative to conflicting with an applicable plan and net increase of criteria pollutants under Federal or state air quality



standards with implementation of the aforementioned *General Plan* goals, policies, and actions, regulatory requirements, and mitigation measures AQ-1 and AQ-2.

The Monterey Bay Unified Air Pollution Control District (MBUAPCD) is one of 35 air quality management districts established to protect air quality in California. It is responsible for regulating stationary, indirect, and area sources of pollution within the North Central Coast Air Basin (NCCAB). The MBUAPCD's jurisdiction includes Monterey, Santa Cruz, and San Benito Counties. The City of Capitola is located in the NCCAB.

Construction-Related Impacts. The *GPU EIR* concluded that with the implementation of GPU EIR Mitigation Measures AIR-1a and AIR-1b, impacts would be less than significant.

Operational-Related Impacts. The *GPU EIR* concluded that no mitigation was available to reduce operational-related emissions, thus, impacts associated with the GPU would remain significant and unavoidable.

The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals. And while adoption and implementation of the 2023-2031 Housing Element would not directly result in the construction of new housing or pollutant emissions, it could facilitate housing construction consistent with adopted land use policy, which could then create potential pollutant emissions. A case-by-case review of future development proposals associated with implementation of the proposed project would be necessary to ensure that potential pollutant emissions do not conflict with or obstruct implementation of the applicable air quality plan, result in a cumulatively considerable net increase of any criteria pollutant, or be inconsistent with Federal, State, and local air quality standards; the applicable Air Quality Management Plan; and the *General Plan* goals, policies, and standards relative to air quality.

Future development proposals associated with implementation of the proposed project would be required to comply with all applicable regulations and development standards, along with project-specific conditions and mitigation measures to reduce potential impacts required as part of the development review and environmental impact processes. This can include, but is not limited to, Federal and State laws, regulations, and air quality standards; applicable Air Quality Management Plan; MBUAPCD rules and programs; *Municipal Code* requirements; and *General Plan* goals, policies, and implementation programs, including those identified in the proposed project, relative to air quality.

The previously noted goals, policies, actions, laws, regulations, standards, rules, and programs along with *GPU EIR* Mitigation Measures AIR-1a and AIR-1b ensure proposed project impacts are reduced to the maximum extent feasible, and that ambient air quality standard impacts remain as less than significant, while the air quality plan remains as significant and unavoidable as there are no applicable mitigation measures.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

C. WOULD THE PROJECT EXPOSE SENSITIVE RECEPTORS TO SUBSTANTIAL POLLUTANT CONCENTRATIONS?

Land uses that are considered more sensitive to changes in air quality than others are referred to as sensitive receptors. Land uses such as primary and secondary schools, hospitals, and convalescent homes are considered to be sensitive to poor air quality because the very young, the old, and the infirm are more susceptible to respiratory infections and other air quality-related health problems than the general public. Residential uses are



considered sensitive because people in residential areas are often at home for extended periods of time, so they could be exposed to pollutants for extended periods. Per the *GPU EIR*, sensitive receptors within the City of Capitola include residential uses, schools, and libraries.

The *GPU EIR* determined that implementation of the *General Plan* would not directly result in increased population or new development. However, future development could result in mobile sources of emissions associated with vehicle trips, as well as project-level construction related emissions. Sensitive receptors could be potentially subject to stationary and/or vehicular emissions and pollutants such as toxic air contaminants from stationary sources, carbon monoxide (CO) emissions from vehicular traffic, and/or diesel emissions from construction-related emissions.

The *GPU EIR* concluded that implementation of the *General Plan* could result in increased exposure of sensitive land uses to localized concentrations of TACs that would exceed Monterey Bay Unified Air Pollution Control District's (MBUAPCD) recommended significance thresholds. However, future development within Capitola would be required to comply with MBUAPCD rules and regulations, including Rule 1000: Permit Guidelines and Requirements for Sources Emitting Toxic Air Contaminants. Additionally, any potential source of stationary emissions would be subject to MBUAPCD review and approval to ensure emissions do not create or substantially contribute to air quality violations. Stationary sources with potential toxic air contaminants would also be subject to MBUAPCD review and approval to ensure that there are no significant impacts to adjacent residents, sensitive receptors and/or other land uses. The *GPU EIR* concluded less than significant impacts relative to localized emissions and carbon monoxide impacts to sensitive receptors.

The *GPU EIR* concluded that buildout of the *General Plan* would result in less than significant impacts relative to exposing sensitive receptors to substantial pollutant concentrations.

The *General Plan* includes goals, policies, and actions relevant to substantial pollutant concentrations: Goal OSC-3, Policy OSC-3.5 Health Risk Assessments, Policy MO-3.1 Arterial Streets, Policy MO-3.2 Street Widening, Policy MO-3.3 Level of Service Standard, Action MO-3.1 Neighborhood Traffic, Action MO-3.2 Signal Timing, and Action MO-3.3 Traffic Monitoring. The *GPU EIR* concluded less than significant pollutant concentration impacts with implementation of the aforementioned *General Plan* policies and actions.

The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals. The 2023-2031 Housing Element is a policy document that establishes City direction for facilitating housing development pursuant to adopted land use plans. Future development proposals associated with implementation of the proposed project would be required to comply with the density and intensity standards set forth in the *General Plan* and current Zoning Ordinance.

In addition, future development proposals associated with implementation of the proposed project would be required to comply with all applicable regulations and development standards, along with project-specific conditions and mitigation measures to reduce potential impacts required as part of the development review and environmental impact processes. This can include, but is not limited to, Federal, State, and local laws, regulations, and air quality standards; MBUAPCD rules; *Building Code* requirements; *Municipal Code* requirements; *General Plan* goals, policies, and implementation programs; and *GPU EIR* Mitigation Measures AIR-1a and AIR-1b. The *GPU EIR* identified Mitigation Measure Mitigation Measures AIR-1a and AIR-1b would reduce impacts to less than significant for residential and other sensitive land uses. Thus, adoption and implementation of the proposed project would not directly result in the exposure of persons to substantial pollutant concentrations.



The previously noted goals, policies, actions, laws, regulations, standards, rules, programs, and mitigation measure ensure proposed project impacts are reduced to the maximum extent feasible, and that air quality impacts to sensitive receptors remain as less than significant.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

D. WOULD THE PROJECT RESULT IN OTHER EMISSIONS (SUCH AS THOSE LEADING TO ODORS) ADVERSELY AFFECTING A SUBSTANTIAL NUMBER OF PEOPLE?

Potential operational airborne odors could be created by cooking activities associated with the residential and commercial (i.e., food service) uses within the City. These odors would be similar to existing residential and food service uses throughout the city and would be confined to the immediate vicinity of the new buildings. Restaurants are also typically required to provide ventilation systems that avoid substantial adverse odor impacts.

The *General Plan* accommodates the development of residential, commercial, industrial, public/religious, and open space/parks/recreation uses. These uses are not identified by the MBUAPCD as significant odor generators. Additionally, the policies included in the *General Plan* would reduce mobile and stationary source emissions and odors associated with diesel fuel by focusing on land use patterns that improve air quality, reduce air pollution from stationary sources, and encourage/enable more sustainable transit behavior. Consequently, implementation of the *General Plan* would not create operational-related objectionable odors affecting a substantial number of people within the City. The *GP EIR* concluded odor impacts to be less than significant.

The *General Plan* includes a policy relevant to odors: Policy SN-4.3 Sensitive Receptors. The *GPU EIR* concluded less than significant odor impacts with implementation of the aforementioned *General Plan* policy.

The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals. The 2023-2031 Housing Element is a policy document that establishes City direction for facilitating housing development pursuant to adopted land use plans. Future development proposals associated with implementation of the proposed project would be required to comply with the density and intensity standards set forth in the *Capitola General Plan* and current Zoning Ordinance.

Adoption and implementation of the proposed project would not directly result in the exposure of persons to other emissions or odors. However, future development proposals associated with implantation of the proposed project would be required to comply with all applicable regulations and development standards, along with project-specific conditions and mitigation measures to reduce potential impacts required as part of the development review and environmental impact processes. This can include, but is not limited to, Federal and State laws, regulations, and air quality standards; applicable Air Quality Management Plan; MBUAPCD rules and programs; *Municipal Code* requirements; and *General Plan* goals, policies, and implementation programs, including those identified in the proposed project, relative to air quality. The previously noted goals, policies, actions, laws, regulations, standards, rules, and programs along with *GPU EIR* Mitigation Measures AIR-1a and AIR-1b ensure proposed project impacts are reduced to the maximum extent feasible, and that other emissions or odor impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.



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4.4 BIOLOGICAL RESOURCES

Would the project:	New Potentially Significant Impact	New Impact Requiring New Mitigation	No New Impact/ No Impact	Reduced Impact
A. Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?			✓	
B. Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, regulations or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?			✓	
C. Have a substantial adverse effect on state or federally protected wetlands (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?			✓	
D. Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?			✓	
E. Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?			✓	
F. Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?			✓	

PRIOR ENVIRONMENTAL FINDINGS

General Plan Update EIR

The table below summarizes the biological resources impacts and mitigation measures, if applicable.

BIOLOGICAL RESOURCES – SUMMARY OF IMPACTS AND MITIGATION MEASURES			
Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
BIO-1: The proposed Plan would not result in significant impacts to special-status plant and animal species in the Plan Area.	Less Than Significant	Not Applicable	
BIO-2: The proposed Plan would not result in significant impacts to riparian habitat or other sensitive natural community.	Less Than Significant	Not Applicable	
BIO-3: The proposed Plan would not result in significant impacts to federally protected wetlands.	Less Than Significant	Not Applicable	
BIO-4: The proposed Plan would not interfere substantially with the movement of any native resident or migratory fish or wildlife species, or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites.	Less Than Significant	Not Applicable	



BIOLOGICAL RESOURCES – SUMMARY OF IMPACTS AND MITIGATION MEASURES			
Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
BIO-5: The proposed Plan would not conflict with Capitola’s Community Tree and Forest Management Ordinance.	Less Than Significant	Not Applicable	
BIO-6: The proposed Plan would not conflict with the Monterey Bay National Marine Sanctuary Management Plan.	Less Than Significant	Not Applicable	

Source: Capitola General Plan Update Environmental Impact Report (June 2014), Table 1-1, Summary of Impacts and Mitigation Measures

IMPACT ANALYSIS

The 2023-2031 Housing Element includes policies and programs that are applicable City-wide and are designed to facilitate the construction of housing units to meet the City’s share of the regional housing need. The 2023-2031 Housing Element Chapter 4, Housing Need and Opportunities identifies potential residential sites and densities, inclusive of recyclable residential land, religious facility sites and State land housing, vacant and non-vacant land, and the Capitola Mall site. The 2023-2031 Housing Element Chapter 5, Housing Plan identifies the Goals, Policies, and Programs and Quantified Objectives that are based upon expected availability of resources to address the City’s housing needs, expectations regarding future housing development, as well as prior objectives established in earlier housing plans.

The 2023-2031 Housing Element is a policy document that would not change land use designations or in and of themselves authorize any development within the City. While the City is required by State law to facilitate development commensurate with its allocated share of regional housing needs, no change in the location or nature of allowable development would be authorized by the 2023-2031 Housing Element.

A. WOULD THE PROJECT HAVE A SUBSTANTIAL ADVERSE EFFECT, EITHER DIRECTLY OR THROUGH HABITAT MODIFICATIONS, ON ANY SPECIES IDENTIFIED AS A CANDIDATE, SENSITIVE, OR SPECIAL STATUS SPECIES IN LOCAL OR REGIONAL PLANS, POLICIES, OR REGULATIONS, OR BY THE CALIFORNIA DEPARTMENT OF FISH AND GAME OR U.S. FISH AND WILDLIFE SERVICE?

Subsequent projects under the *General Plan* that would involve development in areas where special status plant and animal species may occur would be subject to separate project-level environmental review pursuant to CEQA in order to identify and mitigate impacts to special-status species. Applicable federal, State, and local regulations, along with the proposed Plan goals, policies, and actions, would reduce potential impacts to special-status plant and animal species.

The *General Plan* includes goals, policies, and actions relative to special-status plant and animal species: Goal OSC-6, Policy OSC-6.1 Natural Diversity, Policy OSC-6.2 Environmentally Sensitive Areas, Policy OSC-6.3 Development Projects, Policy OSC-6.4 Regulatory Compliance, Policy OSC-6.6 Monterey Bay, Policy OSC-6.7 Regional Collaboration, Goal OSC-7, Policy OSC-7.1 Riparian Landscaping, Policy OSC-7.2 Soquel Creek, Policy OSC-7.3 Creek Alterations, Policy OSC-7.4 Creek Alteration Impacts, Policy OSC-7.5 Creek Restoration, Policy OSC-7.6 Wetland Protection, Policy OSC-7.7 Biological Study, Policy OSC-7.8 Wetland Habitat, Policy OSC-7.9 Creek Recreation and Access, and Action OSC-7.1 Riparian Plant List. The *GPU EIR* concluded less than significant impacts with implementation of the aforementioned *General Plan* goals, policies, and actions.



Various special status plant and animal species are known to occur or could potentially occur within the City. Although development within natural resource areas or areas potentially containing special-status plant and animal species is not anticipated, there is the potential for future development associated with implementation of the proposed project to significantly impact, either directly, or through habitat modifications, special status plant and wildlife species.

The proposed project would not result in a substantial adverse effect, either directly or through habitat modifications, on any sensitive species. Thus, adoption and implementation of the proposed project ensures impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

B. WOULD THE PROJECT HAVE A SUBSTANTIAL ADVERSE EFFECT ON ANY RIPARIAN HABITAT OR OTHER SENSITIVE NATURAL COMMUNITY IDENTIFIED IN LOCAL OR REGIONAL PLANS, POLICIES, REGULATIONS OR BY THE CALIFORNIA DEPARTMENT OF FISH AND GAME OR U.S. FISH AND WILDLIFE SERVICE?

The *General Plan* includes goals, policies, and actions relative to riparian habitats: Policy OSC-6.1 Natural Diversity, Policy OSC-6.3 Development Projects, Policy OSC-6.4 Regulatory Compliance, Policy OSC-6.6 Monterey Bay, Policy OSC-6.7 Regional Collaboration, Policy OSC-7.1 Riparian Landscaping, Policy OSC-7.2 Soquel Creek, Policy OSC-7.3 Creek Alterations, Policy OSC-7.4 Creek Alteration Impacts, Policy OSC-7.5 Creek Restoration, Policy OSC-7.6 Wetland Protection, Policy OSC-7.7 Biological Study, Policy OSC-7.8 Wetland Habitat, Policy OSC-7.9 Creek Recreation and Access, and Action OSC-7.1 Riparian Plant List. The *GPU EIR* concluded less than significant impacts with implementation of the aforementioned *General Plan* goals, policies, and actions.

Riparian corridors in the City include the woodland along the west side of Soquel Creek from the Stockton Avenue Bridge to the Highway One overpass (Soquel Creek Riparian corridor), the Noble Gulch Riparian corridor, and the Tannery Gulch Riparian corridor. These corridors provide important natural resources, visual relief, and support for numerous wildlife and native vegetation.

The proposed project would not result in a substantial adverse effect on any riparian habitat or other sensitive natural community. Thus, adoption and implementation of the proposed project ensures impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

C. WOULD THE PROJECT HAVE A SUBSTANTIAL ADVERSE EFFECT ON FEDERALLY PROTECTED WETLANDS AS DEFINED BY SECTION 404 OF THE CLEAN WATER ACT (INCLUDING, BUT NOT LIMITED TO, MARSH, VERNAL POOL, COASTAL, ETC.) THROUGH DIRECT REMOVAL, FILLING, HYDROLOGICAL INTERRUPTION, OR OTHER MEANS?

The *General Plan* includes policies relative to wetlands: Policy OSC-6.1 Natural Diversity, Policy OSC-6.2 Environmentally Sensitive Areas, Policy OSC-6.3 Development Projects, Policy OSC-6.4 Regulatory Compliance, Policy OSC-6.6 Monterey Bay, Policy OSC-6.7 Regional Collaboration, Policy OSC-7.1 Riparian Landscaping, Policy



OSC-7.2 Soquel Creek, Policy OSC-7.3 Creek Alterations, Policy OSC-7.4 Creek Alteration Impacts, Policy OSC-7.5 Creek Restoration, Policy OSC-7.6 Wetland Protection, Policy OSC-7.7 Biological Study, Policy OSC-7.8 Wetland Habitat, Policy OSC-7.9 Creek Recreation and Access, and Action OSC-7.1 Riparian Plant List. The *GPU EIR* concluded less than significant impacts with implementation of the aforementioned *General Plan* policies and actions.

Future development activities within the City could potentially result in significant impacts to federally protected wetlands. Existing regulations would help to ensure that development associated with the proposed project would not cause a significant impact to federally protected wetlands. Compliance with the *Local Coastal Plan*, *General Plan*, and *Municipal Code*, would minimize potential impacts to wetlands. Future development associated with implementation of the proposed project could involve development in areas of potential wetlands, and would be subject to separate project-level environmental review pursuant to CEQA in order to identify and mitigate impacts.

The proposed project would not result in a substantial adverse effect on federally protected wetlands. Thus, adoption and implementation of the proposed project ensures impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

D. WOULD THE PROJECT INTERFERE SUBSTANTIALLY WITH THE MOVEMENT OF ANY NATIVE RESIDENT OR MIGRATORY FISH OR WILDLIFE SPECIES OR WITH ESTABLISHED NATIVE RESIDENT OR MIGRATORY WILDLIFE CORRIDORS, OR IMPEDE THE USE OF NATIVE WILDLIFE NURSERY SITES?

The *General Plan* includes policies relative to native residents, migratory wildlife corridors, or native wildlife nursery sites: Policy OSC-6.1 Natural Diversity, Policy OSC-6.2 Environmentally Sensitive Areas, Policy OSC-6.3 Development Projects., Policy OSC-6.4 Regulatory Compliance, Policy OSC-6.6 Monterey Bay, Policy OSC-6.7 Regional Collaboration, Policy OSC-7.1 Riparian Landscaping, Policy OSC-7.2 Soquel Creek, Policy OSC-7.3 Creek Alterations, Policy OSC-7.4 Creek Alteration Impacts, Policy OSC-7.5 Creek Restoration, Policy OSC-7.6 Wetland Protection, Policy OSC-7.7 Biological Study, Policy OSC-7.8 Wetland Habitat, Policy OSC-7.9 Creek Recreation and Access, and Action OSC-7.1 Riparian Plant List. The *GPU EIR* concluded less than significant impacts with implementation of the aforementioned *General Plan* policies and actions.

Given the urbanized context of the City and the extent of existing development, opportunities for wildlife movement in the urbanized portion of the City are limited. Existing development, including buildings, major roadways, or other similar improvements, represent substantial barriers to wildlife movement. However, Soquel Creek runs through the middle of the City into the Monterey Bay. The creek is a year-round water source for the wildlife in the adjoining riparian corridor as well as an important wetland habitat. The lagoon area of the creek is the only significant habitat for migratory non-marine waterbirds within Capitola. In addition, the Creek and Lagoon supports steelhead with resident trout and non-sport species and southwestern pond turtles.

Monarch butterfly habitats are located along Soquel Creek and in the Escalona Gulch area. These areas provide overwintering sites for the migrating Monarch butterfly and are considered environmentally sensitive habitat areas (ESHA). The orientation of the groves to wind and sun, the size and density of the trees, and the quiet, undisturbed setting are among the factors that make these sites among the few in Santa Cruz County suitable for the butterflies. Both Escalona Gulch and Soquel Creek Monarch butterfly groves lie within areas designated for preservation as open space. Just outside the city limits between New Brighton Road and New Brighton State Park



campground is another overwintering site for Monarch butterflies. This grove is partly on State Park property and partly on private residential parcels.

The proposed project does not propose any changes to Soquel Creek or changes in land uses to areas containing Monarch butterfly habitats. Wildlife would continue to move within these areas.

Compliance with the *Local Coastal Plan*, *General Plan*, and *Municipal Code*, would minimize potential impacts to wildlife movement. Thus, adoption and implementation of the proposed project ensures impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

E. WOULD THE PROJECT CONFLICT WITH ANY LOCAL POLICIES OR ORDINANCES PROTECTING BIOLOGICAL RESOURCES, SUCH AS A TREE PRESERVATION POLICY OR ORDINANCE?

The *General Plan* includes several policies relative to tree management and tree removal: Policy OSC-6.1 Natural Diversity, Policy OSC-6.2 Environmentally Sensitive Areas, Policy OSC-6.3 Development Projects, and Policy OSC-6.4 Regulatory Compliance. The *GPU EIR* concluded less than significant impacts with implementation of the aforementioned *General Plan* policies and actions.

Municipal Code Chapter 12.12, Community Tree and Forest Management, establishes regulations relating to the protection, planting, maintenance, removal, and replacement of trees, and sets forth the process for development of a comprehensive plan for the planting and maintenance of a sustained community forest within the City.

The proposed project would not directly involve removal of trees; however, future development associated with implementation of the proposed project could potentially involve the removal of trees within the City. The Community Tree and Forest Management Ordinance requires a tree permit prior to the removal of any non-fruit bearing trees within the City. Permits for heritage tree removal are discretionary and are approved by the planning commission only in accordance with CEQA and if specific findings can be made. Permits for non-heritage tree removal are ministerial and are approved by the community development director or designee if specific findings can be made.

The proposed project would not conflict with any policies or ordinances protecting biological resources or trees. Thus, adoption and implementation of the proposed project ensures impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.



F. WOULD THE PROJECT CONFLICT WITH THE PROVISIONS OF AN ADOPTED HABITAT CONSERVATION PLAN, NATURAL COMMUNITY CONSERVATION PLAN, OR OTHER APPROVED LOCAL, REGIONAL, OR STATE HABITAT CONSERVATION PLAN?

The *General Plan* includes policies relative to an adopted plan: Policy LU-3.7 Regional Outlook, Policy LU-13.4 New Brighton State Beach, Policy LU-13.6 Beach Management, Policy LU-13.7 Beach Structures, Action LU-14.3 Coastal Recreation, Policy OSC-6.1 Natural Diversity, Policy OSC-6.2 Environmentally Sensitive Areas, Policy OSC-6.3 Development Projects, Policy OSC-6.4 Regulatory Compliance, Policy OSC-6.6 Monterey Bay, Policy OSC-6.7 Regional Collaboration, and Policy OSC-6.8 Eco-Tourism. The *GPU EIR* concluded less than significant impacts with implementation of the aforementioned *General Plan* policies and actions.

The Monterey Bay National Marine Sanctuary Management Plan is the only conservation related plan that is applicable to Capitola.

The proposed project would not conflict with the Monterey Bay National Marine Sanctuary Management Plan. Thus, adoption and implementation of the proposed project ensures impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.



4.5 CULTURAL AND TRIBAL CULTURAL RESOURCES

Would the project:	New Potentially Significant Impact	New Impact Requiring New Mitigation	No New Impact/ No Impact	Reduced Impact
A. Cause a substantial adverse change in the significance of a historical resource as defined in CEQA Guidelines Section 15064.5?			✓	
B. Cause a substantial adverse change in the significance of an archaeological resource pursuant to CEQA Guidelines Section 15064.5?			✓	
C. Disturb any human remains, including those interred outside of formal cemeteries?			✓	
D. Cause a substantial adverse change in the significance of a tribal cultural resource, defined in Public Resources Code Section 21074 as either a site, feature, place, cultural landscape that is geographically defined in terms of the size and scope of the landscape, sacred place, or object with cultural value to a California Native American tribe, and that is:				
1) Listed or eligible for listing in the California Register of Historical Resources, or in the local register of historical resources as defined in Public Resources Code Section 5020.1(k)?			✓	
2) A resource determined by the lead agency, in its discretion and supported by substantial evidence, to be significant pursuant to the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1? In applying the criteria set forth in subdivision (c) of Public Resources Code Section 5024.1, the lead agency shall consider the significance of the resource to a California Native American tribe.			✓	

PRIOR ENVIRONMENTAL FINDINGS

General Plan Update EIR

The table below summarizes the cultural resources impacts and mitigation measures, if applicable.

CULTURAL RESOURCES – SUMMARY OF IMPACTS AND MITIGATION MEASURES			
Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
CULT-1: The Plan would not cause a substantial adverse change in the significance of a historical resource as defined in Section 15064.5.	Less Than Significant		
CULT-2: Construction activities associated with implementation of the proposed Plan could cause a substantial adverse change in the significance of an archaeological resource pursuant to Section 15064.5.	Significant	CULT-2	Less Than Significant
CULT-3: Construction activities associated with implementation of the proposed Plan could directly or indirectly destroy a unique paleontological resource or site or unique geologic feature.	Significant	CULT-3: Refer to Mitigation Measure CULT-2	Less Than Significant
CULT-4: Construction activities associated with implementation of the proposed Plan could disturb human	Significant	CULT-4: Refer to Mitigation Measure CULT-2	Less Than Significant



**Addendum to the Capitola General Plan Update
For the 2023-2031 Housing Element**

CULTURAL RESOURCES – SUMMARY OF IMPACTS AND MITIGATION MEASURES			
Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
remains, including those interred outside of formal cemeteries.			
CULT-5: The Plan, in combination with past, present, and reasonably foreseeable projects, would result in less-than significant cumulative impacts with respect to cultural resources.	Less Than Significant		

Source: Capitola General Plan Update Environmental Impact Report (June 2014), Table 1-1, Summary of Impacts and Mitigation Measures

Tribal Cultural Resources

Assembly Bill 52 (AB 52) was signed into law in 2014 and added tribal cultural resources thresholds to *CEQA Guidelines* Appendix G.

The *GPU EIR* was certified in June 2014 and was not subject to AB 52. However, the *GPU EIR* included an extensive analysis of potential impacts to cultural resources. The *GPU EIR* found there is the potential for discovering such resources during construction of future development proposals in Capitola.

IMPACT ANALYSIS

The 2023-2031 Housing Element includes policies and programs that are applicable City-wide and are designed to facilitate the construction of housing units to meet the City’s share of the regional housing need. The 2023-2031 Housing Element Chapter 4, Housing Need and Opportunities identifies potential residential sites and densities, inclusive of recyclable residential land, religious facility sites and State land housing, vacant and non-vacant land, and the Capitola Mall site. The 2023-2031 Housing Element Chapter 5, Housing Plan identifies the Goals, Policies, and Programs and Quantified Objectives that are based upon expected availability of resources to address the City’s housing needs, expectations regarding future housing development, as well as prior objectives established in earlier housing plans.

The 2023-2031 Housing Element is a policy document that would not change land use designations or in and of themselves authorize any development within the City. While the City is required by State law to facilitate development commensurate with its allocated share of regional housing needs, no change in the location or nature of allowable development would be authorized by the 2023-2031 Housing Element.

A. WOULD THE PROJECT CAUSE A SUBSTANTIAL ADVERSE CHANGE IN THE SIGNIFICANCE OF A HISTORICAL RESOURCE AS DEFINED IN CEQA GUIDELINES SECTION 15064.5?

The *General Plan* includes goals, policies, and actions relative to historic resources: Goal LU-2, Policy LU-2.1 Historic Structures, Policy LU-2.2 Modification Standards, Policy LU-2.3 Preservation Incentives, Policy LU-2.4 Public Awareness, Action LU-2.1 Historic Structures List, Action LU-2.2 Public Outreach, Action LU-2.3 Historic Preservation Guidelines, Action LU-2.4, Goal LU-7, Policy LU-7.1 New Development Design, and Policy LU-7.3 Scenic Resources. The *GPU EIR* concluded less than significant impacts with implementation of the aforementioned *General Plan* goals, policies, and actions, and regulatory requirements.



There are 65 designated historic structures that are listed or are eligible for listing on the National Register of Historic Places, the California Historic Resources Inventory, or the Capitola Register of Historic Features within the city. In addition to designated historic structures, there are also several potential historic structures that have been identified by the City. Additionally, four areas of the City are identified as National Register Historic Districts. The *GPU EIR* noted that future development and/or redevelopment activities within or adjacent to these sites or districts could potentially cause a substantial adverse change in the significance of a historical resource and concluded impacts to be less than significant.

The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals. Thus, it is not possible at this time to conduct an assessment of potential site-specific historical resource impacts relative to future development proposals associated with implementation of the proposed project. Instead, a case-by-case review of future development proposals associated with implementation of the proposed project would be carried out to ensure that historically significant buildings and resources are preserved, as applicable, and that the future development proposals are consistent with all applicable *General Plan* goals and policies and *Municipal Code* regulations relative to historic resources. Thus, adoption and implementation of the proposed project ensures impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

B. WOULD THE PROJECT CAUSE A SUBSTANTIAL ADVERSE CHANGE IN THE SIGNIFICANCE OF AN ARCHAEOLOGICAL RESOURCE PURSUANT TO CEQA GUIDELINES SECTION 15064.5?

The *General Plan* includes goals, policies, and actions relative to archaeological resources: Goal LU-2, Policy LU-2.4 Public Awareness, and Action LU-2.2 Public Outreach. The *GPU EIR* concluded less than significant impacts with implementation of the aforementioned *General Plan* goals, policies, and actions, regulatory requirements, and mitigation measure CULT-2.

The City of Capitola contains areas identified by the *Local Coastal Program* as having a likelihood of prehistoric cultural resources, including archaeological resources. Future development and/or redevelopment activities within these areas could potentially cause a substantial adverse change in the significance of a known or unknown archaeological resource.

The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals. Thus, it is not possible at this time to conduct an assessment of potential site-specific archaeological resource impacts relative to future development proposals associated with implementation of the proposed project. Instead, A case-by-case review of future development proposals associated with implementation of the proposed project would be carried out to confirm the absence or presence of archaeological resources, as applicable, and that the future development proposals are consistent with all applicable *General Plan* goals and policies and *Municipal Code* regulations relative to archaeological resources, as well as *GPU EIR* Mitigation Measure CULT-2. Thus, adoption and implementation of the proposed project ensures impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.



C. WOULD THE PROJECT DISTURB ANY HUMAN REMAINS, INCLUDING THOSE INTERRED OUTSIDE OF FORMAL CEMETERIES?

The GPU EIR concluded less than significant with mitigation impacts with implementation of regulatory requirements and mitigation measure CULT-4.

The GPU EIR identified that future development could have a significant environmental impact if it would disturb human remains, including those interred outside of formal cemeteries. The City of Capitola is built on the location of an Indian village that existed for more than a 1,000 years and contains areas identified within the *Local Coastal Program* Map I-1 as having a likelihood of prehistoric cultural resources. There are no other formal cemeteries within the City of Capitola.

Human remains are defined as any physical remains of a human being. The term "human remains" encompasses more than human bones. In ancient as well as historic times, Tribal Traditions included, but were not limited to, the burial of associated cultural resources (funerary objects) with the deceased, and the ceremonial burning of human remains. These remains are to be treated in the same manner as bone fragments that remain intact. Associated funerary objects are objects that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed with individual human remains either at the time of death or later; other items made exclusively for burial purposes or to contain human remains can also be considered as associated funerary objects.

The Native American Graves Protection and Repatriation Act (NAGPRA) provides guidance that agencies shall consult with organizations on whose aboriginal lands the remains and cultural items might be discovered, who are reasonably known to have a cultural relationship to the human remains and other cultural items.

In the event human remains are encountered during earth removal or disturbance activities associated with future development proposals associated with implementation of the proposed project, all activities would cease immediately and a qualified archaeologist and Native American monitor would be immediately contacted. California *Health and Safety Code* Section 7050.5 states that no further disturbance shall occur until the County Coroner has made a determination of origin and disposition pursuant to *Public Resources Code* Section 5097.98. The County Coroner must be notified of the find immediately. If the remains are determined to be prehistoric, the Coroner would notify the Native American Heritage Commission (NAHC), which will determine and notify a Most Likely Descendant (MLD). With the permission of the landowner or his/her authorized representative, the MLD may inspect the site of the discovery. The MLD shall complete the inspection within 48 hours of notification by the NAHC. The MLD may recommend scientific removal and nondestructive analysis of human remains and items associated with Native American burials.

The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals. Thus, it is not possible at this time to conduct an assessment of potential site-specific historical resource impacts relative to future development proposals associated with implementation of the proposed project. Instead, A case-by-case review of future development proposals associated with implementation of the proposed project would be carried out to confirm the absence or presence of human remains, and that the future development proposals comply with *Health and Safety Code* and *Public Resources Code* protocols. Thus, adoption and implementation of the proposed project ensures impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.



- D. WOULD THE PROJECT CAUSE A SUBSTANTIAL ADVERSE CHANGE IN THE SIGNIFICANCE OF A TRIBAL CULTURAL RESOURCE, DEFINED IN PUBLIC RESOURCES CODE SECTION 21074 AS EITHER A SITE, FEATURE, PLACE, CULTURAL LANDSCAPE THAT IS GEOGRAPHICALLY DEFINED IN TERMS OF THE SIZE AND SCOPE OF THE LANDSCAPE, SACRED PLACE, OR OBJECT WITH CULTURAL VALUE TO A CALIFORNIA NATIVE AMERICAN TRIBE, AND THAT IS:**
- 1. LISTED OR ELIGIBLE FOR LISTING IN THE CALIFORNIA REGISTER OF HISTORICAL RESOURCES, OR IN THE LOCAL REGISTER OF HISTORICAL RESOURCES AS DEFINED IN PUBLIC RESOURCES CODE SECTION 5020.1(K)?**
 - 2. A RESOURCE DETERMINED BY THE LEAD AGENCY, IN ITS DISCRETION AND SUPPORTED BY SUBSTANTIAL EVIDENCE, TO BE SIGNIFICANT PURSUANT TO CRITERIA SET FORTH IN SUBDIVISION (C) OF PUBLIC RESOURCES CODE SECTION 5024.1? IN APPLYING THE CRITERIA SET FORTH IN SUBDIVISION (C) OF PUBLIC RESOURCES CODE SECTION 5024.1, THE LEAD AGENCY SHALL CONSIDER THE SIGNIFICANCE OF THE RESOURCE TO A CALIFORNIA NATIVE AMERICAN TRIBE.**

Tribal Consultation

Chapter 532, Statutes of 2014 (AB 52), requires that Lead Agencies evaluate a project’s potential to impact “tribal cultural resources.” Such resources include “[s]ites, features, places, cultural landscapes, sacred places, and objects with cultural value to a California Native American tribe that are eligible for inclusion in the California Register of Historical resources or included in a local register of historical resources.” AB 52 also gives Lead Agencies the discretion to determine, supported by substantial evidence, whether a resource qualifies as a “tribal cultural resource.”

Also, per AB 52 (specifically *Public Resources Code [PRC] Section 21080.3.1*), Native American consultation is required upon request by a California Native American tribe that has previously requested that the City provide it with notice of such projects.

While tribal consultation is not required for an Addendum, the City contacted the Native American Heritage Commission (NAHC) in July 2023 requesting a list of potential Native American contacts for consultation. The NAHC provided a Tribal Consultation List to the City on July 27, 2023. In addition, the City reviewed its list of tribes that had requested AB 52 notification.

The City sent letters via email for the purposes of SB 18¹ and AB 52 consultation to eight tribes listed below on August 2, 2023:

1. Muwekma Ohlone Indian Tribe of the SF Bay Area
2. Amah Mutsun Tribal Band – Ed Ketchum, Vice-Chairperson
3. Amah Mutsun Tribal Band – Valentin Lopez, Chairperson
4. Amah Mutsun Tribal Band of Mission San Juan Bautista – Irene Zwierlein, Chairperson

¹ SB 18 (Chapter 905, Statutes of 2004) (Public Resources Code Section 65352.3) requires cities and counties to contact and consult with California Native American tribes prior to amending or adopting any general plan or specific plan, or designating land as open space.



5. Costanoan Ohlone Rumsen-Mutsen Tribe – Patrick Orozco, Chairman
6. Indian Canyon Mutsun Band of Costanoan – Kanyon Sayers-Roods, MLD Contact
7. Indian Canyon Mutsun Band of Costanoan – Ann Marie Sayers, Chairperson
8. Wuksachi Indian Tribe/Eshom Valley Band – Kenneth Woodrow, Chairperson

The City’s letter specifically noted that the Housing Element is required to be updated every eight years, and within Santa Cruz County, jurisdictions are required to prepare, adopt, and receive certification from the California Department of Housing and Community Development (HCD) of their 6th cycle Housing Element by December 15, 2023. As such, the City respectfully requested that each tribe respond within 30 days for the both the SB 18 and AB 32 consultation.

At the conclusion of the 30-day period, the City received no requests for SB 18 or AB 52 consultation. However, the Amah Mutsun Tribal Band of San Juan Bautista and A.M.T.B. Inc. provided a Letter of Response to the City on August 17, 2023. The Letter of Response provided recommendations regarding cultural sensitivity training, qualified California trained archeological monitors to be present during earth movement, and qualified native American monitors during earth movement. In addition, hourly rates for monitoring were provided in the Letter of Response.

Impact Analysis

Whatever the linguistic affiliation, Native Americans in and around the City of Capitola exhibited similar organization and resource procurement strategies. Villages were based on clan or lineage groups. Their home/base sites are marked by midden deposits, often with bedrock mortars. During their seasonal rounds to exploit plant resources, small groups would migrate within their traditional territory in search of specific plants and animals. Their gathering strategies often left behind signs of special use sites, usually grinding slicks on bedrock boulders, at the locations of the resources.

Given the long-standing history of the multiple tribes in and around the City of Capitola, there is the potential that the construction of future development proposals associated with implementation of the proposed project would impact tribal cultural resources. Past construction and development practices in the City were not as sensitive to tribal cultural resources as current practices. Thus, ground-disturbing activities, such as grading or excavation, could disturb previously unidentified subsurface resources.

The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals. Thus, it is not possible at this time to conduct an assessment of potential site-specific tribal cultural resource impacts relative to future development proposals associated with implementation of the proposed project. Instead, A case-by-case review of future development proposals associated with implementation of the proposed project would be carried out to confirm the absence or presence of tribal cultural resources, as applicable, and that the future development proposals are consistent with all applicable *General Plan* goals and policies and *Municipal Code* regulations relative to tribal cultural resources. Thus, adoption and implementation of the proposed project ensures impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.



4.6 ENERGY

Would the project:	New Potentially Significant Impact	New Impact Requiring New Mitigation	No New Impact/ No Impact	Reduced Impact
A. Result in potentially significant environmental impact due to wasteful, inefficient, or unnecessary consumption of energy resources, during project construction or operation?			✓	
B. Conflict with or obstruct a state or local plan for renewable energy or energy efficiency?			✓	

PRIOR ENVIRONMENTAL FINDINGS

General Plan Update EIR

The *GPU EIR* disclosed that buildout of the *General Plan* would entail the commitment of nonrenewable and/or slowly renewable energy resources. As the community continues to develop, the *GPU EIR* noted that both residential and nonresidential development would require further commitment of energy resources in the form of natural gas and electricity generated by coal, hydroelectric power, or nuclear energy. Increased motor vehicle travel within the City resulting from the *General Plan* also would be accompanied by increased consumption of petroleum products. However, the *GPU EIR* did not identify any impacts due to wasteful, inefficient, or unnecessary consumption of energy resources, or due to a conflict with or obstruction of a State or local plan for renewable energy or energy efficiency.

The *AMBAG Regional Energy Plan* was developed and adopted in 2006, and later updated in 2008. The objective of the regional energy plan to lay out the region’s joint approach to establishing an energy vision through objectives, goals, and action plans that will mitigate future energy impacts on the region. This cooperative approach is leveraged to reduce overall costs and challenges of compliance with AB 32 requirements. The 2006 *Energy Plan* laid out a set of four Plan objectives, goals, and action steps for the region, as listed in *GPU EIR* Table 4.15-7. As shown in *GPU EIR* Table 4.15-7, the *General Plan* would be consistent with the *AMBAG Regional Energy Plan*.

The *GPU EIR* concluded less than significant impacts to energy resources.

IMPACT ANALYSIS

The 2023-2031 Housing Element includes policies and programs that are applicable City-wide and are designed to facilitate the construction of housing units to meet the City’s share of the regional housing need. The 2023-2031 Housing Element Chapter 4, Housing Need and Opportunities identifies potential residential sites and densities, inclusive of recyclable residential land, religious facility sites and State land housing, vacant and non-vacant land, and the Capitola Mall site. The 2023-2031 Housing Element Chapter 5, Housing Plan identifies the Goals, Policies, and Programs and Quantified Objectives that are based upon expected availability of resources to address the



City’s housing needs, expectations regarding future housing development, as well as prior objectives established in earlier housing plans.

The 2023-2031 Housing Element is a policy document that would not change land use designations or in and of themselves authorize any development within the City. While the City is required by State law to facilitate development commensurate with its allocated share of regional housing needs, no change in the location or nature of allowable development would be authorized by the 2023-2031 Housing Element.

- A. WOULD THE PROJECT RESULT IN POTENTIALLY SIGNIFICANT ENVIRONMENTAL IMPACT DUE TO WASTEFUL, INEFFICIENT, OR UNNECESSARY CONSUMPTION OF ENERGY RESOURCES, DURING PROJECT CONSTRUCTION OR OPERATION?**

- B. WOULD THE PROJECT CONFLICT WITH OR OBSTRUCT A STATE OR LOCAL PLAN FOR RENEWABLE ENERGY OR ENERGY EFFICIENCY?**

The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals. Future development proposals associated with implementation of the proposed project would be required to comply with all applicable regulations and development standards, including but not limited to the most current adopted version of the *California Building Code* and *California Green Building Standards Code*, along with project-specific conditions and mitigation measures to reduce potential energy impacts required as part of the development review and environmental impact processes. The proposed project would not result in impacts to energy resources, or conflict with or obstruct any plans addressing renewable energy or energy efficiency. Thus, adoption and implementation of the proposed project ensures impacts remain as no impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.



4.7 GEOLOGY AND SOILS

Would the project:	New Potentially Significant Impact	New Impact Requiring New Mitigation	No New Impact/ No Impact	Reduced Impact
A. Directly or indirectly cause potential substantial adverse effects, including the risk of loss, injury, or death involving:				
1) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.			✓	
2) Strong seismic ground shaking?			✓	
3) Seismic-related ground failure, including liquefaction?			✓	
4) Landslides?			✓	
B. Result in substantial soil erosion or the loss of topsoil?			✓	
C. Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse?			✓	
D. Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?			✓	
E. Have soils incapable of adequately supporting the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of waste water?			✓	
F. Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?			✓	

PRIOR ENVIRONMENTAL FINDINGS

General Plan Update EIR

The table below summarizes the geology and soils impacts and mitigation measures, if applicable.

GEOLOGY AND SOILS – SUMMARY OF IMPACTS AND MITIGATION MEASURES			
Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
GEO-1: The proposed Plan would not expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving surface rupture along a known active fault; strong seismic ground shaking; seismic-related ground failure, including liquefaction; and landslides.	Less Than Significant		
GEO-2: Implementation of the proposed Plan would not result in substantial soil erosion or the loss of topsoil.	Less Than Significant		



**Addendum to the Capitola General Plan Update
For the 2023-2031 Housing Element**

GEOLOGY AND SOILS – SUMMARY OF IMPACTS AND MITIGATION MEASURES			
Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
GEO-3: Development under the proposed Plan would not result in a significant impact related to development on unstable geologic units and soils or result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse.	Less Than Significant		
GEO-4: Development under the proposed Plan would not create substantial risks to life or property as a result of its location on expansive soil.	Less Than Significant		
GEO-5: Development under the proposed Plan would not result in impacts associated with the use of septic tanks or alternative waste water disposal systems where sewers are not available for the disposal of wastewater.	Less Than Significant		
GEO-6: The proposed Plan, in combination with past, present, and reasonably foreseeable projects, would not result in significant cumulative impacts with respect to geology and soils.	Less Than Significant		

Source: Capitola General Plan Update Environmental Impact Report (June 2014), Table 1-1, Summary of Impacts and Mitigation Measures

IMPACT ANALYSIS

The 2023-2031 Housing Element includes policies and programs that are applicable City-wide and are designed to facilitate the construction of housing units to meet the City’s share of the regional housing need. The 2023-2031 Housing Element Chapter 4, Housing Need and Opportunities identifies potential residential sites and densities, inclusive of recyclable residential land, religious facility sites and State land housing, vacant and non-vacant land, and the Capitola Mall site. The 2023-2031 Housing Element Chapter 5, Housing Plan identifies the Goals, Policies, and Programs and Quantified Objectives that are based upon expected availability of resources to address the City’s housing needs, expectations regarding future housing development, as well as prior objectives established in earlier housing plans.

The 2023-2031 Housing Element is a policy document that would not change land use designations or in and of themselves authorize any development within the City. While the City is required by State law to facilitate development commensurate with its allocated share of regional housing needs, no change in the location or nature of allowable development would be authorized by the 2023-2031 Housing Element.

- A. WOULD THE PROJECT DIRECTLY OR INDIRECTLY CAUSE POTENTIAL SUBSTANTIAL ADVERSE EFFECTS, INCLUDING THE RISK OF LOSS, INJURY, OR DEATH INVOLVING:**
 - 1. RUPTURE OF A KNOWN EARTHQUAKE FAULT, AS DELINEATED ON THE MOST RECENT ALQUIST-PRIOLO EARTHQUAKE FAULT ZONING MAP ISSUED BY THE STATE GEOLOGIST FOR THE AREA OR BASED ON OTHER SUBSTANTIAL EVIDENCE OF A KNOWN FAULT? REFER TO DIVISION OF MINES AND GEOLOGY SPECIAL PUBLICATION 42.**

The GPU EIR concluded that no Alquist-Priolo Earthquake Fault Zones have been identified within the City Area. Therefore, the risk of surface fault rupture within the City Area is considered low.



California, including the City of Capitola, is subject to the effects of seismic activity due to the active faults that traverse the area. Active faults are defined as those that have experienced surface displacement within Holocene time (approximately the last 11,000 years) and/or are in a State-designated Alquist-Priolo Earthquake Fault Zone. No Alquist-Priolo Earthquake Fault zones exist within the City of Capitola. Thus, adoption and implementation of the proposed project ensures impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

2. STRONG SEISMIC GROUND SHAKING?

The *General Plan* includes goals, policies, and actions relative to seismic ground shaking: Goal SN-2, Policy SN-2.1 Development Restrictions, Policy SN-2.2 Mitigation, Policy SN-2.3 Seismic Analysis, Policy SN-2.4 Bluff Erosion, Policy SN-2.5 Retrofits, Policy SN-2.6 Hazard Considerations, Policy SN-2.7 Public Outreach, Policy SN-2.8 Critical Facilities and Services, Policy SN-2.9 State Standard, Action SN-2.1 Funding, Action SN-2.2 Transportation Infrastructure, Action SN-2.3 Data Accuracy, and Action SN-2.4 URM Program. The *GPU EIR* concluded less than significant impacts with implementation of the aforementioned General Plan goals, policies, and actions, and regulatory requirements.

The City of Capitola, similar to the rest of California, is located within a seismically active region as a result of being located near the active margin between the North American and Pacific tectonic plates. The City is subject to seismic ground shaking due to the close proximity and potential earthquake magnitude of the San Andreas, the Zayante, and the Palo Colorado-San Gregorio faults.

The intensity of groundshaking and degree of impact would depend upon the magnitude of the earthquake, distance to the epicenter, and the geology of the area between the epicenter and the development site. Additionally, the soil and geologic structure underlying a development site would influence the amount of damage that the site may experience. Potential damage to existing and new structures cannot be precluded. Structural vulnerabilities in older buildings that are less earthquake resistant are most likely to contribute to the largest source of injury and economic loss, as a result of an earthquake. Damage to infrastructure, including roadways, bridges, water and wastewater lines, gas lines, power poles, storm drainage, and other public facilities, could also occur due to an earthquake event.

The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals. The *California Building Code* includes specific design measures, which are based on the determination of Site Classification and Seismic Design Categories specific to a project site. These design measures are intended to maximize structural stability in the event of an earthquake. Future development proposals associated with implementation of the proposed project would be required to comply with all applicable regulations and development standards, including but not limited to the most current adopted version of the *California Building Code*, along with project-specific conditions and mitigation measures, to reduce potential impacts required as part of the development review and environmental impact processes. Thus, adoption and implementation of the proposed project ensures impacts remain as less than significant impacts with implementation of regulatory requirements and standard conditions of approval.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.



3. SEISMIC-RELATED GROUND FAILURE, INCLUDING LIQUEFACTION?

4. LANDSLIDES?

The *General Plan* includes goals, policies, and actions relative to seismic ground shaking: Goal SN-2, Policy SN-2.1 Development Restrictions, Policy SN-2.2 Mitigation, Policy SN-2.3 Seismic Analysis, Policy SN-2.4 Bluff Erosion, Policy SN-2.5 Retrofits, Policy SN-2.6 Hazard Considerations, Policy SN-2.7 Public Outreach, Policy SN-2.8 Critical Facilities and Services, Policy SN-2.9 State Standard, Action SN-2.1 Funding, Action SN-2.2 Transportation Infrastructure, Action SN-2.3 Data Accuracy, and Action SN-2.4 URM Program. The *GPU EIR* concluded less than significant impacts with implementation of the aforementioned General Plan goals, policies, and actions, and regulatory requirements.

Seismic agitation of relatively loose saturated sands, silty sands, and some silts can result in a buildup of pore pressure. If the pore pressure exceeds the overburden stresses, a temporary quick condition known as liquefaction can occur. Liquefaction effects can manifest in several ways including: 1) loss of bearing; 2) lateral spread; 3) dynamic settlement; and 4) flow failure. Lateral spreading has typically been the most damaging mode of failure. In general, the more recent that a sediment has been deposited, the more likely it will be susceptible to liquefaction. Other factors that must be considered are groundwater, confining stresses, relative density, and the intensity and duration of seismically-induced ground shaking.

The geologic and topographic characteristics of an area often determine its potential for landslides. Steep slopes, the extent of erosion, and the rock composition of a hillside all contribute to the potential slope failure and landslide events.

Capitola contains areas with slopes greater than 50 percent, which are susceptible to landslides and mudflows as shown on *GPU EIR* Figure 4.5-3. The majority of these areas are coastal bluffs, escarpments of decomposed rock, or soil resulting from erosion or faulting with a vertical elevation of at least 10 feet. Coastal bluff areas within Capitola that have steep topography include Cliff Drive and surrounding open space as well as shoreline residences and open space areas of the Depot Hill neighborhood, between the Village and New Brighton State Park. In addition to the coastal bluffs, there are areas along Soquel Creek, Nobel Gulch, and Tannery Gulch that have steep slopes that could be susceptible to landslides and mudflows.

The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals. Future development proposals associated with implementation of the proposed project would be required to comply with all applicable regulations and development standards, including but not limited to the most current adopted version of the *California Building Code*, preparation of site-specific geologic studies, project-specific conditions, and mitigation measures as applicable, to reduce potential impacts required as part of the development review and environmental impact processes. Thus, adoption and implementation of the proposed project ensures seismic-related ensures ground failure impacts remain as less than significant impacts with implementation of regulatory requirements and standard conditions of approval, and that earthquake-induced landslides impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.



B. WOULD THE PROJECT RESULT IN SUBSTANTIAL SOIL EROSION OR THE LOSS OF TOPSOIL?

The *General Plan* includes goals, policies, and actions relative to soil erosion or loss of topsoil: Goal SN-2, Policy SN-2.1 Development Restrictions, Policy SN-2.2 Mitigation, Policy SN-2.3 Seismic Analysis, Policy SN-2.4 Bluff Erosion, Policy SN-2.5 Retrofits, Policy SN-2.6 Hazard Considerations, Policy SN-2.7 Public Outreach, Policy SN-2.8 Critical Facilities and Services, Policy SN-2.9 State Standard, Action SN-2.1 Funding, Action SN-2.2 Transportation Infrastructure, Action SN-2.3 Data Accuracy, and Action SN-2.4 URM Program. The *GPU EIR* concluded less than significant impacts with implementation of the aforementioned General Plan goals, policies, and actions, and regulatory requirements.

The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals. Future development proposals associated with implementation of the proposed project involving demolition and/or construction activities would be subject to compliance with the *California Building Code*, as well as the requirements set forth in the National Pollutant Discharge Elimination System (NPDES) Storm Water General Construction Permit for construction activities. The NPDES Storm Water General Construction Permit requires preparation of a Storm Water Pollution Prevention Plan, which would identify specific erosion and sediment control Best Management Practices that would be implemented to protect storm and non-storm water runoff during construction and post-development activities, inclusive of low impact development (LID) design considerations and operational and maintenance requirements. Compliance with the *California Building Code* and NPDES would minimize effects from erosion and ensure consistency with the Central Coast Regional Water Quality Control Board Water Quality Control Plan. Thus, adoption and implementation of the proposed project ensures that soil erosion impacts remain as less than significant impacts with implementation of regulatory requirements and standard conditions of approval.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

C. WOULD THE PROJECT BE LOCATED ON A GEOLOGIC UNIT OR SOIL THAT IS UNSTABLE, OR THAT WOULD BECOME UNSTABLE AS A RESULT OF THE PROJECT, AND POTENTIALLY RESULT IN AN ON-SITE OR OFF-SITE LANDSLIDE, LATERAL SPREADING, SUBSIDENCE, LIQUEFACTION OR COLLAPSE?

Refer to Responses A.1.3 and A.1.4.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

D. WOULD THE PROJECT BE LOCATED ON EXPANSIVE SOIL, AS DEFINED IN TABLE 18-1-B OF THE UNIFORM BUILDING CODE (1994), CREATING SUBSTANTIAL RISKS TO LIFE OR PROPERTY?

The *General Plan* includes goals, policies, and actions relative to expansive soils: Goal SN-2, Policy SN-2.1 Development Restrictions, Policy SN-2.2 Mitigation, Policy SN-2.6 Hazard Considerations, Policy SN-2.7 Public Outreach, Policy SN-2.9 State Standard, and Action SN-2.3 Data Accuracy. The *GPU EIR* concluded less than significant impacts with implementation of the aforementioned General Plan goals, policies, and actions, and regulatory requirements.



Expansive soils can be a problem, as variation in moisture content will cause a volume change in the soil. Expansive soils heave when moisture is introduced and contract as they dry. During inclement weather and/or excessive landscape watering, moisture infiltrates the soil and causes the soil to heave (expansion). When drying occurs the soils will shrink (contraction). Repeated cycles of expansion and contraction of soils can cause pavement, concrete slabs on grade and foundations to crack. This movement can also result in misalignment of doors and windows.

The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals. Future development proposals associated with implementation of the proposed project would be required to comply with all applicable regulations and development standards, including but not limited to the most current adopted version of the *California Building Code*, preparation of site-specific geologic studies, project-specific conditions, and mitigation measures, as applicable, to reduce potential impacts required as part of the development review and environmental impact processes. Thus, adoption and implementation of the proposed project ensures that expansive soil impacts remain as less than significant impacts with implementation of regulatory requirements and standard conditions of approval.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

E. WOULD THE PROJECT HAVE SOILS INCAPABLE OF ADEQUATELY SUPPORTING THE USE OF SEPTIC TANKS OR ALTERNATIVE WASTE WATER DISPOSAL SYSTEMS WHERE SEWERS ARE NOT AVAILABLE FOR THE DISPOSAL OF WASTE WATER?

All existing development within the City is connected to a sewer system for the disposal of wastewater. The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals. Future development proposals associated with implementation of the proposed project would be required to connect to a sewer system, as well as comply with all applicable regulations, development standards, project-specific conditions, and mitigation measures, as applicable. Thus, adoption and implementation of the proposed project ensures that septic tank or alternative waste water disposal system impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

F. WOULD THE PROJECT DIRECTLY OR INDIRECTLY DESTROY A UNIQUE PALEONTOLOGICAL RESOURCE OR SITE OR UNIQUE GEOLOGIC FEATURE?

The City of Capitola contains areas identified within the *Local Coastal Program* Map I-1 as having a likelihood of prehistoric cultural resources, including paleontological resources. The entire coastal bluff area in Capitola is composed at least partially of the Purisima Formation. Paleontological resources found within the City have been located in this Purisima Formation. The *GPU EIR* identified that future development and/or redevelopment within Archaeological/Paleontological Sensitivity Areas could potentially destroy a unique paleontological resource, and would be subject to the *Coastal Act*, *Municipal Code*, and *GPU EIR* Mitigation Measure CULT-2 to avoid or mitigate impacts to paleontological resources.



The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals. There is the potential that future development projects could uncover paleontological resources or unique geologic features. Thus, adoption and implementation of the proposed project ensures that unique paleontological resources or geological features impacts remain as less than significant impacts with implementation of regulatory requirements, standard conditions of approval, and *GPU EIR* Mitigation Measure CULT-2.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.



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4.8 GREENHOUSE GASES

Would the project:	New Potentially Significant Impact	New Impact Requiring New Mitigation	No New Impact/ No Impact	Reduced Impact
A. Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment?			✓	
B. Conflict with an applicable plan, policy, or regulation adopted for the purpose of reducing the emissions of greenhouse gases?			✓	

PRIOR ENVIRONMENTAL FINDINGS

General Plan Update EIR

The table below summarizes the greenhouse gas emissions impacts and mitigation measures, if applicable.

GREENHOUSE GAS EMISSIONS – SUMMARY OF IMPACTS AND MITIGATION MEASURES			
Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
GHG-1: GHG emissions associated with the proposed Plan would exceed MBAUAPCD’s proposed GHG significance threshold of 2,000 MTCO ₂ e per year.	Significant	GHG-1	Significant Unavoidable
GHG-2: The proposed Plan would not conflict with applicable plans, policies, or regulations adopted for the purpose of reducing GHG emissions.	Less Than Significant	Not Applicable	
GHG-3: The proposed Plan, in combination with past, present, and reasonably foreseeable projects, would result in a significant cumulative impact with respect to GHG emissions.	Significant	GHG-3: Implement Mitigation Measure GHG-1	Significant Unavoidable

Source: Capitola General Plan Update Environmental Impact Report (June 2014), Table 1-1, Summary of Impacts and Mitigation Measures

IMPACT ANALYSIS

The 2023-2031 Housing Element includes policies and programs that are applicable City-wide and are designed to facilitate the construction of housing units to meet the City’s share of the regional housing need. The 2023-2031 Housing Element Chapter 4, Housing Need and Opportunities identifies potential residential sites and densities, inclusive of recyclable residential land, religious facility sites and State land housing, vacant and non-vacant land, and the Capitola Mall site. The 2023-2031 Housing Element Chapter 5, Housing Plan identifies the Goals, Policies, and Programs and Quantified Objectives that are based upon expected availability of resources to address the City’s housing needs, expectations regarding future housing development, as well as prior objectives established in earlier housing plans.

The 2023-2031 Housing Element is a policy document that would not change land use designations or in and of themselves authorize any development within the City. While the City is required by State law to facilitate



development commensurate with its allocated share of regional housing needs, no change in the location or nature of allowable development would be authorized by the 2023-2031 Housing Element.

- A. WOULD THE PROJECT GENERATE GREENHOUSE GAS EMISSIONS, EITHER DIRECTLY OR INDIRECTLY, THAT MAY HAVE A SIGNIFICANT IMPACT ON THE ENVIRONMENT?**

- B. WOULD THE PROJECT CONFLICT WITH AN APPLICABLE PLAN, POLICY, OR REGULATION ADOPTED FOR THE PURPOSE OF REDUCING THE EMISSIONS OF GREENHOUSE GASES?**

The *General Plan* includes numerous policies relative to greenhouse gas emissions, plans, policies, or regulations, which are restated on GPU EIR pages 4.15-17 to 4.15-22. The *GPU EIR* concluded less than significant impacts and significant unavoidable impacts with implementation of *General Plan* policies and actions, and mitigation measures.

The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals. Future development proposals associated with implementation of the proposed project would be required to comply with all applicable regulations and development standards, including but not limited to the most current adopted version of the *California Building Code* and *California Green Building Standards Code*, along with project-specific conditions and mitigation measures to reduce potential impacts required as part of the development review and environmental impact processes.

In addition, the *General Plan* includes goals and policies in the Open Space and Conservation Element that address that following topics:

- General Environmental Sustainability and Stewardship
- Climate Change and Greenhouse Gas Reduction
- Air Quality
- Renewable Energy Sources and Energy Conservation
- Biological Resources
- Water Quality and Conservation
- Food Production
- Waste Reduction

The Open Space and Conservation Element goals and policies support actions to reduce the use of resources and energy, and thus, the creation of greenhouse gas emissions. Future development proposals associated with implementation of the proposed project would be subject to these policies, as applicable.

The *GPU EIR* identified that Mitigation Measure GHG-1 (Preparation, Adoption, and Implementation of Climate Action Plan) would be applicable to future development proposals in the City. The City adopted its first *Climate Action Plan (CAP)* on October 22, 2015. The *CAP* identifies strategies and actions to reduce greenhouse gas emissions from City government operations and community activities to support the State of California’s efforts to mitigate the effects of climate change.



Thus, adoption and implementation of the proposed project ensures greenhouse gas emissions or conflicts with adopted plans, policies, and regulations remain as less than significant impacts with implementation of Mitigation Measure GHG-1 (Climate Action Plan).

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.



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4.9 HAZARDS AND HAZARDOUS MATERIALS

Would the project:	New Potentially Significant Impact	New Impact Requiring New Mitigation	No New Impact/ No Impact	Reduced Impact
A. Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?			✓	
B. Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?			✓	
C. Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?			✓	
D. Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?			✓	
E. For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?			✓	
F. Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?			✓	

PRIOR ENVIRONMENTAL FINDINGS

General Plan Update EIR

The table below summarizes the hazards and hazardous materials impacts and mitigation measures, if applicable.

HAZARDS AND HAZARDOUS MATERIALS– SUMMARY OF IMPACTS AND MITIGATION MEASURES			
Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
HAZ-1: The proposed Plan would not create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials.	Less Than Significant	Not Applicable	
HAZ-2: The proposed Plan would not create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment.	Less Than Significant	Not Applicable	
HAZ-3: The proposed Plan would not result in significant impacts associated with hazardous emissions or handling of hazardous or acutely hazardous materials, substances, or waste within ¼-mile of an existing or proposed school.	Less Than Significant	Not Applicable	
HAZ-4: Implementation of the Plan would not create a significant hazard to the public or the environment as a result of development on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5.	Less Than Significant	Not Applicable	



**Addendum to the Capitola General Plan Update
For the 2023-2031 Housing Element**

HAZARDS AND HAZARDOUS MATERIALS- SUMMARY OF IMPACTS AND MITIGATION MEASURES			
Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
HAZ-5: Implementation of the proposed Plan would not result in a safety hazard for people residing or working in the area due to development within an airport land use plan or, where such a plan has not been adopted, within 2 miles of a public airport or public use airport.	No Impact	Not Applicable	
HAZ-6: Implementation of the proposed Plan would not result in a safety hazard for people residing or working in the Plan Area due to development in the vicinity of a private airstrip.	No Impact	Not Applicable	
HAZ-7: The proposed Plan would not impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan.	Less Than Significant	Not Applicable	
HAZ-8: Implementation of the proposed Plan would not expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands.	Less Than Significant	Not Applicable	
HAZ-9: The proposed Plan, in combination with past, present, and reasonably foreseeable projects, would result in less-than-significant cumulative impacts with respect to hazards and hazardous materials.	Less Than Significant	Not Applicable	

Source: Capitola General Plan Update Environmental Impact Report (June 2014), Table 1-1, Summary of Impacts and Mitigation Measures

IMPACT ANALYSIS

The 2023-2031 Housing Element includes policies and programs that are applicable City-wide and are designed to facilitate the construction of housing units to meet the City’s share of the regional housing need. The 2023-2031 Housing Element Chapter 4, Housing Need and Opportunities identifies potential residential sites and densities, inclusive of recyclable residential land, religious facility sites and State land housing, vacant and non-vacant land, and the Capitola Mall site. The 2023-2031 Housing Element Chapter 5, Housing Plan identifies the Goals, Policies, and Programs and Quantified Objectives that are based upon expected availability of resources to address the City’s housing needs, expectations regarding future housing development, as well as prior objectives established in earlier housing plans.

The 2023-2031 Housing Element is a policy document that would not change land use designations or in and of themselves authorize any development within the City. While the City is required by State law to facilitate development commensurate with its allocated share of regional housing needs, no change in the location or nature of allowable development would be authorized by the 2023-2031 Housing Element.



- A. WOULD THE PROJECT CREATE A SIGNIFICANT HAZARD TO THE PUBLIC OR THE ENVIRONMENT THROUGH THE ROUTINE TRANSPORT, USE, OR DISPOSAL OF HAZARDOUS MATERIALS?**
- B. WOULD THE PROJECT CREATE A SIGNIFICANT HAZARD TO THE PUBLIC OR THE ENVIRONMENT THROUGH REASONABLY FORESEEABLE UPSET AND ACCIDENT CONDITIONS INVOLVING THE RELEASE OF HAZARDOUS MATERIALS INTO THE ENVIRONMENT?**
- C. WOULD THE PROJECT EMIT HAZARDOUS EMISSIONS OR HANDLE HAZARDOUS OR ACUTELY HAZARDOUS MATERIALS, SUBSTANCES, OR WASTE WITHIN ONE-QUARTER MILE OF AN EXISTING OR PROPOSED SCHOOL?**
- D. WOULD THE PROJECT BE LOCATED ON A SITE WHICH IS INCLUDED ON A LIST OF HAZARDOUS MATERIALS SITES COMPILED PURSUANT TO GOVERNMENT CODE SECTION 65962.5 AND, AS A RESULT, WOULD IT CREATE A SIGNIFICANT HAZARD TO THE PUBLIC OR THE ENVIRONMENT?**

The *GPU EIR* concluded that buildout of the *General Plan* would result in no impact or less than significant impacts relative to following hazards: a) significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials, b) the project creates a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment, c) the project emits hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school, d) the project is located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code section 65962.5 and, as a result, would it create a significant hazard to the public or the environment.

The *General Plan* includes numerous policies relative to hazards and hazardous materials plans, policies, or regulations, which are restated on GPU EIR pages 4.6-10 to 4.6-22. The *GPU EIR* concluded no impacts or less than significant impacts with implementation of *General Plan* policies and actions.

Routine Transport, Use or Disposal of Hazardous Materials

The *General Plan* includes policies relative to the routine transport, use or disposal of hazardous materials: Policy SN-4.1 Mitigation Processes., Policy SN-4.3 Sensitive Receptors; Policy SN-4.4 Green Building, Policy SN-4.5 County Coordination, Action SN-4.1 City Staff Training, and Action SN-4.2 Municipal Code Review. The *GPU EIR* concluded less than significant impacts with implementation of *General Plan* policies and actions, and regulatory requirements.

Businesses that use, transport, or dispose of hazardous materials are required to comply with Federal, State, and local hazardous materials regulations. Specifically, truck traffic, including trucks that transport chemicals, is restricted to designated routes per *Municipal Code* Chapter 10.48.

A number of facilities currently operate within the City of Capitola that use, store, or dispose of hazardous materials. These operations, if improperly designed or managed, could create a significant hazard to the public or the environment through the routine transport, use, or disposal of such materials. However, compliance with applicable Federal, State, and local laws and regulations regarding the handling of these materials minimize this risk.



The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals. Future development proposals associated with implementation of the proposed project would be required to comply with all applicable regulations and development standards, including but not limited to the most current adopted version of the *California Building Code*, project-specific conditions, and mitigation measures, as applicable, to reduce potential impacts required as part of the development review and environmental impact processes. Thus, adoption and implementation of the proposed project ensures that impacts remain as less than significant impacts with implementation of regulatory requirements and standard conditions of approval.

Hazardous Materials

The *General Plan* includes policies and actions relative to hazardous materials: Policy SN-4.1 Mitigation Processes, Policy SN-4.2 Site Assessments, Policy SN-4.3 Sensitive Receptors, Policy SN-4.4 Green Building, Policy SN-4.5 County Coordination, Action SN-4.1 City Staff Training, Policy SN-5.1 Coordination with Other Agencies, Policy SN-5.2 Community Groups, Policy SN-5.3 Emergency and Evacuation Routes, Policy SN-5.4 Urban Area Security Initiative, Action SN-5.1 Emergency Response Plan, Action SN-5.2 County Preparedness Exercises, Action SN-5.3 Preparedness Training; Action SN-5.4 Preparedness Outreach, Action SN-5.5 Critical Facilities, and Action SN-5.6 Local Hazard Mitigation Plan. The *GPU EIR* concluded less than significant impacts with implementation of *General Plan* policies and actions, and regulatory requirements.

The *General Plan* would facilitate new development, including residential, commercial, and mixed-use, within the city. Some new development, particularly in non-residential areas, could occur on properties that could be contaminated. Construction of new buildings and improvements would have the potential to release potentially hazardous materials, including contaminated soils, into the environment during site grading and excavation operations. Similarly, demolition of existing structures would potentially result in the release of hazardous building materials (e.g., asbestos, lead paint) into the environment. Use of hazardous materials after construction could potentially include cleaning solvents, fertilizers, pesticides, and other materials used in the regular maintenance and operation of the proposed uses.

Also, a number of sites in the City are listed on the Cortese Database, compiled pursuant to *Government Code* Section 65962.5. Some of the sites are listed as closed, indicating that they have been investigated and/or remediated to the satisfaction of the lead responsible agency (i.e., RWQCB, DTSC, or DEHS). However, compliance with applicable Federal, State, and local laws and regulations regarding the handling of these materials minimize this risk.

The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals. Future development proposals associated with implementation of the proposed project would be required to comply with all applicable regulations and development standards, including but not limited to the most current adopted version of the *California Building Code*, project-specific conditions, and mitigation measures, as applicable, to reduce potential impacts required as part of the development review and environmental impact processes. Thus, adoption and implementation of the proposed project ensures that impacts remain as less than significant impacts with implementation of regulatory requirements and standard conditions of approval.



Hazardous Emissions, Materials, Substances, or Waste Within ¼-Mile of an Existing or Proposed School

The *General Plan* includes policies and actions relative to hazardous emissions, materials, substances within ¼-mile of an existing or proposed school: Policy SN-4.1 Mitigation Processes, Policy SN-4.2 Site Assessments, Policy SN-4.3 Sensitive Receptors, Policy SN-4.4 Green Building, Policy SN-4.5 County Coordination, Action SN-4.1 City Staff Training, Action SN-4.2 Municipal Code Review, Policy SN-5.1 Coordination with Other Agencies, Policy SN-5.2 Community Groups, Policy SN-5.3 Emergency and Evacuation Routes, Policy SN-5.4 Urban Area Security Initiative, Action SN-5.1 Emergency Response Plan, Action SN-5.2 County Preparedness Exercises, Action SN-5.3 Preparedness Training, Action SN-5.4 Preparedness Outreach, Action SN-5.5 Critical Facilities, and Action SN-5.6 Local Hazard Mitigation Plan. The *GPU EIR* concluded less than significant impacts with implementation of *General Plan* policies and actions.

New Brighton Middle School and Opal Cliff’s Elementary School are located within the City. Both of these school sites are surrounded by residential neighborhoods and are located more than ¼-mile from any existing or planned non-residential land uses.

While the risk of exposure to hazardous materials cannot be eliminated, measures can be implemented to maintain risk at acceptable levels. Compliance with measures established by Federal, State, and local regulatory agencies are considered adequate to offset the negative effects related to the use, storage, emission, and transport of hazardous materials at future development sites within ¼-mile of a school.

The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals. Future development proposals associated with implementation of the proposed project would be required to comply with all applicable policies, regulations, and development standards, along with project-specific conditions and mitigation measures to reduce potential impacts required as part of the development review and environmental impact processes. Adoption and implementation of the proposed project would not pose a significant hazard to the public or the environment, or involve the transportation, use, or storage of hazardous or potentially hazardous materials. Thus, adoption and implementation of the proposed project ensures impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

E. FOR A PROJECT LOCATED WITHIN AN AIRPORT LAND USE PLAN OR, WHERE SUCH A PLAN HAS NOT BEEN ADOPTED, WITHIN TWO MILES OF A PUBLIC AIRPORT OR PUBLIC USE AIRPORT, WOULD THE PROJECT RESULT IN A SAFETY HAZARD FOR PEOPLE RESIDING OR WORKING IN THE PROJECT AREA?

The *General Plan* included no policies relative to an airport land use plan or safety hazards for people residing or working within two miles of an airport. The *GPU EIR* concluded no impacts.

There are no private airstrips within or in the near vicinity of the City. The nearest airstrip, the Monterey Bay Academy airstrip, is located approximately 6.5 miles southeast of the City.

The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals. Thus, adoption and implementation of the proposed project ensures impacts remain as no impacts.



Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

F. WOULD THE PROJECT IMPAIR IMPLEMENTATION OF OR PHYSICALLY INTERFERE WITH AN ADOPTED EMERGENCY RESPONSE PLAN OR EMERGENCY EVACUATION PLAN?

The *General Plan* includes policies relative to emergency response on evacuation plans: Policy SN-5.1 Coordination with Other Agencies, Policy SN-5.2 Community Groups, Policy SN-5.3 Emergency and Evacuation Routes, Policy SN-5.4 Urban Area Security Initiative, Action SN-5.1 Emergency Response Plan, Action SN-5.2 County Preparedness Exercises, Action SN-5.3 Preparedness Training, Action SN-5.4 Preparedness Outreach, Action SN-5.5 Critical Facilities, and Action SN-5.6 Local Hazard Mitigation Plan. The *GPU EIR* concluded less than significant impacts with implementation of *General Plan* policies and actions, and regulatory requirements.

The *Santa Cruz County Operational Area Emergency Management Plan* establishes a comprehensive approach to the organizational structure and emergency management responsibilities in Santa Cruz County, including prevention, preparedness, response, and recovery. Capitola is also within the region covered by the Bay Area Urban Area Security Initiative (UASI), which provides federal financial assistance for terrorism preparedness planning.

The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals. Adoption and implementation of the proposed project would not impair the implementation of the *Santa Cruz County Operational Area Emergency Management Plan* or interfere with other applicable emergency response or evacuation plans. Thus, adoption and implementation of the proposed project ensures impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.



4.10 HYDROLOGY AND WATER QUALITY

Would the project:	New Potentially Significant Impact	New Impact Requiring New Mitigation	No New Impact/ No Impact	Reduced Impact
A. Violate any water quality standards or waste discharge requirements or otherwise substantially degrade surface or ground water quality?				
B. Substantially decrease groundwater supplies or interfere substantially with groundwater recharge such that the project may impede sustainable groundwater management of the basin?				
C. Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river or through the addition of impervious surfaces, in a manner which would:				
1) Result in a substantial erosion or siltation on- or off-site?				
2) Substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?				
3) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?				
4) Impede or redirect flood flows?				
D. In flood hazard, tsunami, or seiche zones, risk release of pollutants due to project inundation?				
E. Conflict with or obstruct implementation of a water quality control plan or sustainable groundwater management plan?				

PRIOR ENVIRONMENTAL FINDINGS

General Plan Update EIR

The table below summarizes the hydrology and water quality impacts and mitigation measures, if applicable.

HYDROLOGY AND WATER QUALITY – SUMMARY OF IMPACTS AND MITIGATION MEASURES			
Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
HYDRO-1: The proposed Plan would not violate any water quality standards or waste discharge requirements.	Less Than Significant	Not Applicable	
HYDRO-2: The proposed Plan could substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level.	Significant	No Mitigation Available	Significant Unavoidable
HYDRO-3: The proposed Plan would not substantially alter the existing drainage pattern of the Plan Area or vicinity, including through the alteration of the course of a stream or	Less Than Significant	Not Applicable	



**Addendum to the Capitola General Plan Update
For the 2023-2031 Housing Element**

HYDROLOGY AND WATER QUALITY – SUMMARY OF IMPACTS AND MITIGATION MEASURES			
Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
river, in a manner which would result in substantial erosion, siltation, or flooding on- or off-site.			
HYDRO-4: The proposed Plan would not create or contribute runoff water, which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff.	Less Than Significant	Not Applicable	
HYDRO-5: The proposed Plan would not otherwise substantially degrade water quality.	Less Than Significant	Not Applicable	
HYDRO-6: The proposed Plan would not result in a significant impact with respect to the placement of housing or structures, which would impede or redirect flood flows within a 100-year flood hazard area as mapped on a Federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map.	Less Than Significant	Not Applicable	
HYDRO-7: The proposed Plan would not expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam.	No Impact	Not Applicable	
HYDRO-8: The proposed Plan would not result in significant adverse effects related to inundation by seiche, tsunami, or mudflow.	Less Than Significant	Not Applicable	
HYDRO-9: The proposed Plan, in combination with past, present, and reasonably foreseeable development, could result in significant cumulative impacts with respect to hydrology and water quality.	Significant	No Mitigation Available	Significant Unavoidable

Source: Capitola General Plan Update Environmental Impact Report (June 2014), Table 1-1, Summary of Impacts and Mitigation Measures

IMPACT ANALYSIS

The 2023-2031 Housing Element includes policies and programs that are applicable City-wide and are designed to facilitate the construction of housing units to meet the City’s share of the regional housing need. The 2023-2031 Housing Element Chapter 4, Housing Need and Opportunities identifies potential residential sites and densities, inclusive of recyclable residential land, religious facility sites and State land housing, vacant and non-vacant land, and the Capitola Mall site. The 2023-2031 Housing Element Chapter 5, Housing Plan identifies the Goals, Policies, and Programs and Quantified Objectives that are based upon expected availability of resources to address the City’s housing needs, expectations regarding future housing development, as well as prior objectives established in earlier housing plans.

The 2023-2031 Housing Element is a policy document that would not change land use designations or in and of themselves authorize any development within the City. While the City is required by State law to facilitate development commensurate with its allocated share of regional housing needs, no change in the location or nature of allowable development would be authorized by the 2023-2031 Housing Element.

A. WOULD THE PROJECT VIOLATE ANY WATER QUALITY STANDARDS OR WASTE DISCHARGE REQUIREMENTS OR OTHERWISE SUBSTANTIALLY DEGRADE SURFACE OR GROUND WATER QUALITY?

The *General Plan* includes policies relative to water quality standards, waste discharge requirements, degradation of surface or ground water: Policy OSC-8.1 Creek Areas, Policy OSC-8.2 Non-Point Source Pollution, Policy OSC-8.3



Best Management Practices, Policy OSC-8.4 Landscaping and Re-Vegetation, Policy OSC-8.5 Native Plants, Policy OSC-8.6 City Properties, Policy OSC-8.7 Regional Collaboration, Policy OSC-8.8 Drainage Plans, Policy OSC-8.9 Impervious Surfaces, Action OSC-8.1 Stormwater Infrastructure, Action OSC-8.2 Funding for Stormwater Management, and Action OSC-8.3 Stormwater Management Program. The *GPU EIR* concluded less than significant impacts with implementation of *General Plan* policies and actions.

Surface water and groundwater quality in the City of Capitola is similar to that which is characterized for other urbanized areas surrounding the City and within Santa Cruz County. The City encourages development projects to be designed with pervious materials and landscaped areas to enhance on-site capture and absorption of stormflows. Also, through the implementation of National Pollution Discharge Elimination System (NPDES) program requirements, the City guards against high pollutant loads and erosive materials in surface runoff.

The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals. Future development proposals associated with implementation of the proposed project would be required to provide for the elimination/reduction of pollutant discharges, including capture and treatment of dry weather and first flush runoff in a manner consistent with Central Coast Regional Water Quality Control Board (CCRWQCB) requirements. All storm water discharges must comply with applicable provisions of Santa Cruz County's NPDES permit. As a co-permittee, the City is responsible for implementation of the requirements of the NPDES permit issued to the County. Consistent with CCRWQCB/NPDES and City requirements, appropriate Best Management Practices (BMPs) would be required throughout construction processes of future development proposals, thereby controlling potential discharge of pollutants, preventing sewage spills, and avoiding discharge of sediments into streets, stormwater channels, or waterways. In addition, long-term water quality impacts associated with future development proposals associated with implementation of the proposed project would also be avoided through the implementation of structural, non-structural and treatment control BMPs and operational and maintenance requirements that are identified in the Water Quality Management Plan (WQMP) prepared for each future development proposal to ensure that long-term water quality impacts are minimized. Thus, adoption and implementation of the proposed project ensures impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

B. WOULD THE PROJECT SUBSTANTIALLY DECREASE GROUNDWATER SUPPLIES OR INTERFERE SUBSTANTIALLY WITH GROUNDWATER RECHARGE SUCH THAT THE PROJECT MAY IMPEDED SUSTAINABLE GROUNDWATER MANAGEMENT OF THE BASIN?

The *General Plan* includes policies relative to water quality standards, waste discharge requirements, degradation of surface or ground water: Policy OSC-8.1 Creek Areas, Policy OSC-8.2 Non-Point Source Pollution, Policy OSC-8.3 Best Management Practices, Policy OSC-8.4 Landscaping and Re-Vegetation, Policy OSC-8.5 Native Plants, Policy OSC-8.6 City Properties, Policy OSC-8.7 Regional Collaboration, Policy OSC-8.8 Drainage Plans, Policy OSC-8.9 Impervious Surfaces, Action OSC-8.1 Stormwater Infrastructure, Action OSC-8.2 Funding for Stormwater Management, and Action OSC-8.3 Stormwater Management Program. The *GPU EIR* concluded significant unavoidable impacts with implementation of *General Plan* policies and actions.

The City has been fully urbanized for many years with established hydrology and water quality systems.



The City of Capitola water providers are Soquel Creek Water District (SqCWD) and the City of Santa Cruz Water Department (SCWD). Approximately 90 percent of the total water used by the City of Capitola is provided by the SqCWD, which serves the areas primarily east of 41st Avenue. Approximately 10 percent of the total water used by the City of Capitola is provided by the SCWD, which serves the areas primarily west of 41st Avenue.

The SqCWD relies solely on groundwater from aquifers underlying the Soquel-Aptos area. The SqCWD extracts groundwater from the deep water-bearing zones within the Purisima formation. Several SqCWD wells are located in this unit; however, SqCWD also operates production wells in the other units. The SqCWD also extracts groundwater from the semi-confined and unconfined units of the Aromas, a 400-foot thick aquifer divided into two units. The uppermost unit is about 225 feet thick, and the lowermost unit is about 175 feet thick. All of the SqCWD production wells in the Aromas are located in the lowermost unit.

Water supply for the SCWD relies entirely on rainfall, surface runoff, and groundwater infiltration occurring within watersheds located in Santa Cruz County. No water is imported from federal, State or other outside sources. The supply system is comprised of four main production elements, 1) the North Coast streams, 2) the San Lorenzo River, 3) Loch Lomond Reservoir, and 4) the Live Oak ground water wells.

The *General Plan* could result in an increased demand of up to 124 acre-feet/year (afy), which could indirectly result in the over-drafting of the groundwater table. In addition, other cumulative projects within the Basin could further exacerbate this impact. As such, groundwater impacts were concluded to be significant unavoidable.

The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals. Future development proposals associated with implementation of the proposed project would be reviewed by the City to determine if there is any change to existing runoff conditions or potential increases in the amount of impervious surfaces. In addition, future development proposals associated with implementation of the proposed project would be required to comply with all applicable policies, regulations, and development standards, along with project-specific conditions and mitigation measures to reduce potential impacts required as part of the development review and environmental impact processes. Thus, adoption and implementation of the proposed project ensures impacts remain as significant unavoidable impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

- C. WOULD THE PROJECT SUBSTANTIALLY ALTER THE EXISTING DRAINAGE PATTERN OF THE SITE OR AREA, INCLUDING THROUGH THE ALTERATION OF THE COURSE OF STREAM OR RIVER, IN A MANNER WHICH WOULD:**
 - 1. RESULT IN SUBSTANTIAL EROSION OR SILTATION ON- OR OFF-SITE?**
 - 2. SUBSTANTIALLY INCREASE THE RATE OR AMOUNT OF SURFACE RUNOFF IN A MANNER WHICH WOULD RESULT IN FLOODING ON- OR OFF-SITE?**
 - 3. CREATE OR CONTRIBUTE RUNOFF WATER WHICH WOULD EXCEED THE CAPACITY OF EXISTING OR PLANNED STORMWATER DRAINAGE SYSTEMS OR PROVIDE SUBSTANTIAL ADDITIONAL SOURCES OF POLLUTED RUNOFF?**

The *General Plan* includes policies relative to runoff capacity or polluted runoff: OSC-8.1 Creek Areas, Policy OSC-8.4 Landscaping and Re-Vegetation, Policy OSC-8.8 Drainage Plans, Policy OSC-8.9 Impervious Surfaces, and



Action OSC-8.3. The *GPU EIR* concluded less than significant impacts with implementation of *General Plan* policies and actions.

The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals. As such, the proposed project does not propose to alter the existing drainage pattern of any site in the City, nor does it propose to alter any streams or rivers resulting in substantial erosion, surface runoff resulting in flooding, or runoff existing the system’s capacity. Any future development proposals associated with implementation of the proposed project would occur on urban land consistent with adopted land use policy, which provides for protection of existing drainage courses. Thus, adoption and implementation of the proposed project ensures impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

4. IMPEDE OR REDIRECT FLOOD FLOWS?

The *General Plan* includes policies relative to runoff capacity or polluted runoff: OSC-8.1 Creek Areas, Policy OSC-8.4 Landscaping and Re-Vegetation, Policy OSC-8.8 Drainage Plans, Policy OSC-8.9 Impervious Surfaces, and Action OSC-8.3. The *GPU EIR* concluded less than significant impacts with implementation of *General Plan* policies and actions.

The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals. Infrastructure exists with the City, and thus, storm water runoff associated with future development proposals associated with implementation of the proposed project would continue to be conveyed and discharged into the local stormwater system. Additionally, construction of future development proposals associated with implementation of the proposed project would be restricted within the individual site boundary. As such, implementation of the proposed project would not lead to on-site or off-site siltation or erosion impeding or redirecting flood flow. Thus, adoption and implementation of the proposed project ensures impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

D. WOULD THE PROJECT IN FLOOD HAZARD, TSUNAMI, OR SEICHE ZONES, RISK RELEASE OF POLLUTANTS DUE TO PROJECT INUNDATION?

Flooding

The *General Plan* includes policies relative to flooding and flood hazards: Policy OSC-8.1 Creek Areas, Policy OSC-8.8 Drainage Plans, Action OSC-8.1 Stormwater Infrastructure, Action OSC-8.2 Funding for Stormwater Management, Action OSC-8.3 Stormwater Management Program. The *GPU EIR* concluded less than significant impacts with implementation of *General Plan* policies and actions.

According to FEMA and shown on *GPU EIR* Figure 4.7-2, all of Soquel Creek (within the City limits) and a portion of Noble Gulch are located within the 100-year flood zone. The flood zone is relatively narrow and generally follows the flow path of the main channel. Moving upstream from the creek mouth, the elevation of the 100-year



flood zone (i.e., the base flood elevation) becomes progressively higher than the water surface elevations associated with the periodic formation of the Lagoon during the summer months.

Noble Gulch is a significant drainage that flows into Soquel Creek at the Village. Approximately 30+ years ago, the last approximately 2,000 feet of the Gulch (east of Bay Avenue) was diverted via a 72-inch drainage pipe that extends under the current Pacific Cove Mobile Home Park. During a heavy storm in March of 2011, rushing water overwhelmed the drainage pipe creating an upwards surge that tore apart the ground beneath several mobile homes. The water cascaded down Capitola Avenue into the Village, causing considerable damage to homes and businesses. This storm event and the failed drainage pipe, demonstrates the potential risks and vulnerability of flooding in the Village. Storm events occur relatively frequently and the Village is located at the end of Soquel Creek which is a very large watershed. Flows associated with large storm events often result in significant amounts of vegetation debris including trees and limbs which can get blocked, particularly at the Stockton Bridge, further exacerbating flood conditions.

Dam Inundation

Based on the *Local Hazard Mitigation Plan*, there are no levees or dams that would impact the City upon failure.

Tsunami

The *General Plan* includes policies relative to tsunamis: Policy OSC-8.1 Creek Areas, Policy OSC-8.9 Impervious Surfaces, Action OSC-8.1 Stormwater Infrastructure, Action OSC-8.2 Funding for Stormwater Management, and Action OSC-8.3 Stormwater Management Program. The *GPU EIR* concluded less than significant impacts with implementation of *General Plan* policies and actions.

As shown on *GPU EIR* Figure 4.7-3, nearly all of Capitola Village is located within the tsunami inundation area, as mapped by California Emergency Management Agency (Cal EMA). Other areas include a portion of Soquel Creek, from Capitola Beach to approximately one river mile upstream to Highway 1, and a portion of Noble Gulch (about ¼-mile), which flows into Soquel Creek. The Capitola shoreline would also be inundated. However, while the coastal cliffs would block inland flows, substantial erosion would likely occur as the result of a tsunami.

In the event of a tsunami, people or structures within these areas could be exposed to a significant risk of loss, injury, or death due to flooding. The tsunami inundation area, as mapped by Cal EMA, is considered a maximum estimate (i.e., based upon the maximum tsunami run-up), taking into consideration a number of extreme, yet realistic, tsunami sources.

Seiche

The *General Plan* includes policies relative to seiches: Policy OSC-8.1 Creek Areas, Policy OSC-8.9 Impervious Surfaces, Action OSC-8.1 Stormwater Infrastructure, Action OSC-8.2 Funding for Stormwater Management, and Action OSC-8.3 Stormwater Management Program. The *GPU EIR* concluded less than significant impacts with implementation of *General Plan* policies and actions.

A seiche is an oscillation wave generated in a closed or partially closed body of water, which can be compared to the back-and-forth sloshing in a bath tub. Seiches can be caused by winds, changes in atmospheric pressure, underwater earthquakes, tsunamis, or landslides into the water body. Bodies of water such as bays, harbors, reservoirs, ponds, and swimming ponds can experience seiche waves up to several feet in height during a strong



earthquake. The City is located within an inundation zone of tsunamis generated by earthquakes, as discussed above, and includes large bodies of water, such as Soquel Cove and Soquel Lagoon. Therefore, seiches could result along beach areas and creeks within the City in association with a tsunami event.

Mudflow

The *General Plan* includes policies relative to mudflow: Policy OSC-8.1 Creek Areas, Policy OSC-8.9 Impervious Surfaces, Action OSC-8.1 Stormwater Infrastructure, Action OSC-8.2 Funding for Stormwater Management, and Action OSC-8.3 Stormwater Management Program. The *GPU EIR* concluded less than significant impacts with implementation of *General Plan* policies and actions.

Mud and debris flows are mass movements of dirt and debris that occur after intense rainfall, earthquakes, and severe wildfires. The speed of a slide depends on the amount of precipitation, steepness of the slope, and alternate freezing and thawing of the ground. Based on the *Local Hazard Mitigation Plan*, due to steep topography, there is a potential for mudflows to occur below Wharf Road and above Soquel Creek, which could impact the Stockton Avenue Bridge and the Village.

Impact Analysis

The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals.

Implementation of the proposed project could result in the placement of housing within a flood hazard area, as well as subject to a tsunami, seiche, or mudflow hazards. Future development within the City could result in the placement of structures in existing FEMA-designated 100-year Special Flood Hazard Areas (SFHAs). *Municipal Code* Chapter 17.50 includes standards for construction in flood hazard zones. Future development within the 100-year flood zone requires the placement of fill to elevate structures above the 100-year floodplain elevation. In order for a project to be considered outside of the floodplain and no longer subject to special flood hazard requirements, the project applicant has to submit an application to Federal Emergency Management Agency (FEMA) for a Letter of Map Revision – Fill (LOMR-F) after the fill has been placed. After FEMA has revised the Flood Insurance Rate Map (FIRM) to show that the project is now outside of the SFHA, the City would no longer be required to apply the minimum National Flood Insurance Program (NFIP) floodplain management standards to structures built on the land and the mandatory flood insurance requirements would no longer apply.

Thus, adoption and implementation of the proposed project ensures impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

E. WOULD THE PROJECT CONFLICT WITH OR OBSTRUCT IMPLEMENTATION OF A WATER QUALITY CONTROL PLAN OR SUSTAINABLE GROUNDWATER MANAGEMENT PLAN?

The *Water Quality Control Plan for the Central Coastal Basin (Basin Plan)* is the Regional Water Quality Control Board's master water quality control planning document. It designates beneficial uses and water quality objectives for waters of the State, including surface waters and groundwater. It also includes programs of implementation



to achieve water quality objectives. The current *Basin Plan* consists of the 2019 *Basin Plan* edition and all of the following amendments approved after March 2019.

The *Water Quality Control Plan for the Central Coast Basin Plan*² is the water quality control plan for the geographic area that encompasses all of Santa Cruz, San Benito, Monterey, San Luis Obispo, and Santa Barbara Counties as well as the southern one-third of Santa Clara County, and small portions of San Mateo, Kern, and Ventura Counties. Included in the region are urban areas such as the Monterey Peninsula and the Santa Barbara coastal plain; prime agricultural lands as the Salinas, Santa Maria, and Lompoc Valleys; National Forest lands, extremely wet areas like the Santa Cruz mountains; and arid areas like the Carrizo Plain. The *Basin Plan* designates beneficial uses, establishes water quality objectives, and contains implementation programs and policies to achieve those objectives for all waters addressed through the Basin Plan.

In 2014, the Governor signed the Sustainable Groundwater Management Act (SGMA) into law and took effect on January 1, 2015, which requires governments and water agencies of high and medium priority basins to halt overdraft and bring groundwater basins into balanced levels of pumping and recharge. SGMA empowers local agencies to form Groundwater Sustainability Agencies (GSAs) to manage basins sustainably and requires those GSAs to adopt Groundwater Sustainability Plans (GSPs) for crucial groundwater basins in California. The SGMA is the first legislation in the state’s history to mandate comprehensive sustainable groundwater resources management.

Santa Cruz Mid-County Groundwater Sustainability Plan³

The Santa Cruz Mid-County Groundwater Agency (MGA or Agency) was formed under SGMA to develop this Groundwater Sustainability Plan (GSP or Plan) for the Santa Cruz Mid-County Groundwater Basin (Basin). The Basin is classified by the California Department of Water Resources (DWR) as a high priority basin in a state of critical overdraft because of seawater intrusion. Based on this critical overdraft designation, the MGA is required to submit its Board adopted GSP to DWR by January 31, 2020. The MGA initiated development of this GSP in 2017 to guide ongoing management of the Basin with a goal to achieve and maintain groundwater sustainability over a 50-year planning and implementation horizon.

While the SGMA would revolutionize groundwater management in California, MGA member agencies began studying groundwater and managing the Basin long before SGMA was passed into law. The City of Santa Cruz Water Department and Soquel Creek Water District acquired interests in groundwater pumping in the Basin, and together with Santa Cruz County commissioned the first hydrogeologic study of the Basin in the mid-1960s (USGS, 1968).

Seawater intrusion identified in the Basin in the 1980s required water managers to develop an extensive monitoring network of wells to monitor the Basin’s groundwater and to help improve understanding of the Basin, and to implement water conservation and groundwater management strategies to balance groundwater demand with the Basin’s groundwater budget.

A *Groundwater Sustainability Plan (GSP)* was prepared for the Santa Cruz Mid-County Groundwater Basin, and was approved by the California Department of Water Resources in June 2021. The *GSP* presents detailed

² [Water Quality Control Plan for the Central Coastal Basin \(ca.gov\)](#), accessed August 16, 2023

³ Santa Cruz Mid-County Groundwater Sustainability Plan , <https://sgma.water.ca.gov/portal/service/gspdocument/download/3166>, accessed August 16, 2023



information to understand the occurrence of groundwater in the Basin and provides solutions to achieve the Basin’s sustainability goals. The *GSP* and Executive Summary are organized following DWR’s guidance documents (DWR, 2016):

- Executive Summary
- Section 1: Introduction to the MGA
- Section 2: Plan and Basin Setting
- Section 3: Sustainable Management Criteria
- Section 4: Projects and Management Actions to Achieve Sustainability
- Section 5: Plan Implementation, Budget and Schedule
- Section 6: References and Technical Studies used to Develop the GSP

Projected Future Basin Conditions, Land Use and Water Use

The *GSP* includes projects and management actions to stop the advancement of seawater intrusion and to maintain sustainability under future Basin conditions that will be impacted by changes in land use, water use, and climate. The projected climate change effects include 2.3 feet of sea level rise by 2070 and a warmer and drier climate that has an average temperature increase of 2.4°F, a decrease in precipitation of up to 3.1 inches per year, and a 6% increase in evapotranspiration. Land use patterns are assumed to be unchanged while accommodating projected regional population growth of 4.2% pre-2035 and 2.1% post-2035. Projected nonmunicipal groundwater demand for domestic use assumes pre-drought (2012 – 2015) water demand of 0.35 acre-feet per year per household. Groundwater demand for larger institutions such as camps, retreats, and schools, and agricultural irrigation are assumed to remain the same as historical demands.

Future development projects associated with implementation of the proposed project would be subject to applicable requirements from the *GSP* and Santa Cruz Mid-County Groundwater Agency. The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals. The proposed project would not conflict with or obstruct implementation of a water quality control plan or a sustainable groundwater management plan. Thus, adoption and implementation of the proposed project ensures impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.



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4.11 LAND USE AND PLANNING

Would the project:	New Potentially Significant Impact	New Impact Requiring New Mitigation	No New Impact/ No Impact	Reduced Impact
A. Physically divide an established community?			✓	
B. Cause a significant environmental impact due to a conflict with any land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect?			✓	

PRIOR ENVIRONMENTAL FINDINGS

General Plan Update EIR

The table below summarizes the land use and planning impacts and mitigation measures, if applicable.

LAND USE – SUMMARY OF IMPACTS AND MITIGATION MEASURES			
Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
LAND-1: The proposed Plan would not physically divide an established community.	Less Than Significant	Not Applicable	
LAND-2: The proposed Plan would not conflict with an applicable land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.	Less Than Significant	Not Applicable	
LAND-3: The proposed Plan would not conflict with the Monterey Bay National Marine Sanctuary Management Plan.	Less Than Significant	Not Applicable	
LAND-4: The proposed Plan, in combination with past, present, and reasonably foreseeable development in the surrounding area, would result in less than significant cumulative impacts with respect to land use and planning.	Less Than Significant	Not Applicable	

Source: Capitola General Plan Update Environmental Impact Report (June 2014), Table 1-1, Summary of Impacts and Mitigation Measures

IMPACT ANALYSIS

The 2023-2031 Housing Element includes policies and programs that are applicable City-wide and are designed to facilitate the construction of housing units to meet the City’s share of the regional housing need. The 2023-2031 Housing Element Chapter 4, Housing Need and Opportunities identifies potential residential sites and densities, inclusive of recyclable residential land, religious facility sites and State land housing, vacant and non-vacant land, and the Capitola Mall site. The 2023-2031 Housing Element Chapter 5, Housing Plan identifies the Goals, Policies, and Programs and Quantified Objectives that are based upon expected availability of resources to address the City’s housing needs, expectations regarding future housing development, as well as prior objectives established in earlier housing plans.



The 2023-2031 Housing Element is a policy document that would not change land use designations or in and of themselves authorize any development within the City. While the City is required by State law to facilitate development commensurate with its allocated share of regional housing needs, no change in the location or nature of allowable development would be authorized by the 2023-2031 Housing Element.

A. WOULD THE PROJECT PHYSICALLY DIVIDE AN ESTABLISHED COMMUNITY?

The *GPU EIR* concluded that implementation of the General Plan would result in less than significant impacts.

The City of Capitola has been urbanized for many years with established development throughout the City.

The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals nor provide for new land use uses that would physically divide or disrupt established neighborhoods or create physical barriers in Capitola. Thus, adoption and implementation of the proposed project ensures impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

B. WOULD THE PROJECT CAUSE A SIGNIFICANT ENVIRONMENTAL IMPACT DUE TO A CONFLICT WITH ANY APPLICABLE LAND USE PLAN, POLICY, OR REGULATION ADOPTED FOR THE PURPOSE OF AVOIDING OR MITIGATING AN ENVIRONMENTAL EFFECT?

The *General Plan* includes policies relative to conflicts with an applicable land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect: Policy LU-1.1 Community Character, Policy LU-2.1 Historic Structures, Policy LU-3.3 Infill Development, Policy LU-3.4 Transit and Pedestrian Access, Policy LU-3.7 Regional Outlook, Policy LU-13.4 New Brighton State Beach, Policy LU-13.6 Beach Management, Policy LU-13.7 Beach Structures, and Action LU-14.3 Coastal Recreation. The *GPU EIR* concluded less than significant impacts with implementation of *General Plan* policies and actions.

The City is required by State law to facilitate development commensurate with its allocated share of regional housing needs; however, no change in the location or nature of allowable development would be authorized by the 2023-2031 Housing Element. The 2023-2031 Housing Element enhances the General Plan goals and policies calling for additional housing types and expanding the supply of housing.

The adoption and implementation of the proposed project further enhances the goals, policies, and actions in the *General Plan*, would not conflict with goals or objectives contained within regional plans, or cause a significant environmental impact due to a conflict with any applicable land use plan, policy, or regulation adopted for the purpose of avoiding or mitigating an environmental effect.

The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals. Future development proposals associated with implementation of the proposed project would be required to comply with all applicable regulations and development standards, along with project-specific conditions and mitigation measures to reduce potential impacts required as part of the development review and environmental impact processes. Thus, adoption and implementation of the proposed project ensures impacts remain as less than significant impacts.



Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.



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4.12 MINERAL RESOURCES

Would the project:	New Potentially Significant Impact	New Impact Requiring New Mitigation	No New Impact/ No Impact	Reduced Impact
A. Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?			✓	
B. Result in the loss of availability of a locally-important mineral resource recovery site delineated on a local general plan, specific plan, or other land use plan?			✓	

PRIOR ENVIRONMENTAL FINDINGS

General Plan Update EIR

CEQA Guidelines Section 15128 allows environmental issues for which there is no likelihood of significant impact to be “scoped out” and not analyzed further in the EIR. It was determined that the *General Plan* would not result in significant impacts with respect to Mineral Resources, and as such were not analyzed in the *GPU EIR*.

IMPACT ANALYSIS

The 2023-2031 Housing Element includes policies and programs that are applicable City-wide and are designed to facilitate the construction of housing units to meet the City’s share of the regional housing need. The 2023-2031 Housing Element Chapter 4, Housing Need and Opportunities identifies potential residential sites and densities, inclusive of recyclable residential land, religious facility sites and State land housing, vacant and non-vacant land, and the Capitola Mall site. The 2023-2031 Housing Element Chapter 5, Housing Plan identifies the Goals, Policies, and Programs and Quantified Objectives that are based upon expected availability of resources to address the City’s housing needs, expectations regarding future housing development, as well as prior objectives established in earlier housing plans.

The 2023-2031 Housing Element is a policy document that would not change land use designations or in and of themselves authorize any development within the City. While the City is required by State law to facilitate development commensurate with its allocated share of regional housing needs, no change in the location or nature of allowable development would be authorized by the 2023-2031 Housing Element.

A. WOULD THE PROJECT RESULT IN THE LOSS OF AVAILABILITY OF A KNOWN MINERAL RESOURCE THAT WOULD BE OF VALUE TO THE REGION AND THE RESIDENTS OF THE STATE?

The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals. Within the City, there are no known mineral resource of value to the region and the residents of the State. Thus, adoption and implementation of the proposed project ensures impacts remain as no impacts.



Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

B. WOULD THE PROJECT RESULT IN THE LOSS OF AVAILABILITY OF A LOCALLY-IMPORTANT MINERAL RESOURCE RECOVERY SITE DELINEATED ON A LOCAL GENERAL PLAN, SPECIFIC PLAN, OR OTHER LAND USE PLAN?

The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals. There are no known locally important mineral resource recovery sites in the City. Thus, adoption and implementation of the proposed project ensures impacts remain as no impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.



4.13 NOISE

Would the project result in:	New Potentially Significant Impact	New Impact Requiring New Mitigation	No New Impact/ No Impact	Reduced Impact
A. Generation of a substantial temporary or permanent increase in ambient noise levels in the vicinity of the project in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?			✓	
B. Generation of excessive groundborne vibration or groundborne noise levels?			✓	
C. For a project located within the vicinity of a private airstrip or an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?			✓	

PRIOR ENVIRONMENTAL FINDINGS

General Plan Update EIR

The table below summarizes the noise impacts and mitigation measures, if applicable.

NOISE – SUMMARY OF IMPACTS AND MITIGATION MEASURES			
Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
NOISE-1: Construction-related activities resulting from implementation of the proposed Plan would not result in the generation of noise levels in excess of established standards.	Less Than Significant	Not Applicable	
NOISE-2: Construction-related activities resulting from implementation of the proposed Plan could generate or expose persons or structures to excessive ground-borne vibration.	Significant	Noise 2a Noise-2b	Less Than Significant
NOISE-3: Future noise levels associated with implementation of the proposed Plan could contribute to an exceedance of the City's noise standards resulting in potential noise impacts to sensitive receptors.	Less Than Significant	Not Applicable	
NOISE-4: The Plan, in combination with past, present, and reasonably foreseeable projects, would result in less than significant cumulative impacts with respect to noise.	Less Than Significant	Not Applicable	

Source: Capitola General Plan Update Environmental Impact Report (June 2014), Table 1-1, Summary of Impacts and Mitigation Measures

IMPACT ANALYSIS

The 2023-2031 Housing Element includes policies and programs that are applicable City-wide and are designed to facilitate the construction of housing units to meet the City's share of the regional housing need. The 2023-2031 Housing Element Chapter 4, Housing Need and Opportunities identifies potential residential sites and densities, inclusive of recyclable residential land, religious facility sites and State land housing, vacant and non-vacant land,



and the Capitola Mall site. The 2023-2031 Housing Element Chapter 5, Housing Plan identifies the Goals, Policies, and Programs and Quantified Objectives that are based upon expected availability of resources to address the City’s housing needs, expectations regarding future housing development, as well as prior objectives established in earlier housing plans.

The 2023-2031 Housing Element is a policy document that would not change land use designations or in and of themselves authorize any development within the City. While the City is required by State law to facilitate development commensurate with its allocated share of regional housing needs, no change in the location or nature of allowable development would be authorized by the 2023-2031 Housing Element.

- A. WOULD THE PROJECT RESULT IN GENERATION OF A SUBSTANTIAL TEMPORARY OR PERMANENT INCREASE IN AMBIENT NOISE LEVELS IN THE VICINITY OF THE PROJECT IN EXCESS OF STANDARDS ESTABLISHED IN THE LOCAL GENERAL PLAN OR NOISE ORDINANCE, OR APPLICABLE STANDARDS OF OTHER AGENCIES?**

- B. WOULD THE PROJECT RESULT IN GENERATION OF EXCESSIVE GROUNDBORNE VIBRATION OR GROUNDBORNE NOISE LEVELS?**

The *General Plan* includes policies and actions relative to noise levels, and groundborne vibration and groundborne noise levels: Policy SN-7.1 Noise Sensitive Land Uses, Policy SN-7.2 Noise Level Standards, Policy SN-7.3 Noise Control Ordinance, Policy SN-7.4 Acoustical Analyses, Policy SN-7.5 Rail Service, and Action SN-7.1 Noise Ordinance Effectiveness. The *GPU EIR* concluded less than significant impacts and less than significant impacts with mitigation incorporated with implementation of *General Plan* policies and actions.

Increase in Ambient Noise Levels in Excess of Standards Established in the General Plan, Noise Ordinance, or Applicable Standards. The *GPU EIR* concluded that construction-related activities resulting from implementation of the *General Plan* would not result in the generation of noise levels in excess of established standards.

While adoption and implementation of the proposed project would not directly result in the construction of housing, implementation of Housing Element policy would facilitate the construction of future development proposals associated with implementation of the proposed project consistent with adopted land use policy. Typically, residential uses do not generate high noise levels. However, individual residential development projects may result in the exposure of persons to noise levels in excess of standards established in the *General Plan* or Noise Ordinance. Without identifying the location of future development proposals associated with implementation of the proposed project, it is not possible to determine if they would be placed near land uses that would generate noise levels or groundborne vibrations that would exceed acceptable standards.

Future development proposals would be required to comply with all applicable regulations and development standards, along with project-specific conditions and mitigation measures to reduce potential impacts required as part of the development review and environmental impact processes. This can include, but is not limited to, *Municipal Code* requirements; *General Plan* goals, policies, and implementation programs, including those identified in the proposed project, and mitigation measures. Thus, adoption and implementation of the proposed project ensures impacts remain as less than significant impacts.



Ground-Borne Construction Vibration Noise. The GPU EIR concluded that with the imposition of regulatory requirements and Mitigation Measures Noise-2a and Noise-2b, ground-borne construction vibration noise impacts are less than significant.

While adoption and implementation of the proposed project would not directly result in the construction of housing, implementation of Housing Element policy would facilitate the construction of future development proposals associated with implementation of the proposed project consistent with adopted land use policy. However, individual residential development projects may result in the exposure of persons to ground-borne construction vibration noise levels in excess of standards established in the *General Plan* or Noise Ordinance. Without identifying the location of future development proposals associated with implementation of the proposed project, it is not possible to determine if they would be placed near land uses that would generate noise levels or groundborne vibrations that would exceed acceptable standards.

Future development proposals would be required to comply with all applicable regulations and development standards, along with project-specific conditions and mitigation measures to reduce potential impacts required as part of the development review and environmental impact processes. This can include, but is not limited to, *Municipal Code* requirements; *General Plan* goals, policies, and implementation programs, including those identified in the proposed project, and mitigation measures. Thus, adoption and implementation of the proposed project ensures impacts remain as less than significant with mitigation incorporated.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

C. FOR A PROJECT LOCATED WITHIN THE VICINITY OF A PRIVATE AIRSTRIP OR AN AIRPORT LAND USE PLAN OR, WHERE SUCH A PLAN HAS NOT BEEN ADOPTED, WITHIN TWO MILES OF A PUBLIC AIRPORT OR PUBLIC USE AIRPORT, WOULD THE PROJECT EXPOSE PEOPLE RESIDING OR WORKING IN THE PROJECT AREA TO EXCESSIVE NOISE LEVELS?

There are no airports in Capitola. The closest airport is the Watsonville Municipal Airport, a public airport in Watsonville located approximately 8 miles to the southeast of Capitola. Any aircraft overflights do not contribute significantly to the ambient noise environment in the City.

The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals. Adoption and implementation of the proposed project would not expose future residents or workers in the City to substantial sources of airport or heliport of noise in the City. Thus, adoption and implementation of the proposed project ensures impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.



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4.14 POPULATION AND HOUSING

Would the project:	New Potentially Significant Impact	New Impact Requiring New Mitigation	No New Impact/ No Impact	Reduced Impact
a. Induce substantial unplanned population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?			✓	
b. Displace substantial numbers of existing people or housing, necessitating the construction of replacement housing elsewhere?			✓	

PRIOR ENVIRONMENTAL FINDINGS

General Plan Update EIR

The table below summarizes the population and housing impacts and mitigation measures, if applicable.

POPULATION AND HOUSING – SUMMARY OF IMPACTS AND MITIGATION MEASURES			
Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
POP-1: The Plan would not induce substantial unexpected population growth, or growth for which inadequate planning has occurred, either directly or indirectly.	Less Than Significant	Not Applicable	
POP-2: The Plan would not displace substantial numbers of existing housing units, necessitating the construction of replacement housing elsewhere.	Less Than Significant	Not Applicable	
POP-3: The proposed Plan would not displace substantial numbers of people, necessitating the construction of replacement housing elsewhere.	Less Than Significant	Not Applicable	
POP-4: The proposed Plan, in combination with past, present, and reasonably foreseeable projects, would result in less than significant cumulative impacts with respect to population and housing.	Less Than Significant	Not Applicable	

Source: Capitola General Plan Update Environmental Impact Report (June 2014), Table 1-1, Summary of Impacts and Mitigation Measures

IMPACT ANALYSIS

The 2023-2031 Housing Element includes policies and programs that are applicable City-wide and are designed to facilitate the construction of housing units to meet the City’s share of the regional housing need. The 2023-2031 Housing Element Chapter 4, Housing Need and Opportunities identifies potential residential sites and densities, inclusive of recyclable residential land, religious facility sites and State land housing, vacant and non-vacant land, and the Capitola Mall site. The 2023-2031 Housing Element Chapter 5, Housing Plan identifies the Goals, Policies, and Programs and Quantified Objectives that are based upon expected availability of resources to address the City’s housing needs, expectations regarding future housing development, as well as prior objectives established in earlier housing plans.



The 2023-2031 Housing Element is a policy document that would not change land use designations or in and of themselves authorize any development within the City. While the City is required by State law to facilitate development commensurate with its allocated share of regional housing needs, no change in the location or nature of allowable development would be authorized by the 2023-2031 Housing Element.

A. WOULD THE PROJECT INDUCE SUBSTANTIAL UNPLANNED POPULATION GROWTH IN AN AREA, EITHER DIRECTLY (FOR EXAMPLE, BY PROPOSING NEW HOMES AND BUSINESSES) OR INDIRECTLY (FOR EXAMPLE, THROUGH EXTENSION OF ROADS OR OTHER INFRASTRUCTURE)?

The *General Plan* includes policies relative to local and regional population growth: Policy LU-1.3 Compatible Development, Policy LU-1.6 Balanced Community, Policy LU-3.3 Infill Development, Policy LU-5.1 Neighborhood Characteristics, Policy LU- 5.2 Development Impacts, and Policy LU-3.7 Regional Outlook. The *GPU EIR* concluded less than significant impacts with implementation of *General Plan* policies.

The City of Capitola has been urbanized for many years with established development throughout the City.

The Association of Monterey Bay Area Governments (AMBAG) is the responsible agency for developing and adopting regional housing and population forecasts for the Counties and Cities of Monterey, San Benito and Santa Cruz, and provides population projection estimates in five-year increments.

AMBAG developed the *2045 Metropolitan Transportation Plan/Sustainable Communities Strategy (2045 MTP/SCS)*. Federal and state law requires that AMBAG prepare a long-range transportation plan every four years. The draft *2045 MTP/SCS* was released for public review and comment on November 22, 2021. On June 15, 2022, the AMBAG Board of Directors certified the Final Environmental Impact Report (EIR) prepared for the *2045 Metropolitan Transportation/Sustainable Communities Strategy*; adopted CEQA Findings of Fact, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Program; made a finding that the SCS achieves the greenhouse gas reduction targets established by the California Air Resources Board; adopted the *Final 2022 Regional Growth Forecast*; and adopted the *Final 2045 MTP/SCS*.

AMBAG's Regional Housing Needs Assessment (RHNA) for the Capitola 2023-2031 housing element period is 1,336 housing units.⁴

As of 2020, the City of Capitola included a population of 10,108 and 5,554 households. The *2045 MTP/SCS* projects a 2040 population of 11,049 and 6,017 households for the City of Capitola. Refer to [Table 4.14-1, 2020 and 2040 Population and Household Projections](#).

⁴ AMBAG, 2022 Regional Growth Forecasts, [Appendix A 2022 RGF \(ambag.org\)](#)



**TABLE 4.14-1
2020 AND 2040 POPULATION AND HOUSEHOLD PROJECTIONS**

	2020	2040	Change 2020 - 2040
Population	10,108	11,049	941
Households	5,554	6,017	463
Sources: AMBAG, 2045 Metropolitan Transportation Plan/Sustainable Communities Strategy (MTP/SCS)			

As previously noted, the 2023-2031 Housing Element projects 1,336 housing units during the eight-year period. Adoption and implementation of the 2023-2031 Housing Element provides for adequate sites to accommodate the 2023-2031 RHNA number of 1,336 housing units. Assuming 2.12⁵ persons per household, the City’s population could increase by up to 2,832 persons.

AMBAG is responsible for both the developing the Regional Growth Forecast and RHNA, and would be responsible for modifying future population and household growth projections to accommodate the 2023-2031 Housing Element and future housing element RHNA numbers for the City of Capitola. And therefore, the proposed project would not induce substantial unplanned population growth within the City either directly or indirectly.

The 2023-2031 Housing Element is a policy document that would not change land use designations or in and of themselves authorize any development within the City. While the City is required by State law to facilitate development commensurate with its allocated share of regional housing needs, no change in the location or nature of allowable development would be authorized by the 2023-2031 Housing Element.

Future development proposals associated with implementation of the proposed project would be required to comply with all applicable regulations and development standards, along with project-specific conditions and mitigation measures to reduce potential impacts required as part of the development review and environmental impact processes. This can include, but is not limited to, *Municipal Code* requirements; *General Plan* goals, policies, and implementation programs, including those identified in the proposed project, and mitigation measures. Thus, adoption and implementation of the proposed project ensure impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

⁵ [U.S. Census Bureau QuickFacts: Capitola city, California](https://www.census.gov/quickfacts/capitolacalifornia), accessed August 16, 2023



B. WOULD THE PROJECT DISPLACE SUBSTANTIAL NUMBERS OF EXISTING PEOPLE OR HOUSING, NECESSITATING THE CONSTRUCTION OF REPLACEMENT HOUSING ELSEWHERE?

The 2023-2031 Housing Element sets forth policies and programs that encourage and facilitate housing production, as well as aim to preserve and enhance the existing housing stock. While no new development would be authorized by the adoption of the 2023-2031 Housing Element, the future development of vacant properties or underutilized properties with existing homes could result in the displacement of existing housing or people necessitating the construction of replacement housing elsewhere.

Displacement would be evaluated, if needed, as part of a future proposal’s development review and environmental impact processes, along with project-specific conditions and mitigation measures to reduce impacts relative to the displacement of people or residential structures.

Future development proposals associated with implementation of the proposed project would be required to comply with all applicable regulations and development standards, along with project-specific conditions and mitigation measures to reduce potential impacts required as part of the development review and environmental impact processes. This can include, but is not limited to, *Municipal Code* requirements; *General Plan* goals, policies, and implementation programs, including those identified in the proposed project, and mitigation measures. Thus, adoption and implementation of the proposed project ensure impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.



4.15 PUBLIC SERVICES

Would the project:	New Potentially Significant Impact	New Impact Requiring New Mitigation	No New Impact/ No Impact	Reduced Impact
A. Would the project result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services:				
1) Fire protection?			✓	
2) Police protection?			✓	
3) Schools?			✓	
4) Parks?			✓	
5) Other public facilities?			✓	

PRIOR ENVIRONMENTAL FINDINGS

General Plan Update EIR

The table below summarizes the public services impacts and mitigation measures, if applicable.

PUBLIC SERVICES – SUMMARY OF IMPACTS AND MITIGATION MEASURES			
Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
SVCS-1: The proposed Plan would not result in the provision of or need for new or physically altered protection facilities, the construction or operation of which could cause significant environmental impacts.	Less Than Significant	Not Applicable	
SVCS-2: The proposed Plan, in combination with past, present, and reasonably foreseeable development would result in less than significant cumulative impacts with respect to fire protection service.	Less Than Significant	Not Applicable	
SVCS-3: The proposed Plan would not result in the need for construction or expansion of police facilities.	Less Than Significant	Not Applicable	
SVCS-4: The proposed Plan, in combination with past, present, and reasonably foreseeable growth, would result in less than significant cumulative impacts with respect to law enforcement services.	Less Than Significant	Not Applicable	
SVCS-5: The proposed Plan would not result in the provision of or need for new or physically altered school facilities, the construction or operation of which could cause significant environmental impacts.	Less Than Significant	Not Applicable	
SVCS-6: The proposed Plan, in combination with past, present, and reasonably foreseeable growth in the SUESD service area, would result in less than significant cumulative impacts with respect to schools.	Less Than Significant	Not Applicable	



**Addendum to the Capitola General Plan Update
For the 2023-2031 Housing Element**

PUBLIC SERVICES – SUMMARY OF IMPACTS AND MITIGATION MEASURES			
Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
SVCS-7: The proposed Plan would not result in the provision of or need for new or physically altered library facilities.	Less Than Significant	Not Applicable	
SVCS-8: The proposed Plan, in combination with past, present, and reasonably foreseeable development, would result in less than significant cumulative impacts with respect to libraries.	Less Than Significant	Not Applicable	

Source: Capitola General Plan Update Environmental Impact Report (June 2014), Table 1-1, Summary of Impacts and Mitigation Measures

IMPACT ANALYSIS

The 2023-2031 Housing Element includes policies and programs that are applicable City-wide and are designed to facilitate the construction of housing units to meet the City’s share of the regional housing need. The 2023-2031 Housing Element Chapter 4, Housing Need and Opportunities identifies potential residential sites and densities, inclusive of recyclable residential land, religious facility sites and State land housing, vacant and non-vacant land, and the Capitola Mall site. The 2023-2031 Housing Element Chapter 5, Housing Plan identifies the Goals, Policies, and Programs and Quantified Objectives that are based upon expected availability of resources to address the City’s housing needs, expectations regarding future housing development, as well as prior objectives established in earlier housing plans.

The 2023-2031 Housing Element is a policy document that would not change land use designations or in and of themselves authorize any development within the City. While the City is required by State law to facilitate development commensurate with its allocated share of regional housing needs, no change in the location or nature of allowable development would be authorized by the 2023-2031 Housing Element.

A. WOULD THE PROJECT RESULT IN SUBSTANTIAL ADVERSE PHYSICAL IMPACTS ASSOCIATED WITH THE PROVISION OF NEW OR PHYSICALLY ALTERED GOVERNMENTAL FACILITIES, NEED FOR NEW OR PHYSICALLY ALTERED GOVERNMENTAL FACILITIES, THE CONSTRUCTION OF WHICH COULD CAUSE SIGNIFICANT ENVIRONMENTAL IMPACTS, IN ORDER TO MAINTAIN ACCEPTABLE SERVICE RATIOS, RESPONSE TIMES OR OTHER PERFORMANCE OBJECTIVES FOR ANY OF THE PUBLIC SERVICES:

- 1. FIRE PROTECTION?**
- 2. POLICE PROTECTION?**

The *General Plan* includes policies and actions relative to fire and police protection: Policy SN-3.1 Cooperative Agreements, Policy SN-3.2 Public Education, Policy SN-3.3 City-Owned Space, Policy SN-3.4 Development Review, Policy SN-3.5 Fire Hazard Risk Assessment, Policy SN-3.6 Fire Safety Plans, Policy SN-3.7 District Support, Action SN-3.1 Invasive Species, Action SN-3.2 Sign/Address Marking Visibility, Action SN-3.3 Emergency Access, Policy SN-6.1 Police Services, Policy SN-6.2 New Development, Policy SN-6.3 Physical Site Planning, Policy SN-6.4 Lighting Plans, Policy SN-6.5 Bars and Nightclubs, and Policy SN-6.6 Crime Prevention Outreach. The *GPU EIR* concluded less than significant impacts with implementation of *General Plan* policies.



Buildout of the GPU could create an increased demand for fire and police protection services in the Central Fire Protection District (CFPD) and the Capitola Police Department service areas. However, the increase in population, units, and jobs would occur throughout a 20-year period, thereby distributing the increase over multiple years. In addition, the potential for increased service calls distributed over a longer period of time reduces impacts to existing facilities.

The 2023-2031 Housing Element is a policy document that would not change land use designations or in and of themselves authorize any development within the City. While the City is required by State law to facilitate development commensurate with its allocated share of regional housing needs, no change in the location or nature of allowable development would be authorized by the 2023-2031 Housing Element.

The 2023-2031 Housing Element include policies and programs to facilitate the production of future housing development. As such, new housing units associated with future development proposals associated with implementation of the proposed project could require additional fire and police protection services and facilities for the Central Fire District of Santa Cruz County (CFD) and Capitola Police Department.

Future development proposals associated with implementation of the proposed project would be required to comply with all applicable regulations and development standards, along with project-specific conditions and mitigation measures, as applicable, to reduce potential impacts required as part of the development review and environmental impact processes. In addition, as part of its annual budget process and periodic review of its contracts with the CFD and the Capitola Police Department, the City evaluates fire and police protection service levels, and adjusts budgets accordingly to meet identified demand and service goals. This process would continue through the course of the proposed project. With continued application of these programs, the City would be able to address anticipated increased service demands. Thus, adoption and implementation of the proposed project ensure impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

3. SCHOOLS?

The GPU EIR concluded less than significant impacts to schools.

The 2023-2031 Housing Element is a policy document that would not change land use designations or in and of themselves authorize any development within the City. While the City is required by State law to facilitate development commensurate with its allocated share of regional housing needs, no change in the location or nature of allowable development would be authorized by the 2023-2031 Housing Element.

The 2023-2031 Housing Element includes policies and programs to facilitate the production of future housing development. As such, new housing units associated with future development proposals associated with implementation of the proposed project could require additional school services and facilities within the Soquel Union Elementary School District (SUESD) and Santa Cruz City Schools (SCCS).

New residents in the future housing developments could place an increased demand on school facilities within SUESD and SCCS. As allowed by State law, the Districts collect fees for new residential construction to help offset the costs of providing additional education facilities and services. Such fees would be paid by developers at the time individual building permits are issued. Pursuant to SB 50, payment of fees to the School Districts is considered



full mitigation for project impacts, including impacts related to the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, or other performance objectives for schools. Thus, adoption and implementation of the proposed project ensure impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

4. PARKS?

Refer to Section 4.16, Recreation.

5. OTHER PUBLIC FACILITIES?

The *GPU EIR* concluded less than significant impacts to libraries.

The 2023-2031 Housing Element is a policy document that would not change land use designations or in and of themselves authorize any development within the City. While the City is required by State law to facilitate development commensurate with its allocated share of regional housing needs, no change in the location or nature of allowable development would be authorized by the 2023-2031 Housing Element.

The Santa Cruz Public Libraries system consists of 10 branches located at various locations throughout Santa Cruz County. The Capitola Branch Library located at 2005 Wharf Road serves about 9,846 residents in the city of Capitola in Santa Cruz County. The library is a part of Santa Cruz Public Libraries, which maintains over 392,344 volumes and circulates about 2 million items per year, including local history collections and research materials. It provides in-person tech help, homework help, preschool storytime, Bridge club, Youth chess club, and Health Insurance Counseling for all patrons.

Future development proposals associated with implementation of the proposed project would be required to comply with all applicable regulations and development standards, along with project-specific conditions and mitigation measures, as applicable, to reduce potential impacts required as part of the development review and environmental impact processes. Thus, adoption and implementation of the proposed project ensure impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.



**Addendum to the Capitola General Plan Update
For the 2023-2031 Housing Element**

4.16 RECREATION

Would the project:	New Potentially Significant Impact	New Impact Requiring New Mitigation	No New Impact/ No Impact	Reduced Impact
A. Would the project increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?			✓	
B. Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?			✓	

PRIOR ENVIRONMENTAL FINDINGS

General Plan Update EIR

The table below summarizes the parks and recreation impacts and mitigation measures, if applicable.

PARKS AND RECREATION – SUMMARY OF IMPACTS AND MITIGATION MEASURES			
Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
PS-1: The proposed Plan would not result in substantial adverse physical impacts associated with the provision of new or physically altered parks and recreational facilities in order to maintain an acceptable ratio of parkland per thousand residents.	Less Than Significant	Not Applicable	
PS-2: The proposed Plan would not increase the use of existing neighborhood and regional parks or other recreational facilities, such that substantial physical deterioration of the facility would occur, or be accelerated.	Less Than Significant	Not Applicable	
PS-3: The proposed Plan would not include or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment.	Less Than Significant	Not Applicable	
PS-4: The proposed Plan, in combination with past, present, and reasonably foreseeable growth, would result in less than significant cumulative impacts with respect to parks and recreational facilities.	Less Than Significant	Not Applicable	

Source: Capitola General Plan Update Environmental Impact Report (June 2014), Table 1-1, Summary of Impacts and Mitigation Measures

IMPACT ANALYSIS

The 2023-2031 Housing Element includes policies and programs that are applicable City-wide and are designed to facilitate the construction of housing units to meet the City’s share of the regional housing need. The 2023-2031 Housing Element Chapter 4, Housing Need and Opportunities identifies potential residential sites and densities, inclusive of recyclable residential land, religious facility sites and State land housing, vacant and non-vacant land, and the Capitola Mall site. The 2023-2031 Housing Element Chapter 5, Housing Plan identifies the Goals, Policies,



and Programs and Quantified Objectives that are based upon expected availability of resources to address the City’s housing needs, expectations regarding future housing development, as well as prior objectives established in earlier housing plans.

The 2023-2031 Housing Element is a policy document that would not change land use designations or in and of themselves authorize any development within the City. While the City is required by State law to facilitate development commensurate with its allocated share of regional housing needs, no change in the location or nature of allowable development would be authorized by the 2023-2031 Housing Element.

A. WOULD THE PROJECT INCREASE THE USE OF EXISTING NEIGHBORHOOD AND REGIONAL PARKS OR OTHER RECREATIONAL FACILITIES SUCH THAT SUBSTANTIAL PHYSICAL DETERIORATION OF THE FACILITY WOULD OCCUR OR BE ACCELERATED?

The GPU EIR The *GPU EIR* concluded less than significant impacts to parks and recreation.

Capitola has been urbanized for many years with established development, including park and recreation facilities, throughout the City.

The 2023-2031 Housing Element is a policy document that would not change land use designations or in and of themselves authorize any development within the City. While the City is required by State law to facilitate development commensurate with its allocated share of regional housing needs, no change in the location or nature of allowable development would be authorized by the 2023-2031 Housing Element.

The 2023-2031 Housing Element includes policies and programs to facilitate the production of future housing development. New residents in future development proposals associated with implementation of the proposed project could place an increased demand on City park facilities. Future development proposals associated with implementation of the proposed project would be required to comply with all applicable regulations and development standards, along with project-specific conditions and mitigation measures, as applicable, to reduce potential impacts required as part of the development review and environmental impact process. Quimby Act park fees paid or other fair share park requirements of new residential developments are used to acquire and/or improve park facilities, which would reduce the impact of additional residents in the City. Potential impacts to recreation facilities associated with future development proposals associated with implementation of the proposed project would be mitigated on a project-by-project basis, as applicable, per *Municipal Code* requirements. Thus, adoption and implementation of the proposed project ensure impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.



B. DOES THE PROJECT INCLUDE RECREATIONAL FACILITIES OR REQUIRE THE CONSTRUCTION OR EXPANSION OF RECREATIONAL FACILITIES WHICH MIGHT HAVE AN ADVERSE PHYSICAL EFFECT ON THE ENVIRONMENT?

The proposed project does not include plans for or construction of any recreational facilities. Thus, adoption and implementation of the proposed project ensure impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.



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4.17 TRANSPORTATION

Would the project:	New Potentially Significant Impact	New Impact Requiring New Mitigation	No New Impact/ No Impact	Reduced Impact
A. Conflict with a program, plan, ordinance, or policy addressing the circulation system, including transit, roadway, bicycle, and pedestrian facilities?			✓	
B. Conflict or be inconsistent with CEQA Guidelines Section 15064.3 subdivision (b)?			✓	
C. Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?			✓	
D. Result in inadequate emergency access?			✓	

PRIOR ENVIRONMENTAL FINDINGS

General Plan Update EIR

The table below summarizes the transportation and traffic impacts and mitigation measures, if applicable.

TRANSPORTATION AND TRAFFIC – SUMMARY OF IMPACTS AND MITIGATION MEASURES			
Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
TRANS-1: Implementation of the proposed Plan would cause intersection operations to degrade to unacceptable LOS E at the Porter Street and Highway 1 northbound ramps intersection during the AM peak hour in 2035.	Significant	TRANS-1	Significant Unavoidable
TRANS-2: The proposed Plan would not result in a change in air traffic patterns including either an increase in traffic levels of a change in locations that results in substantial safety risks.	Less Than Significant	Not Applicable	
TRANS-3: The proposed Plan would not substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment).	Less Than Significant	Not Applicable	
TRANS-4: Implementation of the proposed Plan would not result in inadequate emergency access.	Less Than Significant	Not Applicable	
TRANS-5: Implementation of the proposed Plan would not conflict with adopted policies, plans, or program regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities.	Less Than Significant	Not Applicable	
TRANS-6: Implementation of the proposed Plan, in combination with past, present, and reasonably foreseeable project, would result in additional cumulatively considerable impacts.	Significant	TRANS 6: Implement TRANS-1	Significant Unavoidable

Source: Capitola General Plan Update Environmental Impact Report (June 2014), Table 1-1, Summary of Impacts and Mitigation Measures



IMPACT ANALYSIS

The 2023-2031 Housing Element includes policies and programs that are applicable City-wide and are designed to facilitate the construction of housing units to meet the City’s share of the regional housing need. The 2023-2031 Housing Element Chapter 4, Housing Need and Opportunities identifies potential residential sites and densities, inclusive of recyclable residential land, religious facility sites and State land housing, vacant and non-vacant land, and the Capitola Mall site. The 2023-2031 Housing Element Chapter 5, Housing Plan identifies the Goals, Policies, and Programs and Quantified Objectives that are based upon expected availability of resources to address the City’s housing needs, expectations regarding future housing development, as well as prior objectives established in earlier housing plans.

The 2023-2031 Housing Element is a policy document that would not change land use designations or in and of themselves authorize any development within the City. While the City is required by State law to facilitate development commensurate with its allocated share of regional housing needs, no change in the location or nature of allowable development would be authorized by the 2023-2031 Housing Element.

A. WOULD THE PROJECT CONFLICT WITH AN APPLICABLE PLAN, ORDINANCE OR POLICY ADDRESSING THE CIRCULATION, INCLUDING TRANSIT, ROADWAY, BICYCLE, AND PEDESTRIAN FACILITIES?

The *General Plan* includes goals, policies, and actions relative to transportation and traffic: Goal MO-1, Policy MO-1.1 Responsive Transportation Services, Policy MO-1.2 Reduced Vehicle Trips, Policy MO-1.3 Regional Collaboration, Policy MO-1.4 Highway 1 Capacity, Action MO-1.1 Funding, Action MO-1.2 Regional Plan Implementation, Action MO-1.3, Goal MO-2, Policy MO-2.1 Complete Streets, Policy MO-2.6 Non-Motorized Connectivity, Goal MO-3, Policy MO-3.1 Arterial Streets, Policy MO-3.2 Street Widening, Policy MO-3.3 Level of Service Standard, Policy MO-3.4 Reduced Standards, Policy MO-3.5 Impact Fees, Action MO-3.1 Neighborhood Traffic, Action MO-3.2 Signal Timing, Action MO-3.3 Traffic Monitoring, Action MO-3.4 Impact Fees, Action MO-3.5 Financing, Goal MO-4, Action MO-4.1 Bay Avenue Roundabout, Goal MO-6, Policy MO-6.1 Traffic Congestion, Policy MO-6.2 Parking Supply, Policy MO-6.3 Signage, Policy MO-6.4 Balanced Parking Approach, Policy MO-6.5 Transportation Alternatives, Policy MO-6.6 Bicycle and Pedestrian Connections, and Policy MO-6.7 General Environment. The *GPU EIR* concluded less than significant impacts and significant unavoidable impacts with implementation of *General Plan* policies and actions.

The City of Capitola has been urbanized for many years with established development, roads, and transportation systems.

All future development proposals associated with implementation of the proposed project would be evaluated, if applicable, for potential conflicts with relevant circulation plans, ordinances, or policies relative to transit, bicycle, pedestrian, and roadway facilities. Thus, it is not anticipated that adoption and implementation of the proposed project would significantly impact the effectiveness or performance of existing pedestrian, bicycle, or multi-purpose trail facilities, nor would it limit the accessibility for pedestrians or future cyclists, or their ability to utilize existing facilities.

In addition, there is the potential for future development proposals associated with implementation of the proposed project at specific locations throughout Capitola to contribute to congestion on roadways and at intersections. The City may also require specific roadway or signal improvements to address impacts directly



attributable to a specific development proposal. In addition, future development would be subject to *GPU EIR* Mitigation Measures TRANS-1 and TRANS-6, as applicable. These practices would continue as a means of addressing potential traffic concerns associated with individual projects.

Roadway System Level of Service. The 2023-2031 Housing Element is a policy document that would not change land use designations or in and of themselves authorize any development within the City. While the City is required by State law to facilitate development commensurate with its allocated share of regional housing needs, no change in the location or nature of allowable development would be authorized by the 2023-2031 Housing Element. Future development proposals associated with implementation of the proposed project would be required to comply with all applicable regulations and development standards, along with project-specific conditions and mitigation measures, as applicable, to reduce potential impacts required as part of the development review and environmental impact process.

The *GPU EIR* concluded that despite the imposition of regulatory requirements and Mitigation Measures TRANS-1 and TRANS-6, impacts are significant and unavoidable. Thus, adoption and implementation of the proposed project ensures impacts remain as significant and unavoidable impacts.

Transportation and Traffic. The 2023-2031 Housing Element is a policy document that would not change land use designations or in and of themselves authorize any development within the City. While the City is required by State law to facilitate development commensurate with its allocated share of regional housing needs, no change in the location or nature of allowable development would be authorized by the 2023-2031 Housing Element. Future development proposals associated with implementation of the proposed project would be required to comply with all applicable regulations and development standards, along with project-specific conditions and mitigation measures, as applicable, to reduce potential impacts required as part of the development review and environmental impact process.

The *GPU EIR* concluded less than significant impacts for TRANS-2, TRANS-3, TRANS-4, and TRANS-5. Thus, adoption and implementation of the proposed project ensures impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

B. WOULD THE PROJECT CONFLICT OR BE INCONSISTENT WITH CEQA GUIDELINES SECTION 15064.3 SUBDIVISION (B)?

At the time the *GPU EIR* was certified in 2014, SB 743 was not in place and thus, the *GPU EIR* did not evaluate this threshold.

The 2018 updates to the *CEQA Guidelines* included a new threshold requiring a determination of consistency with *CEQA Guidelines* Section 15064.3. *CEQA Guidelines* Section 15064.3 requires an analysis of Vehicle Miles Travelled (VMTs), in accordance with California Senate Bill (SB) 743. Level of Service (LOS) had been used as the basis for determining the significance of traffic impacts as standard practice in CEQA documents for decades. In 2013, SB 743 was passed, which is intended to balance the need for LOS for traffic planning with the need to build infill housing and mixed-use commercial developments within walking distance of mass transit facilities, downtowns, and town centers and to provide greater flexibility to local governments to balance these sometimes-competing needs. At full implementation of SB 743, the California Governor’s Office of Planning and Research (OPR) replaced LOS as the metric against which traffic impacts are evaluated with a metric based on VMTs. The City of Capitola



will implement *CEQA Guidelines* Section 15064.3 for applicable development applications submitted after July 1, 2020 to determine whether the development would have a significant transportation and traffic impact.

Public Resources Code Section 21099 defines Transit Priority Areas (TPAs) as an area within one-half mile of a major transit stop that is existing or planned, if the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program. *Public Resources Code* Section 21155(b) defines High Quality Transit Areas (HQTAs) are defined as areas within one-half mile of a fixed guideway transit stop or a bus transit corridor where buses pick up passengers at a frequency of every 15 minutes or less during peak commuting hours.

All future development proposals associated with implementation of the proposed project would be evaluated, if applicable, for VMT impacts and any development-related mitigation measures.

The City of Capitola has been urbanized for many years with established development, roads, and transportation systems. Within the City of Capitola or Santa Cruz County, there are no TPAs/HQTAs.⁶ There is the potential that future development proposals associated with implementation of the proposed project would be located within ½-mile of the existing or future TPAs/HQTAs with access to Santa Cruz Metropolitan Transit District (METRO), and thus, would have the potential to reduce vehicle miles travelled (VMT).

METRO offers fixed-route and paratransit services (ParaCruz) throughout Santa Cruz County and operates a commuter service via the Highway 17 Express to San Jose Diridon Station. In addition, Santa Cruz METRO offers a microtransit service, Cruz On-Demand, operated by METRO's trained ParaCruz operators, extending METRO's service area three quarters of a mile from any of METRO's fixed bus routes, excluding Highway 17 and the UCSC campus.

METRO currently operates 24 routes. Routes include 4, 10, 15, 18, 19, 20, 22, 35/35A, 40, 41, 42, 55, 66, 68, 69A, 69W, 71, 72/72W, 74S, 75, 79, 91X, WC, and Hwy-17 Express. In addition, METRO provides four Transit Centers:

- Santa Cruz METRO Center (Pacific Station): 920 Pacific Ave., Santa Cruz, CA
- Watsonville Transit Center: 475 Rodriguez St., Watsonville, CA
- Cavallaro Transit Center: 246 Kings Village Road, Scotts Valley, CA (Not Staffed)
- Capitola Mall Transit Center: 1855 41st Ave., Capitola, CA (Not Staffed)

Roadway System Level of Service. The 2023-2031 Housing Element is a policy document that would not change land use designations or in and of themselves authorize any development within the City. While the City is required by State law to facilitate development commensurate with its allocated share of regional housing needs, no change in the location or nature of allowable development would be authorized by the 2023-2031 Housing Element. Future development proposals associated with implementation of the proposed project would be required to comply with all applicable regulations and development standards, along with project-specific conditions and mitigation measures, as applicable, to reduce potential impacts required as part of the development review and environmental impact process.

⁶ [Transit Priority Areas \(2021\) | Transit Priority Areas \(2021\) | Metropolitan Transportation Commission \(ca.gov\)](#), accessed August 16, 2023



The *GPU EIR* concluded that despite the imposition of regulatory requirements and Mitigation Measures TRANS-1 and TRANS-6, impacts are significant and unavoidable. Thus, adoption and implementation of the proposed project ensures impacts remain as significant and unavoidable impacts.

Transportation and Traffic. The 2023-2031 Housing Element is a policy document that would not change land use designations or in and of themselves authorize any development within the City. While the City is required by State law to facilitate development commensurate with its allocated share of regional housing needs, no change in the location or nature of allowable development would be authorized by the 2023-2031 Housing Element. Future development proposals associated with implementation of the proposed project would be required to comply with all applicable regulations and development standards, along with project-specific conditions and mitigation measures, as applicable, to reduce potential impacts required as part of the development review and environmental impact process.

The *GPU EIR* concluded less than significant impacts for TRANS-2, TRANS-3, TRANS-4, and TRANS-5. Thus, adoption and implementation of the proposed project ensures impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

C. WOULD THE PROJECT SUBSTANTIALLY INCREASE HAZARDS DUE TO A DESIGN FEATURE (E.G., SHARP CURVES OR DANGEROUS INTERSECTIONS) OR INCOMPATIBLE USES (E.G., FARM EQUIPMENT)?

The *General Plan* includes policies and actions relative to design hazards: Policy MO-2.2 Design Standards, Policy MO-2.3 Community Context, Action MO-2.1 Complete Street Standards, Policy MO-4.2 Standards, Policy MO-4.4 Driveways, Policy MO-4.6 Traffic Calming, Policy MO-8.6 Curb Cuts and Driveways, Action MO-8.4 Intersection Standard, Action MO-8.5 Highway 1 Interchanges, Action MO-9.2 Obstacles and Obstructions. The *GPU EIR* concluded less than significant impacts with implementation of *General Plan* policies and actions, and regulatory requirements.

The City of Capitola has been urbanized for many years with established development, roads, and transportation systems.

Future development proposals would be evaluated to determine the appropriate land use permit for authorizing its use and the conditions for their establishment and operation. At a minimum, compliance with relevant *Municipal Code* standards would be required. In addition, future development proposals associated with implementation of the proposed project would be subject to review and approval by the City of Capitola Community Development and Public Works Departments. Access to a future development proposal site would be required to comply with all City design standards, which preclude the potential for dangerous conditions.

Also, future development proposals associated with implementation of the proposed project would be evaluated to ensure that adequate access and circulation to and within the future development site is provided. Access to the site must comply with all City design standards and would be reviewed by the City of Capitola and the Central Fire District of Santa Cruz County (CFD) to ensure that inadequate design features or incompatible uses do not occur and that they are designed to meet adopted standards. Thus, adoption and implementation of the proposed project ensures impacts remain as less than significant impacts.



Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

D. WOULD THE PROJECT RESULT IN INADEQUATE EMERGENCY ACCESS?

The *General Plan* includes policies and actions relative to emergency access: Action SN-2.2 Transportation Infrastructure, Action SN-3.3 Emergency Access, and Policy MO-2.1 Complete Streets. The *GPU EIR* concluded less than significant impacts with implementation of *General Plan* policies and actions, and regulatory requirements.

The City of Capitola has been urbanized for many years with established development, roads, and transportation systems.

No change in the location or nature of allowable development would be authorized by the 2023-2031 Housing Element. However, the 2023-2031 Housing Element does include policies and programs that would facilitate the production of future housing development. The City of Capitola and the Central Fire District of Santa Cruz County (CFD) would review the future development proposals associated with implementation of the proposed project in order to ensure that they are designed to meet adopted standards and provide adequate emergency access. In addition, roadways and driveways associated with future development proposals associated with implementation of the proposed project would be required to meet CFD emergency access standards, as well as comply with requirements from CFD and Capitola Police Department on a project-by-project basis. Thus, adoption and implementation of the proposed project ensures impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.



4.18 UTILITIES AND SERVICE SYSTEMS

Would the project:	New Potentially Significant Impact	New Impact Requiring New Mitigation	No New Impact/ No Impact	Reduced Impact
A. Require or result in the relocation or construction of new or expanded water, wastewater treatment or storm water drainage, electric power, natural gas, or telecommunications facilities, the construction or relocation of which could cause significant environmental effects?			✓	
B. Have sufficient water supplies available to serve the project and reasonably foreseeable future development during normal, dry, and multiple dry years?			✓	
C. Result in a determination by the wastewater treatment provider, which serves or may serve the project, that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?			✓	
D. Generate solid waste in excess of state or local standards, or in excess of the capacity of local infrastructure, or otherwise impair the attainment of solid waste reduction goals?			✓	
E. Comply with federal, state, and local management and reduction statutes and regulations related to solid waste?			✓	

PRIOR ENVIRONMENTAL FINDINGS

General Plan Update EIR

The table below summarizes the utilities and service systems impacts and mitigation measures, if applicable.

UTILITIES AND SERVICE SYSTEMS – SUMMARY OF IMPACTS AND MITIGATION MEASURES			
Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
WATER			
UTIL-1: Buildout of the proposed Plan may result in insufficient water supplies from existing entitlements and resources in 2035.	Significant	None Available	Significant Unavoidable
UTIL-2: The proposed Plan would require the construction of new water facilities or expansion of existing facilities, the construction of which may cause significant environmental effects.	Significant	None Available	Significant Unavoidable
UTIL-3: The Plan, in combination with past, present, and reasonably foreseeable development, may result in significant cumulative impacts with respect to water supply.	Significant	None Available	Significant Unavoidable
SANITARY WASTEWATER (SEWER)			
UTIL-4: The proposed Plan would not exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board (RWQCB).	Less Than Significant	Not Applicable	
UTIL-5: The proposed Plan would not require or result in the construction of new wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects.	Less Than Significant	Not Applicable	



**Addendum to the Capitola General Plan Update
For the 2023-2031 Housing Element**

UTILITIES AND SERVICE SYSTEMS – SUMMARY OF IMPACTS AND MITIGATION MEASURES			
Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
UTIL-6: The proposed Plan would not result in a determination by the wastewater treatment provider which serves or may serve the project that it does not have adequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments.	Less Than Significant	Not Applicable	
UTIL-7: The Plan, in combination with past, present, and reasonably foreseeable development, would result in less than significant cumulative impacts with respect to wastewater.	Less Than Significant	Not Applicable	
STORMWATER DRAINAGE			
UTIL-8: The proposed Plan would not require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects.	Less Than Significant	Not Applicable	
UTIL-9: The Plan, in combination with past, present, and reasonably foreseeable development, would result in less than significant cumulative impacts with respect to stormwater facilities.	Less Than Significant	Not Applicable	
SOLID WASTE			
UTIL-10: The proposed Plan would be served by a landfill with sufficient permitted capacity to accommodate the Plan’s solid waste disposal needs.	Less Than Significant	Not Applicable	
UTIL-11: The proposed Plan would comply with Federal, State, and local statutes and regulations related to solid waste.	Less Than Significant	Not Applicable	
UTIL-12: The Plan, in combination with past, present, and reasonably foreseeable development, would result in less than significant cumulative impacts with respect to solid waste.	Less Than Significant	Not Applicable	

Source: Capitola General Plan Update Environmental Impact Report (June 2014), Table 1-1, Summary of Impacts and Mitigation Measures

IMPACT ANALYSIS

The 2023-2031 Housing Element includes policies and programs that are applicable City-wide and are designed to facilitate the construction of housing units to meet the City’s share of the regional housing need. The 2023-2031 Housing Element Chapter 4, Housing Need and Opportunities identifies potential residential sites and densities, inclusive of recyclable residential land, religious facility sites and State land housing, vacant and non-vacant land, and the Capitola Mall site. The 2023-2031 Housing Element Chapter 5, Housing Plan identifies the Goals, Policies, and Programs and Quantified Objectives that are based upon expected availability of resources to address the City’s housing needs, expectations regarding future housing development, as well as prior objectives established in earlier housing plans.

The 2023-2031 Housing Element is a policy document that would not change land use designations or in and of themselves authorize any development within the City. While the City is required by State law to facilitate development commensurate with its allocated share of regional housing needs, no change in the location or nature of allowable development would be authorized by the 2023-2031 Housing Element.



A. WOULD THE PROJECT REQUIRE OR RESULT IN THE RELOCATION OR CONSTRUCTION OF NEW OR EXPANDED WATER, WASTEWATER TREATMENT OR STORM WATER DRAINAGE, ELECTRIC POWER, NATURAL GAS, OR TELECOMMUNICATIONS FACILITIES, THE CONSTRUCTION OR RELOCATION OF WHICH COULD CAUSE SIGNIFICANT ENVIRONMENTAL EFFECTS?

Existing water, sanitary sewer (wastewater, sewer), storm drain, electrical, natural gas, and telecommunications facilities exist in the City of Capitola.

Future development proposals would be required to comply with the applicable water supplier's rules and regulations regarding water connection, service, and conservation, as well as the Central Fire District of Santa Cruz County's requirements relative to the size of water lines and systems necessary to provide adequate fire flow service to development.

Future development proposals would be required to install or relocate, as applicable, on-site and off-site water, wastewater, storm drain, street, electricity, natural gas, and telecommunications infrastructure to serve the development. Thus, adoption and implementation of the proposed project ensure impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

B. WOULD THE PROJECT HAVE SUFFICIENT WATER SUPPLIES AVAILABLE TO SERVE THE PROJECT AND REASONABLY FORESEEABLE FUTURE DEVELOPMENT DURING NORMAL, DRY, AND MULTIPLE DRY YEARS?

The *General Plan* includes goals, policies, and actions relative to water supplies: Policy OSC-7.2 Soquel Creek, Policy OSC-8.3 Best Management Practices, Policy OSC-8.5 Native Plants, Policy OSC-8.6 City Properties, Policy OSC-8.7 Regional Collaboration, Policy OSC-8.8 Drainage Plans, Goal OSC-9, Policy OCS-9.1 Water Use, Policy OCS-9.2 Drought-Tolerant Landscaping, Policy OCS-9.3 Public Outreach, Action OCS-9.1 Greywater, Action OCS-9.2 City Conservation Goals, Action OCS-9.3 Water Efficiency Audits, and Action OCS-9.4 Incentives. The *GPU EIR* concluded significant unavoidable impacts with implementation of *General Plan* goals, policies, and actions, and regulatory requirements.

The City of Capitola is served by two water districts: Soquel Creek Water District and the City of Santa Cruz Water Department.

Soquel Creek Water District

The Soquel Creek Water District (SqCWD) service area encompasses seven miles of shoreline and extends from one to three miles inland into the foothills of the Santa Cruz mountains. The City of Capitola is the only incorporated area in the District. Unincorporated communities include Aptos, La Selva Beach, Opal Cliffs, Rio Del Mar, Seascape, and Soquel. The SqCWD relies exclusively on available groundwater. The table below provides an overview of SqCWD.



Service Area	Aptos, La Selva Beach, Opal Cliffs, Rio Del Mar, Seascape, Soquel, and portions of the City of Capitola
Population	Over 40,600 residents (Per 2020 Annual Report to State Water Resources Control Board)
Community SCWD Serves	Approximately 18,000 jobs, 22 parks, and 18 schools
Housing Units	20,924 (2015); projected to be 20,912 in 2020
Service Connections	Approximately 16,000 (Per 2020 Urban Water Management Plan)
District Personnel	49
Fiscal Year 2022-2023 Budget	\$64.1 million
Annual Water Production	3,062 acre-feet (2020)
Sources of Supply	100% Groundwater (from CA Basin 3-001, Santa Cruz Mid-County Groundwater Basin)
Water Use by Category	Approximately 80% residential (single-family and multi-family), and 20% non-residential (commercial, industrial, schools, governmental, landscape irrigation). SCWD has no agricultural accounts.
Average Water Use per Person	On average about 50 gallons per day per person
Miles of Pipe in System	167 miles
Number of Production Groundwater Wells	16 active, 2 standby, and 2 inactive
Number of Tanks	18
Number of Groundwater Monitoring Wells	80

To support water conservation, the City of Capitola encourages residents to take advantage of residential water rebates offered by the SqCWD.

City of Santa Cruz Water Department

The City of Santa Cruz water service is provided to an area approximately 20 square miles in size, including the entire City of Santa Cruz, adjoining unincorporated areas of Santa Cruz County, a small part of the City of Capitola, and coastal agricultural lands north of the city. The Santa Cruz Water Department (SCWD) uses a combination of groundwater and surface water to serve its customers.

Almost 100,000 people rely on the Santa Cruz Water Department for water service. SCWD operates a system that includes more than 300 miles of pipes to bring water to customers, pumps and lift stations to move water where it's needed, and a water storage reservoir that captures our water supply before we purify the water and send it to your faucet.

Per the 2020 Urban Water Management Plan, the current population residing in the Santa Cruz water service area is estimated to be 96,186 people. Approximately two thirds of the total population, over 64,000, live inside the City limits. The University of California, Santa Cruz campus houses about 9,000 students on campus within City limits; although a majority of the campus was closed during 2020 due to the COVID-19 pandemic. It is estimated that almost 32,000 people, or about one third of the service area population, live outside the City limits.



The Water Department’s major water infrastructure facilities include three water treatment plants, including the Graham Hill Water Treatment Plant and two groundwater treatment plants related to the Beltz well system⁷; four raw water pump stations; ten treated water pump stations; 15 distribution tanks with a total maximum capacity of 21.2 million gallons of treated water storage; seven surface water diversions; seven production wells; and approximately 300 miles of treated and raw water pipelines interconnecting the entire system.

To support water conservation, the Santa Cruz Water Department includes rebates on drip irrigation retrofits, graywater landscaping, turf replacement, water efficient toilets and washers, and rain catchments.

Urban Water Management Plans

State law requires an urban water supplier (supplier), providing water for municipal purposes to more than 3,000 urban connections/customers or providing more than 3,000 acre-feet annually, to adopt an Urban Water Management Plan (UWMP) every five years demonstrating water supply reliability in normal, single dry, and multiple dry water years.

These plans support the suppliers’ long-term resource planning to ensure that adequate water supplies are available to meet existing and future water needs. Within the UWMP, urban water suppliers must: 1) assess the reliability of water sources over a 20-year planning time frame; 2) describe demand management measures and water shortage contingency plans, 3) report progress toward meeting a targeted 20 percent reduction in per-capita (per-person), 4) urban water consumption by a specified year (e.g., 2020, 2025, 2030, 2035, 2040), and 5) discuss the use and planned use of recycled water. The California Department of Water Resources (DWR) reviews the submitted plans to ensure they have addressed the requirements identified in the Water Code and submits a report to the Legislature summarizing the status of the plans for each five-year cycle.

Both the Soquel Creek Water District and the Santa Cruz Water Department have an approved *2020 UWMP*. The *2020 UWMP* is a long-range planning document that assesses current water demand, projects future demand over a minimum 20-year planning horizon, and identifies a mix of water resources and conservation efforts to meet future demand. The *2020 UWMP* also includes SCWD’s *Water Shortage Contingency Plan (WSCP)*, which identifies water shortage stages and associated curtailment actions to allow for efficient management of any water shortage with predictability and accountability.

Soquel Creek Water District

SqCWD relies entirely on groundwater for its water supply, which is overpumped and experiencing seawater intrusion, a condition that allows seawater to enter and contaminate the groundwater supply. However, SqCWD has taken action with the Pure Water Soquel project to increase groundwater replenishment and prevent salt water intrusion. The Pure Water Soquel project takes highly treated wastewater that would have previously been discharged into Monterey Bay and purifies it to replenish the groundwater basin.

Per SqCWD’s 2020 Urban Water Management Plan (UWMP), water use in 2020 was 3,062 acre-feet per year (AFY) and is projected to be 3,655 AFY in 2040. This projection takes into account many factors, including anticipated population growth. The Pure Water Soquel Project is a key component to meeting this demand while protecting

⁷ The City operates four groundwater production wells within the Beltz well system and three production wells at the Tait Diversion wells that are assumed to be hydraulically connected to surface water and considered to be tied to the City’s appropriate rights for surface diversion.



groundwater resources. SqCWD projects that water supply in 2040 would be 3,655 AFY, which is sufficient to meet its projected demand.

Table 4.18-1
Soquel Creek Water District Projected Demands for Water

Actual Demand (AFY & MG)	Projected Demand (AFY & MG)			
Year 2020	Year 2025	Year 2030	Year 2035	Year 2040
3,347 AFY 1.09 MG	3,866 AFY 1.26 MG	3,822 AFY 1.24 MG	3,741 AFY 1.22 MG	3,655 AFY 1.19 MG
Population Estimates				
38,706	40,666	42,726	44,890	47,163
Source: Soquel Creek Water District 2020 Urban Water Management Plan, Table 3-2, Table 4-3 and Table 7-3				

SqCWD Water Service Reliability

Results of the water supply and demand analysis for normal, single dry, and five-year consecutive droughts are shown in SqCWD 2020 UWMP Tables 7-2, Table 7-3, Table 7-4, and 7-5. SqCWD expects to meet demands under all water year scenarios, implement Pure Water Soquel, pursue further evaluation of supplemental supply options to diversify supply, and promote continued water conservation, to ensure reliability for the SCMC Basin throughout the future.

Results of the water supply and demand analysis for normal, single dry, and five-year consecutive droughts are shown in SqCWD 2020 UWMP Table 7-3: DWR 7-2R Normal Year Supply and Demand Comparison, AFY; Table 7-4: DWR 7-3R Single Dry Year Supply and Demand Comparison, AFY; and Table 7-5: DWR 7-4R Multiple Dry Years Supply and Demand Comparison, AFY.

The baseline demands established in SqCWD 2020 UWMP Section 4 could reach a maximum of 3,866 AFY as shown in SqCWD 2020 UWMP Table 7-2 and can be met with the normal year supplies as described in 2020 UWMP Section 7.1.2 under Sources for Water Data. As shown in SqCWD 2020 UWMP Table 7-4 and Table 7-5, demands during drought are expected to change in single dry and multiple dry years at the same percent of average supply identified for each year type in SqCWD 2020 UWMP Table 7-2.

SqCWD expects to meet demands under all water year scenarios, implement Pure Water Soquel, pursue further evaluation of supplemental supply options to diversify supply, and promote continued water conservation, to ensure reliability for the Santa Cruz Mid-County (SCMC) Basin throughout the future.

City of Santa Cruz 2020 Urban Water Management Plan

Per the City of Santa Cruz 2020 Urban Water Management Plan, water use in 2020 was approximately 2,600 million gallons (2.6 billion gallons). Due to long-term conservation measures, demand is expected to grow very



slowly over the next 25 years. Accounting for projected population growth, demand is expected to reach about 2,765 million gallons (2.8 billion gallons) per year by 2040. Based upon these projections, SCWD can meet future demand with the implementation of its planned supply augmentation strategy if the region experiences typical rainfall.

Table 4.18-2
City of Santa Cruz Water Department Projected Demands for Water

Normal Year Supply and Demand Comparison Under a Projected Climate Change Hydrology					
	Year 2025	Year 2030	Year 2035	Year 2040	Year 2045
Supply Total	2,668 MG	2,694 MG	2,704 MG	2,765 MG	2,784 MG
Demand Totals	2,668 MG	2,694 MG	2,704 MG	2,765 MG	2,784 MG
Difference	0 MG	0 MG	0 MG	0 MG	0 MG
Population					
Year 2020	Year 2025	Year 2030	Year 2035	Year 2040	Year 2045
96,168	101,964	106,072	109,193	112,853	113,650
Source: City of Santa Cruz 2020 Urban Water Management Plan, Table 3-2, Table 7-3C					

In 2025, the City of Santa Cruz will have implemented proposed water rights modifications identified and described in the Santa Cruz Water Rights Project Draft Environmental Impact Report, and in 2030, the City will have implemented the Aquifer Storage and Recovery (ASR) in the Santa Cruz Mid-County Groundwater Basin and/or the Santa Margarita Groundwater Basin. Under multi-year drought conditions in the near-term (2025), with proposed water rights modifications but before implementation of the ASR and planned infrastructure projects, available supplies would meet projected demand in years one through four of the multi-year drought scenario, but would fall short of demand by 27 percent in year five. While the analysis characterizes this vulnerability for year five of the drought period, depending on sequencing of rain years, in reality it is possible that such a shortage could occur sooner and persist longer through a multiple dry year period.

SCWD Water Service Reliability

Under multi-year drought conditions after 2030, with implementation of the ASR and planned infrastructure projects, available supplies would meet projected demand in years one through four of the multi-year drought scenario, and the year five shortage is anticipated to be substantially reduced with projected shortages no larger than a negligible two percent.



Impact Analysis

With the water conservation measures described above, the SqCWD and City of Santa Cruz Water Department would have sufficient water to meet the projected housing demands inclusive of the 6th Cycle RHNA. Combined the SqCWD and City of Santa Cruz Water Department project the provision of 2,660.09 MG in Year 2025; 2,695.26 MG in Year 2030; and 2,705.24 MG in Year 2035; and 2,765.22 MG in Year 2040.

In addition, the 2023-2031 Housing Element includes a program for the City to actively pursue water conservation techniques and to notify water service agencies of their obligation to prioritize water allocation to affordable housing projects per SB 1087.

Adoption and implementation of the proposed project would not adversely affect the ability of the domestic water providers - Soquel Creek Water District or the City of Santa Cruz Water Department - to have sufficient water supplies available during normal, dry, and multiple dry year conditions for future development proposals associated with implementation of the proposed project within the City. Thus, adoption and implementation of the proposed project ensure impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

C. WOULD THE PROJECT RESULT IN A DETERMINATION BY THE WASTEWATER TREATMENT PROVIDER, WHICH SERVES OR MAY SERVE THE PROJECT THAT IT HAS ADEQUATE CAPACITY TO SERVE THE PROJECT'S PROJECTED DEMAND IN ADDITION TO THE PROVIDER'S EXISTING COMMITMENTS?

The *General Plan* includes policies, and actions relative to wastewater: Policy OSC-1.4 Regional Partnerships, Policy OSC-1.5 New Development, Action OSC-1.2 Education Partnerships, and Action OSC-9.1 Greywater. The *GPU EIR* concluded less than significant impacts with implementation of *General Plan* goals, policies, and actions, and regulatory requirements.

Santa Cruz County Sanitation District

Sanitary sewer service for the City of Capitola is provided under contract through the Santa Cruz County Sanitation District (SCCSD). The SCCSD is a non-profit public agency which provides sewage collection, treatment, and disposal services to the Live Oak, Capitola, Soquel, and Aptos areas. The City of Capitola is not responsible for nor does it have the authority to maintain the sanitary sewers.

The City of Santa Cruz treats sewage from domestic and industrial sources at the Wastewater Treatment Facility near Neary Lagoon and discharges its effluent into the Pacific Ocean under the NPDES permit No CA0048194. The design treatment capacity (wet weather flow) of the City of Santa Cruz Wastewater Treatment Facility (Plant) is 81 million gallons per day (MGD). The NPDES mandatory limit for the average dry weather (ADW) flow is 17 MGD. The average daily flow is less than 10 MGD.



The maximum daily flow in 2019 was 30.6 MGD, and 3.2 billion gallons of treated wastewater effluent gallons was discharged from the Plant at an average daily rate of 8.7 MGD.⁸

Wastewater (Sewer) Collection

Per the *Sewer System Management Plan for the Davenport, Freedom, Santa Cruz County Sanitation Districts and the County of Santa Cruz* (2022), the SCCSD serves a population of 72,200 in a 13-square mile area. SCCSD has 36,000 sewer connections, 186 miles of gravity sewers, 14 miles of force mains, 35 pump stations, and no lateral responsibility.

The SCCSD's customers generate approximately 5 to 6 MGD of wastewater. The main pump station along the transmission main is located at the D. A. Porath Wastewater Facility at 2750 Lode Street off 27th Avenue in Live Oak. This wastewater flows to the Lode Street pre-treatment facility. The SCCSD collection system is then pumped to the City of Santa Cruz Publicly Owned Treatment Works (POTW) for treatment. SCCSD is required to comply with the requirements of the City of Santa Cruz NPDES permit No. CA0048194. SCCSD does not own nor it is responsible for maintenance or repair of any portion of the sewer service laterals (the portion between the building and the public sewer main).

Future development proposals would be required to comply with applicable SCCSD's rules and regulations regarding wastewater connection and service, including the wastewater lines and systems necessary to provide adequate services to the development. In addition, a future development proposal's wastewater (sewer) plans would be reviewed by the City Engineer and would be required to provide sufficient capacity and comply with City standards.

Future development proposals associated with adoption and implementation of the proposed project would result in the generation of raw sewage that would be collected in the existing or new sewer collection facilities to support the development, and then transported to the City of Santa Cruz Publicly Owned Treatment Works (POTW) where it would be treated and ultimately discharged.

The wastewater treatment requirements issued by the Central Coast RWQCB (Region 3) for the City of Santa Cruz POTW that would receive wastewater from the project site were developed to ensure that adequate levels of treatment would be provided for the wastewater flows emanating from all land uses in its service area. Therefore, implementation of the proposed project not adversely affect the ability of the City or SCCSD to provide adequate capacity and service to existing and future developments. Thus, adoption and implementation of the proposed project ensure impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

⁸ City of Santa Cruz, 2019 Wastewater Treatment Facility Annual Summary Report & Outfall Inspection Report, <https://www.cityofsantacruz.com/home/showdocument?id=78881>



D. WOULD THE PROJECT GENERATE SOLID WASTE IN EXCESS OF STATE OR LOCAL STANDARDS, OR IN EXCESS OF THE CAPACITY OF LOCAL INFRASTRUCTURE, OR OTHERWISE IMPAIR THE ATTAINMENT OF SOLID WASTE REDUCTION GOALS?

The *General Plan* includes goals, policies, and actions relative to solid waste: Goal OSC-11, Policy OSC-11.1 Solid Waste Diversion, Policy OSC-11.2 City Diversion Rate, Policy OSC-11.3 Demolition Material Recycling, Policy OSC-11.4 Building Design, Policy OSC-11.5 Recycling and Composting Space, Policy OSC-11.6 Reusable Goods, Policy OSC-11.7 Consumption/Waste Reduction, Policy OSC-11.8 Recycling at Events, Action OSC-11.1 Diversion Incentives, Action OSC-11.2 Restaurant Waste, Action OSC-11.3 Recycled Asphalt Pavement, and Action OSC-11.4 City Purchasing Policies. The *GPU EIR* concluded less than significant impacts with implementation of *General Plan* goals, policies, and actions, and regulatory requirements.

Solid waste disposal within the City is subject to the requirements established in *Municipal Code* Chapter 8.04, Solid Waste and Edible Food Recovery.

The *GPU EIR* concluded less than significant impacts with implementation of regulatory requirements.

The City of Capitola has a franchise agreement with GreenWaste Recovery for the collection of refuse, recycling and yard waste. GreenWaste vehicles deliver Garbage and Organics to the Monterey Regional Waste Management District (MRWMD) in Marina for processing and/or disposal, while recyclables are delivered to the GreenWaste Transfer Facility in Watsonville.

Santa Cruz County Recycling and Trash Services is responsible for the operation and administration of solid waste diversion and disposal in the unincorporated area of the County. In addition, the County operates two solid waste facilities, the Buena Vista Landfill west of Watsonville and the Ben Lomond Transfer Station in the San Lorenzo Valley.

Presently, capacity is available at the several solid waste management facilities serving the City of Capitola, and these facilities would be available to service future development proposals associated with adoption and implementation of the proposed project. In addition, future development proposals associated with implementation of the proposed project would be required to comply with the *Municipal Code*, which requires providing adequate areas for collecting and loading recyclable materials in concert with Countywide efforts and programs to reduce the volume of solid waste entering landfills. In addition, the location of recycling/separation areas is required to comply with all applicable Federal, State, public health, or local laws relating to fire, building, access, transportation, circulation, or safety. Compliance with all applicable State, Santa Cruz County, and City regulations for the use, collection, and disposal of solid and hazardous wastes is also mandated. It can be assumed that future development proposals associated with implementation of the proposed project would include adequate, accessible and convenient areas for collecting recyclable materials. Thus, adoption and implementation of the proposed project ensure impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.



E. WOULD THE PROJECT COMPLY WITH FEDERAL, STATE, AND LOCAL MANAGEMENT AND REDUCTION STATUTES AND REGULATIONS RELATED TO SOLID WASTE?

The *General Plan* includes goals, policies, and actions relative to solid waste: Goal OSC-11, Policy OSC-11.1 Solid Waste Diversion, Policy OSC-11.2 City Diversion Rate, Policy OSC-11.3 Demolition Material Recycling, Policy OSC-11.4 Building Design, Policy OSC-11.5 Recycling and Composting Space, Policy OSC-11.6 Reusable Goods, Policy OSC-11.7 Consumption/Waste Reduction, Policy OSC-11.8 Recycling at Events, Action OSC-11.1 Diversion Incentives, Action OSC-11.2 Restaurant Waste, Action OSC-11.3 Recycled Asphalt Pavement, and Action OSC-11.4 City Purchasing Policies. The *GPU EIR* concluded less than significant impacts with implementation of *General Plan* goals, policies, and actions, and regulatory requirements.

State, County, and local agencies with regulatory authority related to solid waste include the California Department of Resources Recycling and Recovery, Santa Cruz County Recycling and Trash Services, and the City of Capitola. Regulations specifically applicable to the development proposals include the California Integrated Waste Management Act of 1989 (AB 939), *CalGreen Code* Section 4.408, which the *Municipal Code* has adopted by reference, and SB 341, which requires multi-family residential development and commercial uses to implement recycling programs.

The Integrated Waste Management Act, which requires every City and County in the State to prepare a Source Reduction and Recycling Element (SRRE) to its Solid Waste Management Plan, identifies how each jurisdiction will meet the State's mandatory waste diversion goal of 50 percent by and after the year 2000. The diversion goal has been increased to 75 percent by 2020 by SB 341.

Municipal Code Chapter 8.04, Solid Waste and Edible Food Recovery stipulates standards and regulations for the collection and management of solid waste in the City, in accordance with the Integrated Waste Management Act. *CalGreen Code* Section 4.408 requires preparation of a Construction Waste Management Plan that outlines ways in which the contractor would recycle and/or salvage for reuse a minimum of 50 percent of the nonhazardous construction and demolition debris.

Future development proposals would comply with the *CalGreen Code* through the recycling and reuse of at least 50 percent of the non-hazardous construction and demolition debris from the development site during the construction phase.

Future development proposals associated with adoption and implementation of the proposed project are not anticipated to result in unusual waste production characteristics, and thus, would not include any components that would conflict with State laws governing construction or operational solid waste production or diversion. Also, future development proposals associated with implementation of the proposed project would subject to all applicable Federal, State, and local statutes and regulations related to solid waste, including the California Integrated Waste Management Act, Santa Cruz County, and City of Capitola recycling programs, ensuring compliance with Federal, State, and local statutes and implementation requirements related to the management of solid waste. Thus, adoption and implementation of the proposed project ensure impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.



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4.19 WILDFIRE

	New Potentially Significant Impact	New Impact Requiring New Mitigation	No New Impact/ No Impact	Reduced Impact
Would the project:				
A. Expose people or structures, either directly or indirectly, to a significant risk of loss, injury, or death involving wildland fires?			✓	
If located in or near state responsibility areas or lands classified as high fire hazard severity zones, would the project:				
B. Substantially impair an adopted emergency response plan or emergency evacuation plan?			✓	
C. Due to slope, prevailing winds, and other factors, exacerbate wildfire risks, and thereby expose project occupants to pollutant concentrations from a wildfire or the uncontrolled spread of a wildfire?			✓	
D. Require the installation or maintenance of associated infrastructure (such as roads, fuel breaks, emergency water sources, power lines, or other utilities) that may exacerbate fire risk or that may result in temporary or ongoing impacts to the environment?			✓	
E. Expose people or structures to significant risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes?			✓	

PRIOR ENVIRONMENTAL FINDINGS

General Plan Update EIR

The table below summarizes the wildfire impacts and mitigation measures, if applicable.

WILDFIRE – SUMMARY OF IMPACTS AND MITIGATION MEASURES			
Impact	Significance Before Mitigation	Mitigation Measures	Significance With Mitigation
HAZ-8: Implementation of the proposed Plan would not expose people or structures to a significant risk of loss, injury, or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands.	Less Than Significant	Not Applicable	

Source: Capitola General Plan Update Environmental Impact Report (June 2014), Table 1-1, Summary of Impacts and Mitigation Measures



IMPACT ANALYSIS

The 2023-2031 Housing Element includes policies and programs that are applicable City-wide and are designed to facilitate the construction of housing units to meet the City’s share of the regional housing need. The 2023-2031 Housing Element Chapter 4, Housing Need and Opportunities identifies potential residential sites and densities, inclusive of recyclable residential land, religious facility sites and State land housing, vacant and non-vacant land, and the Capitola Mall site. The 2023-2031 Housing Element Chapter 5, Housing Plan identifies the Goals, Policies, and Programs and Quantified Objectives that are based upon expected availability of resources to address the City’s housing needs, expectations regarding future housing development, as well as prior objectives established in earlier housing plans.

The 2023-2031 Housing Element is a policy document that would not change land use designations or in and of themselves authorize any development within the City. While the City is required by State law to facilitate development commensurate with its allocated share of regional housing needs, no change in the location or nature of allowable development would be authorized by the 2023-2031 Housing Element.

A. WOULD THE PROJECT EXPOSE PEOPLE OR STRUCTURES, EITHER DIRECTLY OR INDIRECTLY, TO A SIGNIFICANT RISK OF LOSS, INJURY, OR DEATH INVOLVING WILDLAND FIRES?

The *General Plan* includes goals, policies, and actions relative to wildland fires: Goal 3, Policy SN-3.1 Cooperative Agreements, Policy SN-3.2 Public Education, Policy SN-3.3 City-Owned Space, Policy SN-3.4 Development Review, Policy SN-3.5 Fire Hazard Risk Assessment, Policy SN-3.6 Fire Safety Plans, Policy SN-3.7 District Support, Action SN-3.1 Invasive Species, Action SN-3.2 Sign/Address Marking Visibility, Action SN-3.3 Emergency Access, Goal 5, Goal SN-5, Policy SN-5.1 Coordination with Other Agencies, Policy SN-5.2 Community Groups, Policy SN-5.3 Emergency and Evacuation Routes, Policy SN-5.4 Urban Area Security Initiative, Action SN-5.1 Emergency Response Plan, Action SN-5.2 County Preparedness Exercises, Action SN-5.3 Preparedness Training, Action SN-5.4 Preparedness Outreach, Action SN-5.5 Critical Facilities, and Action SN-5.6 Local Hazard Mitigation Plan. The *GPU EIR* concluded less than significant impacts with implementation of *General Plan* goals, policies, and actions, and regulatory requirements.

The City of Capitola has been urbanized for many years with established development throughout the City. According to the California Department of Forestry and Fire Protection (CAL FIRE), the eastern edge of the City is located in a High and Moderate fire hazard severity zone within a Local Responsibility Area (LRA), as shown in *GPU EIR* Figure 4.6-1. These areas contain significant vegetation, in particular large stands of Eucalyptus trees in and around New Brighton State Park and along Park Avenue. These trees are highly flammable due to the large amounts of leaf litter on the ground and the oil content of the leaves.

The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals. Future development proposals associated with implementation of the proposed project would be required to comply with all applicable regulations and development standards, along with project-specific conditions and mitigation measures to reduce potential impacts required as part of the development review and environmental impact processes. This can include, but is not limited to, Federal and State laws and regulations, *California Building Code*, *California Fire Code*, *Municipal Code* requirements; and *General Plan* goals, policies, and implementation programs, including those identified in the proposed project. As such, future development proposals associated with implementation of the proposed project would expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are



adjacent to urbanized areas or where residences are intermixed with wildlands. Thus, adoption and implementation of the proposed project ensures impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

B. IF LOCATED IN OR NEAR STATE RESPONSIBILITY AREAS OR LANDS CLASSIFIED AS HIGH FIRE HAZARD SEVERITY ZONES, SUBSTANTIALLY IMPAIR AN ADOPTED EMERGENCY RESPONSE PLAN OR EMERGENCY EVACUATION PLAN?

The *General Plan* includes goals, policies, and actions relative to high fire severity zones: Goal 3, Policy SN-3.1 Cooperative Agreements, Policy SN-3.2 Public Education, Policy SN-3.3 City-Owned Space, Policy SN-3.4 Development Review, Policy SN-3.5 Fire Hazard Risk Assessment, Policy SN-3.6 Fire Safety Plans, Policy SN-3.7 District Support, Action SN-3.1 Invasive Species, Action SN-3.2 Sign/Address Marking Visibility, Action SN-3.3 Emergency Access, Goal 5, Goal SN-5, Policy SN-5.1 Coordination with Other Agencies, Policy SN-5.2 Community Groups, Policy SN-5.3 Emergency and Evacuation Routes, Policy SN-5.4 Urban Area Security Initiative, Action SN-5.1 Emergency Response Plan, Action SN-5.2 County Preparedness Exercises, Action SN-5.3 Preparedness Training, Action SN-5.4 Preparedness Outreach, Action SN-5.5 Critical Facilities, and Action SN-5.6 Local Hazard Mitigation Plan. The *GPU EIR* concluded less than significant impacts with implementation of *General Plan* goals, policies, and actions, and regulatory requirements.

The City of Capitola has been urbanized for many years with established development throughout the City. According to the California Department of Forestry and Fire Protection (CAL FIRE), the eastern edge of the City is located in a High and Moderate fire hazard severity zone within a Local Responsibility Area (LRA), as shown in *GPU EIR* Figure 4.6-1. Thus, the City would be subject to wildfire risks.

The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals. Nor would adoption and implementation of the proposed project impair implementation of emergency response plans or emergency evacuation plans. Thus, adoption and implementation of the proposed project ensures impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.

C. IF LOCATED IN OR NEAR STATE RESPONSIBILITY AREAS OR LANDS CLASSIFIED AS HIGH FIRE HAZARD SEVERITY ZONES, WOULD THE PROJECT, DUE TO SLOPE, PREVAILING WINDS, AND OTHER FACTORS, EXACERBATE WILDFIRE RISKS, AND THEREBY EXPOSE PROJECT OCCUPANTS TO POLLUTANT CONCENTRATIONS FROM A WILDFIRE OR THE UNCONTROLLED SPREAD OF A WILDFIRE?

D. IF LOCATED IN OR NEAR STATE RESPONSIBILITY AREAS OR LANDS CLASSIFIED AS HIGH FIRE HAZARD SEVERITY ZONES, WOULD THE PROJECT REQUIRE THE INSTALLATION OR MAINTENANCE OF ASSOCIATED INFRASTRUCTURE (SUCH AS ROADS, FUEL BREAKS, EMERGENCY WATER SOURCES, POWER LINES, OR OTHER UTILITIES) THAT MAY EXACERBATE FIRE RISK OR THAT MAY RESULT IN TEMPORARY OR ONGOING IMPACTS TO THE ENVIRONMENT?



E. IF LOCATED IN OR NEAR STATE RESPONSIBILITY AREAS OR LANDS CLASSIFIED AS HIGH FIRE HAZARD SEVERITY ZONES, WOULD THE PROJECT EXPOSE PEOPLE OR STRUCTURES TO SIGNIFICANT RISKS, INCLUDING DOWNSLOPE OR DOWNSTREAM FLOODING OR LANDSLIDES, AS A RESULT OF RUNOFF, POST-FIRE SLOPE INSTABILITY, OR DRAINAGE CHANGES?

The *General Plan* includes goals, policies, and actions relative to state responsibility areas: Goal 3, Policy SN-3.1 Cooperative Agreements, Policy SN-3.2 Public Education, Policy SN-3.3 City-Owned Space, Policy SN-3.4 Development Review, Policy SN-3.5 Fire Hazard Risk Assessment, Policy SN-3.6 Fire Safety Plans, Policy SN-3.7 District Support, Action SN-3.1 Invasive Species, Action SN-3.2 Sign/Address Marking Visibility, Action SN-3.3 Emergency Access, Goal 5, Goal SN-5, Policy SN-5.1 Coordination with Other Agencies, Policy SN-5.2 Community Groups, Policy SN-5.3 Emergency and Evacuation Routes, Policy SN-5.4 Urban Area Security Initiative, Action SN-5.1 Emergency Response Plan, Action SN-5.2 County Preparedness Exercises, Action SN-5.3 Preparedness Training, Action SN-5.4 Preparedness Outreach, Action SN-5.5 Critical Facilities, and Action SN-5.6 Local Hazard Mitigation Plan. The *GPU EIR* concluded less than significant impacts with implementation of *General Plan* goals, policies, and actions, and regulatory requirements.

The California Department of Forestry and Fire Protection (CAL FIRE) is focused on fire protection and stewardship of over 31 million acres of California's privately-owned wildlands. Preventing wildfires in the State Responsibility Area (SRA) is a key component of CAL FIRE's mission, and in more recent decades, CAL FIRE has adapted to the evolving destructive wildfires and succeeded in significantly increasing its efforts in fire prevention. CAL FIRE's Fire Prevention Program consists of multiple activities including wildland pre-fire engineering, vegetation management, fire planning, education and law enforcement. Typical fire prevention projects include brush clearance, prescribed fire, defensible space inspections, emergency evacuation planning, fire prevention education, fire hazard severity mapping, and fire-related law enforcement activities. The Office of the State Fire Marshall has the responsibility for Fire and Resource Assessment Program (FRAP), inclusive of the fund preparing the Fire Hazard Severity Zone (FHSZ) mapping.

As shown in *GPU EIR* Figure 4.6-1, the eastern edge of the City is located in a High and Moderate fire hazard severity zone within a Local Responsibility Area (LRA). Per the updated CAL Fire Santa Cruz County State Responsibility Area (SRA) Fire Hazard Severity Zones dated June 15, 2023, the City of Capitola is not located within a Local SRA, but is located within a Fire Protection Responsibility Area (Non-SRA) – Local Responsibility Area.⁹ The City of Capitola is outside a State Responsibility Area (SRA) per Fire Hazard Severity Zones viewer in State Responsibility Area¹⁰.

The City of Capitola has been urbanized for many years with established development throughout the City. Due to the urbanized nature of the City, there is potential to expose people or structures to significant wildfire risks, including downslope or downstream flooding or landslides, as a result of runoff, post-fire slope instability, or drainage changes.

The proposed project involves policy-level documents, and as such, does not include any site-specific development designs or proposals. Future development proposals associated with implementation of the proposed project would be required to comply with all applicable regulations and development standards, along with project-specific conditions and mitigation measures to reduce potential impacts required as part of the development review and environmental impact processes. This can include, but is not limited to, Federal and State laws and

⁹ CAL FIRE, [Fire Hazard Severity Zones in State Responsibility Area - Santa Cruz County \(ca.gov\)](https://www.fire.ca.gov/fire-hazard-severity-zones-in-state-responsibility-area-santa-cruz-county), accessed August 17, 2023

¹⁰ CAL FIRE, [Fire Hazard Severity Zones \(ca.gov\)](https://www.fire.ca.gov/fire-hazard-severity-zones), accessed August 17, 2023



regulations, *California Building Code*, *California Fire Code*, *Municipal Code* requirements; and *General Plan* goals, policies, and implementation programs, including those identified in the proposed project. As such, future development proposals associated with implementation of the proposed project would expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands. Thus, adoption and implementation of the proposed project ensures impacts remain as less than significant impacts.

Conclusion: No New Impact. The changes associated with the proposed project would not result in any new impacts or increase the severity of impacts in this regard.



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4.20 ADDENDUM DETERMINATION

As analyzed in this Addendum, potential impacts associated with the proposed changes (2023-2031 Housing Element) are consistent with potential impacts characterized and mitigated for in the Capitola General Plan Update Environmental Impact Report (EIR). The proposed changes would also be subject to the same mitigation measures as the Capitola General Plan Update EIR for Air Quality, Cultural Resources, Noise, Transportation & Traffic, and Greenhouse Gases.

Substantive revisions to the Capitola General Plan Update EIR are not necessary because no new significant impacts or impacts of substantially greater severity than previously described would occur as a result of the proposed changes (2023-2031 Housing Element). Therefore, the following determinations have been found to be applicable:

- No further evaluation of environmental impacts is required for the proposed changes;
- No Subsequent EIR is necessary per CEQA Guidelines Section 15162; and
- This Addendum is the appropriate level of environmental analysis and documentation for the revised project in accordance with CEQA Guidelines Section 15164.



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4.21 REFERENCES

Following is a list of reference documents and maps utilized in the preparation of this Addendum.

- Association of Monterey Bay Area Governments (AMBAG), 2022 Regional Growth Forecasts, [Appendix A 2022 RGF \(ambag.org\)](#)
- California Department of Forestry and Fire Protection (CAL FIRE), *Santa Cruz County Very High Severity Zones in LRA (Local Responsibility Area) Map*, [Fire Hazard Severity Zones \(ca.gov\)](#), accessed August 17, 2023
- California Department of Forestry and Fire Protection (CAL FIRE), *Santa Cruz County Fire Hazard Severity in SRA (State Responsibility Area) Map*, June 15, 2023
- California Department of Water Resources, Santa Cruz Mid-County Groundwater Sustainability Plan, <https://sgma.water.ca.gov/portal/service/gspdocument/download/3166>, accessed August 16, 2023
- California State Regional Water Quality Control Board, [Water Quality Control Plan for the Central Coastal Basin \(ca.gov\)](#), accessed August 16, 2023
- City of Capitola, *City of Capitola General Plan*, Adopted June 26, 2014, Updated March 13, 2019
- City of Capitola, *City of Capitola General Plan Update Environmental Impact Report*, June 26, 2014
- City of Capitola, *2023-2031 Capitola Housing Element*, August 2023
- City of Capitola, *Capitola Municipal Code*, codified through Ordinance 1060, passed June 8, 2023
- City of Santa Cruz, 2019 Wastewater Treatment Facility Annual Summary Report & Outfall Inspection Report, <https://www.cityofsantacruz.com/home/showdocument?id=78881>)
- City of Santa Cruz 2020 Urban Water Management Plan, [Urban Water Management Plan 2020 | City of Santa Cruz](#), accessed November 1, 2023
- Metropolitan Transportation Commission, [Transit Priority Areas \(2021\) | Transit Priority Areas \(2021\) | Metropolitan Transportation Commission \(ca.gov\)](#), accessed August 16, 2023
- Soquel Creek Water District 2020 Urban Water Management Plan, [Urban Water Management Plan | Soquel Creek Water District, CA](#), accessed November 1, 2023
- United States Census Bureau, [U.S. Census Bureau QuickFacts: Capitola city, California](#), accessed August 16, 2023



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4.22 REPORT PREPARATION PERSONNEL

CITY OF CAPITOLA (LEAD AGENCY)

420 Capitola Avenue
Capitola, CA 95010

Katie Herlihy, AICP, Community Development Director

MORSE PLANNING GROUP (CEQA CONSULTANT)

145 N C Street
Tustin, California 92780

Collette L. Morse, AICP, Principal, Project Manager



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Capitola City Council

Agenda Report



Meeting: November 9, 2023
From: Finance Department
Subject: FY 2023-24 City Fee Schedule

Recommended Action: Adopt a resolution amending the fee schedule for Fiscal Year (FY) 2023-24. (*Continued from October 26, 2023*)

Background: On April 28, 2022, the City Council approved the formation of the Temporary Village Parking Committee (TVPC) and made appointments to the committee. The appointments consisted of three City residents, three Village business representatives, one member of the Finance Advisory Committee, and two members of the City Council.

The TVPC met seven times from May 2022 through Feb. 2023 to review and discuss parking meter rates, parking permits, parking signage, and renaming the Upper and Lower Beach & Village Parking lots. The TVPC is making the following recommendations for City Council consideration.

The TVPC made the following recommendation regarding parking permits:

- Add Holidays as a parking permit requirement on Fanmar/Terrace and the 300 block of San Jose Avenue (currently only restricted on weekends)
- Transferable permits – Hotels/Motels – increase from \$50 per year to \$365 per year, maximum of 10 permits allowable.
- Surf & Coffee Permits – increase from \$50 per year to \$55 per year and increase the number of permits from 75 to 100.

Discussion: In March 2023, the City Council received recommendations from the Temporary Village Parking Committee to increase parking meter and parking permit rates. On June 22, 2023, the City Council adopted Ordinance No. 1061 to implement the Committee's recommendations for parking meter rates. Following City Council adoption, the ordinance was certified by the California Coastal Commission. Changes to parking meter rates will take effect January 1, 2024.

The City's current FY 2023-24 Fee Schedule was adopted on June 22, 2023. Now that Ordinance No. 1061 has been certified by the California Coastal Commission, staff recommends amending the FY 2023-24 Fee Schedule to implement the Temporary Village Parking Committee's recommendations for parking permit fees. Changes to parking permit rates will take effect upon adoption of the proposed resolution, in anticipation of the sale of 2024 permits.

Fiscal Impact: If approved, annual parking permit revenue is estimated to increase \$3,500 to \$4,000.

Attachments:

1. FY 2023-24 Amended Fee Schedule
2. FY 2023-24 Amended Fee Schedule Comparison

Report Prepared By: Jim Malberg, Finance Director

Reviewed By: Julia Gautho, City Clerk

Approved By: Jamie Goldstein, City Manager

RESOLUTION NO. ____**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA
AMENDING THE CITY'S FEE SCHEDULE FOR
FISCAL YEAR 2023-24**

WHEREAS, the City Council adopted Resolution No. 4327 on June 22, 2023, adopting the City's Fee Schedule for Fiscal Year 2023-24, including an increase to parking meter rates; and

WHEREAS, since that adoption the City has received final certification from the California Coastal Commission to increase parking meter rates; and

WHEREAS, staff is proposing to amend the FY 2023-24 Fee Schedule as follows:

- Village Preferential Permit – Hotels/Motels - \$365 per year
 - Increased from \$50 per year.
- Morning Village Parking Permit - \$55 per year
 - Increased from \$50 per year.

WHEREAS, the proposed fees do not exceed the cost of providing the related services,

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Capitola does hereby amend the City of Capitola Fee Schedule as shown in Exhibit A (Fee Schedule 2023-24) attached hereto.

BE IT FURTHER RESOLVED that the above fees become effective immediately upon adoption of this resolution.

I HEREBY CERTIFY that the above and foregoing Resolution was passed and adopted by the City Council of the City of Capitola at its regular meeting held on the 26th of October 2023, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Margaux Keiser, Mayor

ATTEST:

Julia Gautho, City Clerk

Description	2023/2024 Amended Fee Schedule
MISCELLANEOUS FEES	
Administrative Decision Appeal Fee	\$593
Bingo Permit	\$71
Capitola Municipal Code	0.15 / page
Capitola Municipal Code Supplement Service (Per year)	\$0
Copies:	
1-5 copies	\$0
6 or more copies (per copy)	\$0.25 / page
Gov't Code § 81008 (Political Reform Act) statements/reports (Per copy)	\$0.10 / page
Video Tapes, Flash Drive, CD/DVD Production	Cost + \$57.21 1st Hour (Minimum) + \$28.60 / hour
Simple film permit	\$54
Major film permit	\$272
Entertainment Permit Application Fee	\$44
Single Event Permit	\$44
Minor Entertainment Permit	\$184
Regular Entertainment Permit	\$689
Pet Shops and Kennel License Fee (Municipal Code § 5.20.020) set only by ordinance	\$20
Returned Check Fee	\$44
Business License Overpayment Refund Fee (resolution 3532, ord 871)	\$0 (Set to -0- by Council in 2011)
Business License Late Payment Penalty Admin. Fee	\$35 + 10% each month late
Business License Application Fee (Reso. 3532)	\$25
Business License - Disability Access and Education Fee (State)	\$4
Temporary, Publicly Attended Activities, Application Fee (Municipal Code § 9.36.040)	\$34
Public Art (Total Building Valuation \$250,000 or more) (Municipal Code Chapter 2.58)	2% of TBV or 1% in lieu to City
Notice of Intent to Circulate Initiative Petition (Elections Code § 9103(b))	\$200.00
Bandstand Rental Fee	\$246 / 4 hrs or \$492 all day / deposit \$1,500
Outdoor Dining Rental Fees	
Parking Spaces	\$3,400 annually for each space or partial space
Sidewalks and non-parking spaces	\$18.00 per square foot annually
Outdoor Dining Maintenance Deposit	
Sidewalks and non-parking spaces	\$500
1-2 parking spaces	\$1,000
3-5 parking spaces	\$1,500
Notary Service Fees (State Code)	
Acknowledgment or proof of a deed, or other instrument, to include the seal and writing of the certificate	\$15 / signature
Administering an oath or affirmation to one person and executing the jurat, including the seal	\$15 / signature
Credit Card Transaction Fee	3%
Electric Vehicle Charging Fee	\$0.50 / hour
Cannabis Annual License Fee	\$2,827
Retail Cannabis Application Fee	\$1,843

Description	2023/2024 Amended Fee Schedule
POLICE DEPARTMENT FEES	
Special Event Permit	\$68
Amplified Sound Permit (Municipal Code 9.12.040)	\$32
DUI Cost Recovery Fee (Res. 3533)	Not to exceed \$12,000
Copies of reports: Crime Reports, Special Reports, etc. (Regardless of number of pages)	\$0.25 / page
Copies of: Citations, Code sections, Ordinances, etc.	\$0.25 / page
Bicycle Licenses (New)	\$0
Bicycle Licenses (Renewal)	\$0
Citation Sign-Offs	\$0
Photographs	\$20 + administration fees
VIN verifications	\$18
Video Tapes, Flash Drive, CD/DVD Production	Cost + \$57.21 1st Hour (Minimum) + \$28.60 / hour
Firearm Dealer License - City Application	\$100
Local Firearm dealers (set by state)	
New application	set by state
Renewal	set by state
Second Dealers License (set by state)	
Application	set by state
Renewal	set by state
Taxi Fee per application	set by state
Tobacco retail license	\$289
Civil Subpoena (per case) (set by state)	set by state
Parking Permits (separate action by the Council)	
Neighborhoods per year (Resolution No. 3733)	\$25
Village Preferential Permit (Resolution No. 3733)	\$50 per year
Village Preferential Permit - Hotels/Motels (Resolution No. 3733)	\$365 per year
Village Employer/Employee Permit (Resolution No. 3733)	\$50 per year
Morning Village Parking Permit (Resolution No. 3715)	\$55 per year
Carrying a Concealed Weapon (CCW) Permit - City Application	\$115
Concealed Weapon Permits (set by state)	
Application	
Standard	set by state
Judicial	set by state
Employment	set by state
Renewal	
Standard	set by state
Judicial	set by state
Employment	set by state
Firearm Surrender Fees (set by state law)	
1-5 guns	set by state
6+guns	set by state
Vehicle Storage per day	\$30
Administrative fee to release Impounded / Stored Vehicle	\$145
Surf School Permit Fee	\$594

Description	2023/2024 Amended Fee Schedule
PUBLIC WORKS DEPARTMENT FEES	
Encroachment Permits	
Revocable Encroachment Permit - Outdoor Dining	\$230
Non-Construction Items (includes materials storage within right-of-way road and sidewalk closures)	\$75
Village Sidewalk Encroachment Permit	\$44
Village Parking Space Encroachment Permit (annually)	\$3,400
Construction Items	
Level A	\$227
Level B	\$503
Level C	\$1,004
Level D	\$1,633
Level E	\$2,263
Residential Blue Curb Application Fee	
	\$237
Residential Blue Curb Annual Fee	
	\$60
Blanket Permits (repair and maintenance of existing facilities)	
	\$2,513
Private Improvement Permits/Encroachment Agreement	
Applications for Minor Permits	\$251
Applications for Major Permits	\$629
New Memorial Bench	\$1,137
Replacement Memorial Bench	\$554
Memorial Plaque	\$854
Replacement Plaque	\$277
Memorial Plaque (tree)	\$545 + Cost of Tree
Memorial Picnic Table	\$1,822
Seasonal Boat Storage Permits	
Seasonal Permit	\$400 per month
Short Term Permit	\$15 per day
Stormwater Development Review Fee	
Stormwater Plan Review Fee	\$124
Large Project Plan Review Deposit	
Tier 2	\$3,771
Tier 3 & 4	\$5,028
Research Fee - 1/2 hour minimum charge	
	Cost
Information Technology Fee (Resolution No. 3786 adopted 11/12/09)	
	5% of Permit Fee
Final Map	
	Cost; \$3,000 min. deposit

Description	2023/2024 Amended Fee Schedule
PLANNING FEES	
<u>Administration/Documents</u>	
Continuance Request - Applicant (2+)	\$185
Staff Billing Rate	Cost
Appeals-by Applicant	Cost
Appeals- by City Officials	\$0
Appeals- by Other	\$594
Coastal Development Permit Appeal	\$0
Appeals -Building/Zoning Code Violations	\$594
Records Search/Research/Special Report	Cost
<u>Administrative Permits</u>	
Tree Removal- Staff-Review	\$150
Tree Removal -- 3 or more trees on a property	\$323
Tree Installation Deposit (Refundable)	\$500 Deposit
Tree replacement in-lieu fee (if available)	\$600 per tree
Tree removal w/ PC approval	\$1,000 deposit
Commercial Sidewalk/Parking Lot Sale Permit	\$89
Tenant Use Permit (MCUP)--Staff approval	\$90
Transient Rental Occupancy Use Permit	\$629
Home Occupation Use Permit	\$189
Fence Permit- Staff approval	\$50
Fence Permit- PC approval	\$943
Sidewalk vendor permit	\$138
Sidewalk vendor annual refuse fee	\$555
Temporary Sidewalk Dining	\$90
Temporary Use Administrative Permit	\$90
<u>Sign Permits</u>	
Temporary Signs and Banner Permits	\$45
Signs-permit - Staff Review	\$151
Signs- permit - PC Review	\$629
Master Sign Program	Cost; \$3,000 min deposit
Village Sidewalk Sign Permit	\$77
<u>Design Permits</u>	
Residential-Single Family/Minor Design Permit - Staff Review	\$919
Residential-Single Family - PC Review	\$3,143
Residential Multi-Family - PC Review	\$4,398
Commercial - PC Review	\$4,000 Deposit
Secondary Dwelling Unit- Staff Review	\$629
Secondary Dwelling Unit- PC Review	\$1,887
Residential Multi-Family/Minor Design Permit - Staff Review	\$2,000 deposit
Commercial Minor Design Permit	\$2,000 deposit
Historic In-Kind Replacement Design Permit	\$500 deposit
Outdoor Dining - Custom Deck	\$1,000 deposit
<u>Use Permits</u>	
Master Conditional Use Permit	Cost; \$3,500 min. deposit
Conditional Use Permit/Minor Use Permit - Staff Review	\$1,854
Conditional Use Permit - PC approval	Cost; \$3,000 min. deposit
Temporary Use Permit	\$94
<u>Subdivisions</u>	
Certificate of Compliance & Lot Merger	\$629
Boundary Line Adjustment	\$1,004
Tentative Parcel Map	Cost; \$2,000 min. deposit
Tentative Map	Cost; \$5,000 min. deposit
Revised Map	\$2,000 Deposit
Time Extension	\$2,000 Deposit
Subdivision Modification	\$2,000 Deposit

Description	2023/2024 Amended Fee Schedule
Plan Amendments	
General Plan Amendment	Cost; \$5,000 min. deposit
Local Coastal Plan Amendment	Cost; \$5,000 min. deposit
Rezone	Cost; \$5,000 min. deposit
Planned Development Rezone	Cost; \$3,500 min. deposit
Other Discretionary Permits	
Variance	\$1,887
PC review of minor modifications	\$1,696
Coastal Development Permit	\$943
Coastal Permit Exclusion	\$106
Mobile home Park Change of Use or Closure	\$5,000 Deposit
Development Agreement	\$10,000 min. deposit
Developer agreement annual review	\$2,500 deposit
Specific Plan	Cost; \$5,000 min. deposit
Permit Time Extension -Staff Review	\$629
Permit Time Extension - PC Review	\$1,887
Permit Amendment (any permit)	50% of original cost
Annexation	Costs+ overhead / \$3,000 min. deposit
Minor Modification	\$1,887
Environmental Review	
Negative Declaration (and Mitigated ND)	Cost; \$2,000 min deposit
EIR Processing	Cost; + 21% of consultant; \$10,000 min deposit
Mitigation/Condition Monitoring Program	Cost + 21%
NEPA Compliance	Cost + 21%
Other Permits/Fees	
Conceptual Review Fee- PC	\$1,887
Conceptual Review Fee- PC and CC	\$2,828
Technical Study Preparation and Review	Cost + 21%
NOTE: Third party review costs to be required as necessary	Cost + 21%
Code Compliance	Double Application Fees
Code Compliance confiscated property recovery fee	\$298
Research Fee - 1/2 hour minimum charge	Cost
Pre-Application Review	\$264
Building Plan Check & Final Inspection	20% of Building Permit Fee
Major Development Project Fee	Cost; \$5,000 min. deposit
Historical significance determination	\$4,250 deposit
Inclusionary Housing	
Inclusionary Housing - Unit Sale	\$629
Inclusionary Housing - Unit Refinance	\$252
Single Family Residence	\$2.50 per square foot
Other Fees and Assessments	
General Plan Maintenance Fee	Total Building Valuation X 0.5%
Information Technology Fee (Resolution No. 3786 adopted 11/12/09)	5% of Permit Fee
Green Building Educational Resource Fund Fee (Municipal Code 17.10.080)	Fee equals .0025 times the overall building permit valuation of the project.
Affordable Housing In-Lieu Fees	
For Sale Housing Developments of two to six units (Municipal Code Chapter 18.02) :	
All Units	\$25 per sq. ft.
For Sale Housing Developments of Seven or more units	
#Units	#Units Built
7	1
8-13	1
14	2
15-20	2
21	3
22-27	3
28	4
Rental Multi-Family	
	\$6 per sq. ft.

Description	2023/2024 Amended Fee Schedule
Affordable Housing Impact Fees	
For Sale Housing Developments of Six or Less Units	\$25 per square foot
Rental Multi-Family	\$6 per square foot
Additional to Housing Units of 50% or more (charged to additional square footage only)	\$2.50 per square foot

NOTES:

1. All Fees are non-refundable.
2. Deposit accounts are billed on a time and material basis. Additional deposits may be necessary depending on the complexity of the project. Any unused monies in a deposit account will be refunded following case closure.
3. The Community Development Director may reduce the total fee/deposit requirements for applications which are unlikely to require the full deposit amounts established herein.
4. Applications which include a fee and a deposit payment will be processed with a single deposit account.
5. Outside agency fees, including but not limited to County recordation fees, State Fish and Wildlife fees, etc. are charged at cost.
6. The Community Development Director may establish a reasonable fee or deposit amount for permit

Description	2023/2024 Amended Fee Schedule
BUILDING FEES	
<p>The cost of a “combination building permit” shall be 1.5 times the amounts shown in Table 1-A. A “combination building permit” is defined as a permit for a scope of construction work regulated by two or more of the model codes. The model codes are the building code, the plumbing code, the mechanical code and the electrical code.</p>	
<p>The cost of a “building permit” shall be the amounts shown in Table 1-A. A “building permit” is defined as a permit for a scope of construction work regulated solely by a single model code. The model codes are the building code, the plumbing code, the mechanical code and the electrical code.</p>	
TABLE 1-A	
Total Valuation	FEES
\$1.00 to \$500.00	\$29.55
\$501.00 to \$2,000.00	\$29.55 for the first \$500.00 plus \$3.83 for each additional \$100.00 or fraction thereof.
\$2,001.00 to \$25,000.00	\$87.00 for the first \$2,000.00 plus \$17.59 for each additional \$1000.00 or fraction thereof.
\$25,001.00 to \$50,000.00	\$491.57 for the first \$25,000.00 plus \$12.69 for each additional \$1,000.00 or fraction thereof.
\$50,001.00 to \$100,000.00	\$808.82 for the first \$50,000.00 plus \$8.81 for each additional \$1,000.00 or fraction thereof.
\$100,001.00 to \$500,000.00	\$1,249.32 for the first \$100,000.00 plus \$7.05 for each additional \$1,000.00 or fraction thereof.
\$500,001.00 to \$1,000,000.00	\$4,069.32 for the first \$500,000.00 plus \$5.97 for each additional \$1,000.00 or fraction thereof.
\$1,000,001.00 and up	\$7,054.32 for the first \$1,000,000.00 plus \$3.23 for each additional \$1,000.00 or fraction thereof.
Building Plan Check Fee	65% of Building Permit Fee
Reinspection Fee	\$0
Resubmitted Plan Check Fee	\$122.30 / hr.
Building Permit Extension Fee	\$0
Building Permit Reinstatement Fee	50% of the original, singular building permit fee or combo building permit fee, whichever is applicable to the permit being reinstated
Stop Work Order Fee	2x the singular building permit fee
Greywater System Permit	\$0

Description	2023/2024 Amended Fee Schedule
Electric Vehicle Charging Permits (* Note: These fees were added to the fee schedule for FY2011-12, but will be waived per the Green Energy Incentive Program)	
a. Level I (120 volts)	\$0
b. Level II (208-240 volts)	\$0
c. Level III (480 volts)	\$0
Solar P.V. System	\$0
Solar P.V. System (Commercial Sale/Distribution)	\$0
Solar Hot Water Heater	\$0
Research Fee - 1/2 hour minimum charge	Cost
Information Technology Fee (Resolution No. 3786 adopted 11/12/09)	5% of Permit Fee
Temporary Trailer/Mobile Home Occupancy Permit	\$0
Structural Review of Engineered Plans	cost + 21%
Outside Consultant Plan Review	cost + 21%
<u>Grading Plan Review Fees</u>	
50 cubic yard or less	\$ -
51 to 100 cubic yard	\$ -
101 to 1,000 cubic yards	\$ -
1,001 to 10,000 cubic yards	\$ -
10,001 to 100,000 cubic yards	\$60.36 for first 10,000 plus \$30.81 for each additional 10,000 cubic yards
100,001 to 200,000 cubic yards	\$337.69 for first 100,000 plus \$16.65 for each additional 10,000 cubic yards
200,001 cubic yards or more	\$487.57 for first 200,000 plus \$9.12 for each additional 10,000 cubic yards
<u>Grading Permit Fees</u>	
50 cubic yard or less	\$ -
51 to 100 cubic yard	\$ -
101 to 1,000 cubic yards	\$46.51 for first 100 plus \$22.01 for each additional 100 cubic yards
1,001 to 10,000 cubic yards	\$244.60 for first 1,000 plus \$18.23 for each additional 1,000 cubic yards
10,001 to 100,000 cubic yards	\$408.67 for first 10,000 plus \$82.97 for each additional 10,000 cubic yards
100,001 to 200,000 cubic yards	\$1,155.40 for first 100,000 plus \$45.88 for each additional 10,000 cubic yards

Description	2023/24 Adopted Fee Schedule	2023/24 Proposed Fee Schedule
MISCELLANEOUS FEES		
Administrative Decision Appeal Fee	\$593	\$593
Bingo Permit	\$71	\$71
Capitola Municipal Code	0.15 / page	0.15 / page
Capitola Municipal Code Supplement Service (Per year)	\$0	\$0
Copies:		
1-5 copies	\$0	\$0
6 or more copies (per copy)	\$0.25 / page	\$0.25 / page
Gov't Code § 81008 (Political Reform Act) statements/reports (Per copy)	\$0.10 / page	\$0.10 / page
Video Tapes, Flash Drive, CD/DVD Production	Cost + \$57.21 1st Hour (Minimum) + \$28.60 / hour	Cost + \$57.21 1st Hour (Minimum) + \$28.60 / hour
Simple film permit	\$54	\$54
Major film permit	\$272	\$272
Entertainment Permit Application Fee	\$44	\$44
Single Event Permit	\$44	\$44
Minor Entertainment Permit	\$184	\$184
Regular Entertainment Permit	\$689	\$689
Pet Shops and Kennel License Fee (Municipal Code § 5.20.020) set only by ordinance	\$20	\$20
Returned Check Fee	\$44	\$44
Business License Overpayment Refund Fee (resolution 3532, ord 871)	\$0 (Set to -0- by Council in 2011)	\$0 (Set to -0- by Council in 2011)
Business License Late Payment Penalty Admin. Fee	\$35 + 10% each month late	\$35 + 10% each month late
Business License Application Fee (Reso. 3532)	\$25	\$25
Business License - Disability Access and Education Fee (State)	\$4	\$4
Temporary, Publicly Attended Activities, Application Fee (Municipal Code § 9.36.040)	\$34	\$34
Public Art (Total Building Valuation \$250,000 or more) (Municipal Code Chapter 2.58)	2% of TBV or 1% in lieu to City	2% of TBV or 1% in lieu to City
Notice of Intent to Circulate Initiative Petition (Elections Code § 9103(b))	\$200.00	\$200.00
Bandstand Rental Fee	\$246 / 4 hrs or \$738 all day / deposit \$1,500	\$246 / 4 hrs or \$738 all day / deposit \$1,500
Outdoor Dining Rental Fees		
Parking Spaces	\$3,400 annually for each space or partial space	\$3,400 annually for each space or partial space
Sidewalks and non-parking spaces	\$18.00 per square foot annually	\$18.00 per square foot annually
Outdoor Dining Maintenance Deposit		
Sidewalks and non-parking spaces	\$500	\$500
1-2 parking spaces	\$1,000	\$1,000
3-5 parking spaces	\$1,500	\$1,500
Notary Service Fees (State Code)		
Acknowledgment or proof of a deed, or other instrument, to include the seal and writing of the certificate	\$15 / signature	\$15 / signature
Administering an oath or affirmation to one person and executing the jurat, including the seal	\$15 / signature	\$15 / signature
Credit Card Transaction Fee	3%	3%
Electric Vehicle Charging Fee	\$0.50 / hour	\$0.50 / hour
Cannabis Annual License Fee	\$2,827	\$2,827
Retail Cannabis Application Fee	\$1,843	\$1,843

Description	2023/24 Adopted Fee Schedule	2023/24 Proposed Fee Schedule
POLICE DEPARTMENT FEES		
Special Event Permit	\$68	\$68
Amplified Sound Permit (Municipal Code 9.12.040)	\$32	\$32
DUI Cost Recovery Fee (Res. 3533)	Not to exceed \$12,000	Not to exceed \$12,000
Copies of reports: Crime Reports, Special Reports, etc. (Regardless of number of pages)	\$0.25 / page	\$0.25 / page
Copies of: Citations, Code sections, Ordinances, etc.	\$0.25 / page	\$0.25 / page
Bicycle Licenses (New)	\$0	\$0
Bicycle Licenses (Renewal)	\$0	\$0
Citation Sign-Offs	\$0	\$0
Photographs	\$20 + administration fees	\$20 + administration fees
VIN verifications	\$18	\$18
Video Tapes, Flash Drive, CD/DVD Production	Cost + \$57.21 1st Hour (Minimum) + \$28.60 / hour	Cost + \$57.21 1st Hour (Minimum) + \$28.60 / hour
Firearm Dealer License - City Application	100	\$100
Local Firearm dealers (set by state)		
New application	set by state	set by state
Renewal	set by state	set by state
Second Dealers License (set by state)		
Application	set by state	set by state
Renewal	set by state	set by state
Taxi Fee per application	set by state	set by state
Tobacco retail license	\$289	\$289
Civil Subpoena (per case) (set by state)	set by state	set by state
Parking Permits (separate action by the Council)		
Neighborhoods per year (Resolution No. 3733)	\$25	\$25
Village Preferential Permit (Resolution No. 3733)	\$50 per year	\$50 per year
Village Preferential Permit - Hotels/Motels	\$50 per year	\$365 per year
Village Employer/Employee Permit (Resolution No. 3733)	\$50 per year	\$50 per year
Morning Village Parking Permit (Resolution No. 3715)	\$50 per year	\$55 per year
Carrying a Concealed Weapon (CCW) Permit - City Application	115	\$115
Concealed Weapon Permits (set by state)		
Application		
Standard	set by state	set by state
Judicial	set by state	set by state
Employment	set by state	set by state
Renewal		
Standard	set by state	set by state
Judicial	set by state	set by state
Employment	set by state	set by state
Firearm Surrender Fees (set by state law)		
1-5 guns	set by state	set by state
6+guns	set by state	set by state
Vehicle Storage per day	\$30	\$30
Administrative fee to release Impounded / Stored Vehicle	\$145	\$145
Surf School Permit Fee	\$594	\$594
Animal Services Fees		
See Exhibit B "Animal Services Fees"		

Description	2023/24 Adopted Fee Schedule
PUBLIC WORKS DEPARTMENT FEES	
Encroachment Permits	
Revocable Encroachment Permit - Outdoor Dining	\$230
Non-Construction Items (includes materials storage within right-of-way road and sidewalk closures)	\$75
Village Sidewalk Encroachment Permit	\$44
Village Parking Space Encroachment Permit (annually)	\$3,400
Construction Items	
Level A	\$227
Level B	\$503
Level C	\$1,004
Level D	\$1,633
Level E	\$2,263
Residential Blue Curb Application Fee	\$237
Residential Blue Curb Annual Fee	\$60
Blanket Permits (repair and maintenance of existing facilities)	\$2,513
Private Improvement Permits/Encroachment Agreement	
Applications for Minor Permits	\$251
Applications for Major Permits	\$629
New Memorial Bench	\$1,137
Replacement Memorial Bench	\$554
Memorial Plaque	\$854
Replacement Plaque	\$277
Memorial Plaque (tree)	\$545 + Cost of Tree
Memorial Picnic Table	\$1,822
Seasonal Boat Storage Permits	
Seasonal Permit	\$400 per month
Short Term Permit	\$15 per day
Stormwater Development Review Fee	
Stormwater Plan Review Fee	\$124
Large Project Plan Review Deposit	
Tier 2	\$3,771
Tier 3 & 4	\$5,028
Research Fee - 1/2 hour minimum charge	Cost
Information Technology Fee (Resolution No. 3796 adopted 11/12/09)	5% of Permit Fee
Final Map	Cost; \$3,000 min. deposit

2023/24 Proposed Fee Schedule
\$230
\$75
\$44
\$3,400
\$227
\$503
\$1,004
\$1,633
\$2,263
\$237
\$60
\$2,513
\$251
\$629
\$1,137
\$554
\$854
\$277
\$545 + Cost of Tree
\$1,822
\$400 per month
\$15 per day
\$124
\$3,771
\$5,028
Cost
5% of Permit Fee
Cost; \$3,000 min. deposit

Description	2023/24 Adopted Fee Schedule	2023/24 Proposed Fee Schedule
PLANNING FEES		
Administration/Documents		
Continuance Request - Applicant (2+)	\$185	\$185
Staff Billing Rate	Cost	Cost
Appeals-by Applicant	Cost	Cost
Appeals- by City Officials	\$0	\$0
Appeals- by Other	\$594	\$594
Coastal Development Permit Appeal	\$0	\$0
Appeals -Building/Zoning Code Violations	\$594	\$594
Records Search/Research/Special Report	Cost	Cost
Administrative Permits		
Tree Removal- Staff-Review	\$150	\$150
Tree Removal -- 3 or more trees on a property	\$323	\$323
Tree Installation Deposit (Refundable)	\$500 Deposit	\$500 Deposit
Tree replacement in-lieu fee (if available)	\$600 per tree	\$600 per tree
Tree removal w/ PC approval	\$1,000 deposit	\$1,000 deposit
Commercial Sidewalk/Parking Lot Sale Permit	\$89	\$89
Tenant Use Permit (MCUP)--Staff approval	\$90	\$90
Transient Rental Occupancy Use Permit	\$629	\$629
Home Occupation Use Permit	\$189	\$189
Fence Permit- Staff approval	\$50	\$50
Fence Permit- PC approval	\$943	\$943
Sidewalk vendor permit	\$138	\$138
Sidewalk vendor annual refuse fee	\$555	\$555
Temporary Sidewalk Dining	\$90	\$90
Temporary Use Administrative Permit	\$90	\$90
Sign Permits		
Temporary Signs and Banner Permits	\$45	\$45
Signs-permit - Staff Review	\$151	\$151
Signs- permit - PC Review	\$629	\$629
Master Sign Program	Cost; \$3,000 min deposit	Cost; \$3,000 min deposit
Village Sidewalk Sign Permit	\$77	\$77
Design Permits		
Residential-Single Family/Minor Design Permit - Staff Review	\$919	\$919
Residential-Single Family - PC Review	\$3,143	\$3,143
Residential Multi-Family - PC Review	\$4,398	\$4,398
Commercial - PC Review	\$4,000 Deposit	\$4,000 Deposit
Secondary Dwelling Unit- Staff Review	\$629	\$629
Secondary Dwelling Unit- PC Review	\$1,887	\$1,887
Residential Multi-Family/Minor Design Permit - Staff Review	\$2,000 deposit	\$2,000 deposit
Commercial Minor Design Permit	\$2,000 deposit	\$2,000 deposit
Historic In-Kind Replacement Design Permit	\$500 deposit	\$500 deposit
Outdoor Dining - Custom Deck	\$1,000 deposit	\$1,000 deposit
Use Permits		
Master Conditional Use Permit	Cost; \$3,500 min. deposit	Cost; \$3,500 min. deposit
Conditional Use Permit/Minor Use Permit - Staff Review	\$1,854	\$1,854
Conditional Use Permit - PC approval	Cost; \$3,000 min. deposit	Cost; \$3,000 min. deposit
Temporary Use Permit	\$94	\$94
Subdivisions		
Certificate of Compliance & Lot Merger	\$629	\$629
Boundary Line Adjustment	\$1,004	\$1,004
Tentative Parcel Map	Cost; \$2,000 min. deposit	Cost; \$2,000 min. deposit
Tentative Map	Cost; \$5,000 min. deposit	Cost; \$5,000 min. deposit
Revised Map	\$2,000 Deposit	\$2,000 Deposit
Time Extension	\$2,000 Deposit	\$2,000 Deposit
Subdivision Modification	\$2,000 Deposit	\$2,000 Deposit

Description	2023/24 Adopted Fee Schedule
Plan Amendments	
General Plan Amendment	Cost; \$5,000 min. deposit
Local Coastal Plan Amendment	Cost; \$5,000 min. deposit
Rezone	Cost; \$5,000 min. deposit
Planned Development Rezone	Cost; \$3,500 min. deposit
Other Discretionary Permits	
Variance	\$1,887
PC review of minor modifications	\$1,696
Coastal Development Permit	\$943
Coastal Permit Exclusion	\$106
Mobile home Park Change of Use or Closure	\$5,000 Deposit
Development Agreement	\$10,000 min. deposit
Developer agreement annual review	\$2,500 deposit
Specific Plan	Cost; \$5,000 min. deposit
Permit Time Extension -Staff Review	\$629
Permit Time Extension - PC Review	\$1,887
Permit Amendment (any permit)	50% of original cost
Annexation	Costs+ overhead / \$3,000 min. deposit
Minor Modification	\$1,887
Environmental Review	
Negative Declaration (and Mitigated ND)	Cost; \$2,000 min deposit
EIR Processing	Cost; + 21% of consultant; \$10,000 min deposit
Mitigation/Condition Monitoring Program	Cost + 21%
NEPA Compliance	Cost + 21%
Other Permits/Fees	
Conceptual Review Fee- PC	\$1,887
Conceptual Review Fee- PC and CC	\$2,828
Technical Study Preparation and Review	Cost + 21%
NOTE: Third party review costs to be required as necessary	Cost + 21%
Code Compliance	Double Application Fees
Code Compliance confiscated property recovery fee	\$298
Research Fee - 1/2 hour minimum charge	Cost
Pre-Application Review	\$264
Building Plan Check & Final Inspection	20% of Building Permit Fee
Major Development Project Fee	Cost; \$5,000 min. deposit
Historical significance determination	\$4,250 deposit
Inclusionary Housing	
Inclusionary Housing - Unit Sale	\$629
Inclusionary Housing - Unit Refinance	\$252
Single Family Residence	\$2.50 per square foot
Other Fees and Assessments	
General Plan Maintenance Fee	Total Building Valuation X 0.5%
Information Technology Fee (Resolution No. 3786 adopted 11/12/09)	5% of Permit Fee
Green Building Educational Resource Fund Fee (Municipal Code 17.10.080)	Fee equals .0025 times the overall building permit valuation of the project.
Affordable Housing In-Lieu Fees	
For Sale Housing Developments of two to six units (Municipal Code Chapter 18.02) :	
All Units	\$25 per sq. ft.
For Sale Housing Developments of Seven or more units	
#Units	#Units Built
7	1
8-13	1
14	2
15-20	2
21	3
22-27	3
28	4
Rental Multi-Family	\$6 per sq. ft.
Affordable Housing Impact Fees	
For Sale Housing Developments of Six or Less Units	\$25 per square foot
Rental Multi-Family	\$6 per square foot
Additional to Housing Units of 50% or more (charged to additional square footage only)	\$2.50 per square foot

2023/24 Proposed Fee Schedule
Cost; \$5,000 min. deposit
Cost; \$5,000 min. deposit
Cost; \$5,000 min. deposit
Cost; \$3,500 min. deposit
\$1,887
\$1,696
\$943
\$106
\$5,000 Deposit
\$10,000 min. deposit
\$2,500 deposit
Cost; \$5,000 min. deposit
\$629
\$1,887
50% of original cost
Costs+ overhead / \$3,000 min. deposit
\$1,887
Cost; \$2,000 min deposit
Cost; + 21% of consultant; \$10,000 min deposit
Cost + 21%
Cost + 21%
\$1,887
\$2,828
Cost + 21%
Cost + 21%
Double Application Fees
\$298
Cost
\$264
20% of Building Permit Fee
Cost; \$5,000 min. deposit
\$4,250 deposit
\$629
\$252
\$2.50 per square foot
Total Building Valuation X 0.5%
5% of Permit Fee
Fee equals .0025 times the overall building permit valuation of the project.
\$25 per sq. ft.
Total # units minus 7 @ \$25 per avg. sq. ft. per unit
\$0
Total # units minus 14 @ \$25 per avg. sq. ft. per unit
\$0
Total # units minus 21 @ \$25 per avg. sq. ft. per unit
\$0
\$6 per sq. ft.
\$25 per square foot
\$6 per square foot
\$2.50 per square foot

NOTES:

- All Fees are non-refundable.
- Deposit accounts are billed on a time and material basis. Additional deposits may be necessary depending on the complexity of the project. Any unused monies in a deposit account will be refunded following case closure.
- The Community Development Director may reduce the total fee/deposit requirements for applications which are unlikely to require the full deposit amounts established herein.
- Applications which include a fee and a deposit payment will be processed with a single deposit account.
- Outside agency fees, including but not limited to County recordation fees, State Fish and Wildlife fees, etc. are charged at cost.
- The Community Development Director may establish a reasonable fee or deposit amount for permit

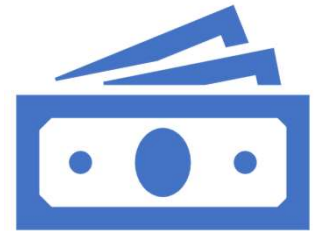
Description	2023/24 Adopted Fee Schedule
BUILDING FEES	
The cost of a "combination building permit" shall be 1.5 times the amounts shown in Table 1-A. A "combination building permit" is defined as a permit for a scope of construction work regulated by two or more of the model codes. The model codes are the building code, the plumbing code, the mechanical code and the electrical code.	
The cost of a "building permit" shall be the amounts shown in Table 1-A. A "building permit" is defined as a permit for a scope of construction work regulated solely by a single model code. The model codes are the building code, the plumbing code, the mechanical code and the electrical code.	
TABLE 1-A	
Total Valuation	FEES
\$1.00 to \$500.00	\$29.55
\$501.00 to \$2,000.00	\$29.55 for the first \$500.00 plus \$3.83 for each additional \$100.00 or fraction thereof.
\$2,001.00 to \$25,000.00	\$87.00 for the first \$2,000.00 plus \$17.59 for each additional \$1000.00 or fraction thereof.
\$25,001.00 to \$50,000.00	\$491.57 for the first \$25,000.00 plus \$12.69 for each additional \$1,000.00 or fraction thereof.
\$50,001.00 to \$100,000.00	\$808.82 for the first \$50,000.00 plus \$8.81 for each additional \$1,000.00 or fraction thereof.
\$100,001.00 to \$500,000.00	\$1,249.32 for the first \$100,000.00 plus \$7.05 for each additional \$1,000.00 or fraction thereof.
\$500,001.00 to \$1,000,000.00	\$4,069.32 for the first \$500,000.00 plus \$5.97 for each additional \$1,000.00 or fraction thereof.
\$1,000,001.00 and up	\$7,054.32 for the first \$1,000,000.00 plus \$3.23 for each additional \$1,000.00 or fraction thereof.
Building Plan Check Fee	65% of Building Permit Fee
Reinspection Fee	\$0
Resubmitted Plan Check Fee	\$122.30 / hr.
Building Permit Extension Fee	\$0
Building Permit Reinstatement Fee	50% of the original, singular building permit fee or combo building permit fee, whichever is applicable to the permit being reinstated
Stop Work Order Fee	2x the singular building permit fee
Greywater System Permit	\$0
Electric Vehicle Charging Permits (* Note: These fees were added to the fee schedule for FY2011-12, but will be waived per the Green Energy Incentive Program)	
a. Level I (120 volts)	\$0
b. Level II (208-240 volts)	\$0
c. Level III (480 volts)	\$0
Solar P.V. System	\$0
Solar P.V. System (Commercial Sale/Distribution)	\$0
Solar Hot Water Heater	\$0
Research Fee - 1/2 hour minimum charge	Cost
Information Technology Fee (Resolution No. 3786 adopted 11/12/09)	5% of Permit Fee
Temporary Trailer/Mobile Home Occupancy Permit	\$0
Structural Review of Engineered Plans	cost + 21%
Outside Consultant Plan Review	cost + 21%

2023/24 Proposed Fee Schedule
FEES
\$29.55
\$29.55 for the first \$500.00 plus \$3.83 for each additional \$100.00 or fraction thereof.
\$87.00 for the first \$2,000.00 plus \$17.59 for each additional \$1000.00 or fraction thereof.
\$491.57 for the first \$25,000.00 plus \$12.69 for each additional \$1,000.00 or fraction thereof.
\$808.82 for the first \$50,000.00 plus \$8.81 for each additional \$1,000.00 or fraction thereof.
\$1,249.32 for the first \$100,000.00 plus \$7.05 for each additional \$1,000.00 or fraction thereof.
\$4,069.32 for the first \$500,000.00 plus \$5.97 for each additional \$1,000.00 or fraction thereof.
\$7,054.32 for the first \$1,000,000.00 plus \$3.23 for each additional \$1,000.00 or fraction thereof.
65% of Building Permit Fee
\$0
\$122.30 / hr.
\$0
50% of the original, singular building permit fee or combo building permit fee, whichever is applicable to the permit being reinstated
2x the singular building permit fee
\$0
\$0
\$0
\$0
\$0
\$0
Cost
5% of Permit Fee
\$0
cost + 21%
cost + 21%

Description	2023/24 Adopted Fee Schedule
Grading Plan Review Fees	
50 cubic yard or less	\$ -
51 to 100 cubic yard	\$ -
101 to 1,000 cubic yards	\$ -
1,001 to 10,000 cubic yards	\$ -
10,001 to 100,000 cubic yards	\$60.36 for first 10,000 plus \$30.81 for each additional 10,000 cubic yards
100,001 to 200,000 cubic yards	\$337.69 for first 100,000 plus \$16.65 for each additional 10,000 cubic yards
200,001 cubic yards or more	\$487.57 for first 200,000 plus \$9.12 for each additional 10,000 cubic yards
Grading Permit Fees	
50 cubic yard or less	\$ -
51 to 100 cubic yard	\$ -
101 to 1,000 cubic yards	\$46.51 for first 100 plus \$22.01 for each additional 100 cubic yards
1,001 to 10,000 cubic yards	\$244.60 for first 1,000 plus \$18.23 for each additional 1,000 cubic yards
10,001 to 100,000 cubic yards	\$408.67 for first 10,000 plus \$82.97 for each additional 10,000 cubic yards
100,001 to 200,000 cubic yards	\$1,155.40 for first 100,000 plus \$45.88 for each additional 10,000 cubic yards

2023/24 Proposed Fee Schedule
\$ -
\$ -
\$ -
\$ -
\$60.36 for first 10,000 plus \$30.81 for each additional 10,000 cubic yards
\$337.69 for first 100,000 plus \$16.65 for each additional 10,000 cubic yards
\$487.57 for first 200,000 plus \$9.12 for each additional 10,000 cubic yards
\$ -
\$ -
\$46.51 for first 100 plus \$22.01 for each additional 100 cubic yards
\$244.60 for first 1,000 plus \$18.23 for each additional 1,000 cubic yards
\$408.67 for first 10,000 plus \$82.97 for each additional 10,000 cubic yards
\$1,155.40 for first 100,000 plus \$45.88 for each additional 10,000 cubic yards

Fiscal Year 2023-24 Amended Fee Schedule



October 26, 2023

Background

- Annual review of the fee schedule as part of the budget process
 - FY 2023-24 Fee Schedule adopted June 22, 2023
- At the time of adoption not all information regarding parking rates was available
 - Received final certification from the Coastal Commission following adoption of fee schedule
- An amendment to the fee schedule is necessary to implement remaining Temporary Village Parking Committee recommendations



Proposed Fee Amendments

- Parking Permit Program:
- Transferable permits – Hotels / Motels
 - Increase from \$50/year to \$365/year
- Surf & Coffee Permits
 - Increase from \$50/year to \$55/year
 - Increase number of permits from 75 to 100

Recommended Action

- Adopt the proposed resolution amending the fee schedule for Fiscal Year 2023-24

Capitola City Council

Agenda Report



Meeting: November 9, 2023

From: City Manager's Department

Subject: Amendments to Title 2: Administration and Personnel

Recommended Action: Introduce, by title only, waiving further reading of the text, an ordinance of the City of Capitola amending Chapters 2.04 and 2.08 of the Capitola Municipal Code. (***Continued from October 26, 2023***)

Background: The Capitola Municipal Code is comprised of eighteen titles, and each title contains chapters. Title 2: Administration and Personnel is composed of sixteen chapters focused on the governance of the City administration. Within Title 2, language can be found concerning the powers and duties of the City Council and City Manager.

Administrative Policy I-15: Agenda Preparation was originally adopted in 2003 and was most recently revised in 2016. This policy establishes a uniform procedure for the preparation of City Council agendas. The policy includes language outlining the City Council agenda format, and directions concerning how City staff may submit agenda items for approval. This policy falls within the City Manager's jurisdiction.

The regular review of municipal codes and administrative policies is recommended as a best practice. Regular reviews can identify outdated or ineffective provisions and allow the municipal code to remain up-to-date. Staff has identified sections of Title 2 that require revision, and recommends consolidating key language from Administrative Policy I-15 into the Municipal Code to clarify procedure in a central and easily accessible location.

Discussion: Staff conducted a review of the entirety of Title 2: Administration and Personnel. Below is a summary of edits recommended by staff.

- **Chapter 2.04 Section 4: City Council:** Staff updated language throughout this Chapter to reflect the change from Mayor Pro Tempore to Vice Mayor, updated adjournment time to reflect current practice, and added a new section to outline ways that the public can participate during meetings (consistent with current practice). Staff removed language regarding the appointment of Standby City Council Members; this practice hasn't been followed and may not be consistent with the City's goals of transparency and community involvement.
- **Chapter 2.04 Section 7: City Attorney:** Updated to reflect current powers and duties.
- **Chapter 2.04 Section 9: Public Works:** Updated language regarding the appointment of the Public Works Director. This section has not been updated since 1974.
- **Chapter 2.04 Section 11: Director of Finance:** Updated to remove Redevelopment Agency (RDA) from annual financial reports, as the RDA was dissolved in 2022.
- **Chapter 2.08: City Manager:** Updated bond requirements to align with Chapter 2.04.080, removed dissolved commission names from 2.08.230.

The recommended changes to the Municipal Code will replace Administrative Policy I-15: Agenda Preparation. Following adoption of the proposed ordinance, Administrative Policy I-15: Agenda Preparation will be administratively repealed.

Fiscal Impact: There is no fiscal impact associated with this ordinance.

Attachments:

1. Ordinance
2. Title 2: Administration and Personnel
3. Administrative Policy I-15: Agenda Preparation

Report Prepared By: Julia Gautho, City Clerk

Reviewed By: Samantha Zutler, City Attorney

Approved By: Jamie Goldstein, City Manager

ORDINANCE NO. XXXX**AN ORDINANCE OF THE CITY OF CAPITOLA AMENDING CHAPTER 2.04, ADMINISTRATION, AND CHAPTER 2.08, CITY MANAGER, OF THE CITY OF CAPITOLA MUNICIPAL CODE REGARDING ADMINISTRATION AND PERSONNEL**

WHEREAS, regular review of municipal codes is recommended as a best practice and can identify outdated or ineffective provisions; and

WHEREAS, staff conducted a review of Title 2, Administration and Personnel, and found areas they recommended to update; and

WHEREAS, the City of Capitola has an interest in ensuring that the municipal code remains up-to-date and understandable for members of the public, staff, and the City Council; and

WHEREAS, the City Council desires to implement changes to the language in Chapters 2.04 and 2.08.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF CAPITOLA DOES ORDAIN AS FOLLOWS:

Section 1. The above findings are adopted and incorporated herein.

Section 2. Title 2: Administration and Personnel is amended as shown in Exhibit A.

Section 3. Effective Date.

This Ordinance shall be in full force and effect thirty (30) days from its passage and adoption.

Section 4. Severability.

The City Council hereby declares every section, paragraph, sentence, cause, and phrase of this ordinance is severable. If any section, paragraph, sentence, clause, or phrase of this ordinance is for any reason found to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses, or phrases.

Section 5. Certification.

The City Clerk shall cause this ordinance to be posted and/or published in the manner required by law.

This Ordinance was introduced at the meeting of the City Council on the 26th day of October, 2023, and was adopted at a regular meeting of the City Council on the 9th day of November, 2023, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Margaux Keiser, Mayor

Attest: _____
Julia Gautho, City Clerk

Approved as to form:

Samantha W. Zutler, City Attorney

Exhibit A

Title 2

ADMINISTRATION AND PERSONNEL

Chapters:

- 2.04 Administration (Amended)**
- 2.08 City Manager (Amended)**
- 2.12 Planning Commission**
- 2.16 Planning Department**
- 2.18 Mobile Home Park Rent Stabilization**
- 2.20 Health Officer**
- 2.24 Conflict of Interest**
- 2.28 Public Museum**
- 2.32 Peace Officer Training**
- 2.40 Unclaimed Property**
- 2.44 Personnel System**
- 2.48 Retirement System**
- 2.52 Appeals to City Council**
- 2.56 Art and Cultural Commission**
- 2.58 Funding The Public Art Program**
- 2.60 Military Equipment Use**

Chapter 2.04

ADMINISTRATION

Sections:

I. Organization

- 2.04.010 Categories.
- 2.04.015 Term limits for elected officials.
- 2.04.020 Powers and duties of department heads.

II. City Boards and Commissions Policies

- 2.04.030 Authority to establish.
- 2.04.040 City council referrals.
- 2.04.060 City personnel use.
- 2.04.070 *Repealed.*

III. Bonds

- 2.04.080 Bonds.
- 2.04.090 *Repealed.*
- 2.04.100 *Repealed.*

IV. City Council

- 2.04.110 Regular meetings.
- 2.04.120 Special meetings.
- 2.04.130 Council chambers.
- 2.04.140 Agenda.
- 2.04.150 Selection of the mayor (presiding officer).
- 2.04.160 ~~Mayor pro tempore~~ Vice mayor.
- 2.04.165 Appointment of standby city council members.
- 2.04.170 Conduct of meeting.
- 2.04.180 Quorum/action.
- 2.04.190 Order of business.
- 2.04.200 Reading of minutes.
- 2.04.210 Rules of debate.
- 2.04.220 Addressing council – Permission required.
- 2.04.230 Addressing council – After motion made.
- 2.04.240 Addressing council – Manner.
- 2.04.250 Voting.
- 2.04.260 Adjournment – Time and date continued.
- 2.04.270 Adjournment – When in order.
- 2.04.275 City council member salary.
- 2.04.280 Administrative procedures.
- 2.04.285 *Repealed.*

V. City Manager

- 2.04.290 Office established.
- 2.04.300 Powers and duties.

VI. City Clerk

- 2.04.310 Office created.

2.04.320 Powers and duties.

VII. City Attorney

2.04.330 Office created.

2.04.340 Powers and duties.

VIII. City Treasurer

2.04.350 Office created.

2.04.360 Powers and duties.

2.04.365 Appointment.

IX. Department of Public Works

2.04.370 Created.

2.04.380 Director – Appointment.

2.04.390 Director – Powers and duties.

X. Department of Police

2.04.450 Created.

2.04.460 Chief – Appointment.

XI. Director of Finance

2.04.600 Powers and duties.

I. Organization

2.04.010 Categories.

The governmental forces of the city shall be organized into the following categories:

A. Elective. The elective offices of the city of Capitola are the city council members.

B. The city treasurer and such city boards and commissions as are established by city council ordinance or resolution. Such boards and commissions shall have the powers and duties expressly set forth in the enabling ordinance or resolution and shall also advise the city council on matters related to the explicit function of the board or commission.

C. City Manager and City Departments. Capitola shall be administered as a city manager form of government. It shall have such administrative departments as are set forth in this chapter and as are hereafter created by ordinance or resolution. Unless a power or duty is explicitly vested in an identified city employee, all city employees are expected to function in accordance with the instruction of their department heads, and department heads are expected to function in accordance with the instructions they receive from the city manager. (Ord. 1025 § 1 (part), 2018; Ord. 830 § 1, 2001; Ord. 375 § 1, 1974)

2.04.015 Term limits for elected officials.

City council members shall serve a maximum of two elected terms consecutively. Upon completion of a second consecutive elected term, the term-limited city council member shall be eligible to seek reelection to the city council for a term commencing no earlier than two years after the second consecutive term has been completed. Nothing herein shall be construed to limit the city council's discretion to appoint an individual to fill a city council seat which has been vacated due to resignation, death, disqualification or other cause. (Ord. 1025 § 1 (part), 2018; Ord. 844 § 1, 2002)

2.04.020 Powers and duties of department heads.

The heads of the various departments established by this chapter shall have the following general powers, duties and responsibilities:

- A. To organize the department into the divisions established by this chapter in such a manner as to efficiently perform the functional responsibilities allocated. For this purpose, the department head may create such sections and subunits within such division as deemed necessary;
- B. To make recommendations regarding recruiting, disciplining and discharging of departmental personnel in accordance with any personnel rules and regulations of the city;
- C. To efficiently utilize available manpower;
- D. To keep correct attendance records on each employee for payroll purposes, and to submit such other information as required for the proper maintenance of individual personnel records, including leaves of absence, job efficiency and personal conduct;
- E. To administer the departmental budget and permit no purchase requisitions to be issued, or other expense incurred, unless an appropriation therefor has been duly authorized;
- F. Department heads shall attend meetings of the council when required;
- G. Department heads shall attend meetings of their respective boards and commissions. They shall serve as secretary and keep records of such commissions when so requested;
- H. Department heads shall carry on an active public relations program for their respective services, including the publication of educational reports and brochures, the promotion of authorized objectives, and the making of public addresses when the occasion so requires;
- I. Department heads shall recommend and administer internal rules and regulations for the proper conduct of personnel and the efficient handling of the department's duties and functions;
- J. They shall discharge such other duties as may be assigned by the city manager or required by the ordinances, resolutions or official orders of the city council. (Ord. 830 § 1, 2001; Ord. 375 (part), 1974)

II. City Boards and Commissions Policies

2.04.030 Authority to establish.

The council may establish appropriate boards, commissions and committees by ordinance, resolution or minute order. (Ord. 830 § 1, 2001)

2.04.040 City council referrals.

The city council may refer an item to a board, commission, or advisory body by motion, passed by a simple majority, at a noticed public meeting. (Ord. 1038 § 3, 2020)

2.04.060 City personnel use.

The various boards and commissions may utilize the services of the appropriate city departmental personnel in carrying out their respective functions subject to the administrative control of the city manager. (Ord. 375 (part), 1974)

2.04.070 Policy adoption.

Repealed by Ord. 1038. (Ord. 375 (part), 1974)

III. Bonds

2.04.080 Bonds.

The bonding requirements of Government Code Section 36518 shall be fulfilled by a government crime insurance policy. (Ord. 1038 § 1 (part), 2020; Ord. 830 § 1, 2001; Ord. 375 (part), 1974)

2.04.090 Blanket bond.

Repealed by Ord. 1038. (Ord. 375 (part), 1974)

2.04.100 Terms.

Repealed by Ord. 1038. (Ord. 375 (part), 1974)

IV. City Council

2.04.110 Regular meetings.

A. Time. Regular meetings of the city council generally shall be held on the second and fourth Thursday of each month. Any other regular meetings may be in accordance with Government Code Sections 54954 and 54955. Each year, the city council will adopt the regular meeting calendar dates and times by resolution.

B. Place. All regular meetings of the council shall be convened in the council chambers in the City Hall, 420 Capitola Avenue, Capitola, California. If, by reason of a natural disaster, emergency, or other event that makes it unsafe to meet in the place designated, the meetings may be held for the duration of the event at such place as is designated by the presiding officer of the council.

C. Public. Meetings of the council shall be open as required by the Brown Act (Government Code Sections 54950, et seq.), or other applicable law. (Ord. 1038 § 1 (part), 2020; Ord. 920 § 1, 2007; Ord. 830 § 1, 2001; Ord. 456, 1979; Ord. 375 (part), 1974)

2.04.120 Special meetings.

Special meetings of the city council shall be held under the conditions and in the manner set forth in the Brown Act. (Ord. 830 § 1, 2001; Ord. 375 (part), 1974)

2.04.130 Council chambers.

The room designated as the city council chambers at 420 Capitola Avenue in the city, is fixed as the place of regular and special meetings of the city council, and such council chambers and the adjacent offices and rooms used and occupied by the city clerk and administrative officers of the city, shall henceforth be known and designated as the city hall of the city. (Ord. 375 (part), 1974)

2.04.140 Agenda.

The following have authority to place a matter on the council agenda:

A. The mayor or any member of the city council with the condition that the proposed agenda item be requested at an open city council meeting;

B. The city manager;

C. The city council may, after the seventy-two-hour agenda-posting deadline has expired, add items to the agenda in the manner provided in Government Code Section 54954.2(b);

D. *Repealed by Ord. 1038.*

E. The city treasurer, city clerk, or city attorney, provided the subject is reasonably related to their powers and duties and concerns a subject upon which the council has authority to act.

Other persons must direct their agenda requests to the city council (at council meetings), the mayor, or the city manager. Agendas shall otherwise be prepared under the direction of the city manager and shall be posted, noticed and distributed in accordance with the Brown Act. For purposes of Government Code Section 54954.2(a), agendas shall be posted in the entrance area to the city council chambers. (Ord. 1038 § 1 (part), 2020; Ord. 999 § 1, 2015; Ord. 919 § 1, 2007; Ord. 830 § 1, 2001; Ord. 375 (part), 1974)

2.04.150 Selection of the mayor (presiding officer).

A. Each year the city council shall select a mayor and vice mayor ~~pro-tempore~~. During years with a general election, such selection shall be made at the meeting at which the declaration of the election results for a general municipal election is made. During years without a general election, such selection shall be made approximately one year after the prior selection.

B. The mayor, or ~~mayor pro tempore~~ vice mayor, may be replaced if at least three council members vote for the removal of the mayor, or ~~mayor pro tempore~~ vice mayor, at a noticed city council meeting. (Ord. 1038 § 1 (part), 2020; Ord. 768, 1994; Ord. 375 (part), 1974)

2.04.160 Vice Mayor pro tempore.

In case of the temporary absence or inability of the mayor to act as presiding officer the vice mayor pro tempore shall preside. In case of the absence or disability of both the mayor and vice mayor pro tempore the council shall elect one of its members to act as vice mayor pro tempore. Upon the arrival of the mayor, the vice mayor pro tempore shall relinquish the chair upon the conclusion of the business immediately before the council. (Ord. 375 (part), 1974)

2.04.165 Appointment of standby city council members. (Repealed)

~~Government Code Sections 8635 and following provide that the city council shall have the authority to appoint up to three standby city council members per council position. Such standby members would serve as city council persons in the event that a council member is "unavailable" in an "emergency" as those words are defined in the California Emergency Services Act. Each council member may nominate from one to three persons to serve as his or her standby members. In making that nomination, the council member shall follow the criteria of Government Code Section 8639 which reads as follows:~~

~~Consideration shall be given to places of residence and work, so that for each office for which standby officers are appointed there shall be the greatest probability of survivorship. Standby officers may be residents or officers of a political subdivision other than that to which they are appointed as standby officers.~~

~~The duties of such standby council members shall be as set forth in Government Code Section 8641. To become effective the nomination must be approved by the city council, and the nominee must take the oath of office. Terms of office and method of removal shall be as provided in Government Code Section 8640. (Ord. 782, 1995) Repealed.~~

2.04.170 Conduct of meeting.

The mayor, or in his or her absence, the vice mayor pro tempore, shall take the chair at precisely the hour appointed for the meeting and shall immediately call the council to order. The mayor or ~~mayor pro tempore~~ vice mayor shall preserve strict decorum at all regular and special meetings of the council. He or she shall state every question coming before the council, call for the vote, announce the decision of the council on all subjects and decide all questions of order, subject, however, to an appeal to the council, in which a majority vote of the council shall govern and conclusively determine such question of order. (Ord. 375 (part), 1974)

2.04.180 Quorum/action.

A majority of the entire membership of the council shall constitute a quorum to do business. A majority of that quorum may act on matters before the council, unless a city ordinance or state law requires a greater number. When less than the full council is present and there is a tie vote, the chair, unless overridden by a majority of present council members, may continue the matter to another meeting. When there is a tie council vote on an appeal from a board or commission action, unless the matter is continued, the appeal will be deemed denied and the board or commission action becomes final. (Ord. 830 § 1, 2001; Ord. 375 (part), 1974)

2.04.190 Order of business.

The chair, ~~subject to the concurrence of the council~~, may vary the sequence of business from that shown on the posted agenda. (Ord. 830 § 1, 2001; Ord. 375 (part), 1974)

2.04.200 Reading of minutes.

Unless the reading of the minutes of a council meeting is requested by a member of the council, such minutes may be approved without reading if the clerk has previously furnished each member with a copy thereof. (Ord. 375 (part), 1974)

2.04.210 Rules of debate.

A. Presiding Officer May Debate. The mayor or ~~mayor pro tempore~~ vice mayor may debate from the chair, subject only to such limitations of debate as are imposed upon all members by the rules set forth in this section.

B. Getting the Floor. Every member desiring to speak shall address the chair, and upon recognition by the presiding officer, shall confine himself or herself to the question under debate, avoiding all personalities and indecorous language.

C. Interruptions. A member, once recognized, shall not be interrupted when speaking unless it is to call him or her to order. If a member, while speaking, is called to order, he or she shall cease speaking until the question of order is determined and, if in order, he or she shall be permitted to proceed.

D. Privilege of Closing Debate. The councilmember moving the adoption of an ordinance or resolution shall have the privilege of closing the debate.

E. Remarks of Councilmember. A councilmember may request, through the presiding officer, the privilege of having an abstract of his or her statement on any subject under consideration by the council entered in the minutes. If the council consents thereto, such statement shall be entered; provided, however, any council member without council consent shall have the right to have the reasons for his or her dissent from, or protest against, any action of the council entering in the minutes.

F. Synopsis of Debate. The city clerk may be directed by the presiding officer, with consent of the council, to enter in the minutes a synopsis of the discussion on any question coming regularly before the council.

G. Rules of Order. Except as otherwise provided in this chapter, the rules of order that govern the conduct of the meetings of the city council and other city advisory bodies shall be those rules of order designated by city council resolution. (Ord. 914 § 1, 2007; Ord. 375 (part), 1974)

2.04.220 Addressing council – Permission required.

Any person desiring to address the council at a meeting shall first secure the permission of the presiding officer to do so; provided, however, that under the heading oral communications, after being recognized by the presiding officer, interested parties or their authorized representatives may address the council on matters concerning their interests. (Ord. 1038 § 1 (part), 2020; Ord. 375 (part), 1974)

2.04.230 Addressing council – After motion made.

After a motion is duly made and seconded by the council, no person other than a member of the council shall address the council without first securing the permission of a majority of the council to do so. This address, upon the subject to be voted upon, may not exceed three minutes duration and no person may speak more than once at this time. (Ord. 375 (part), 1974)

2.04.240 Addressing council – Manner.

Each person addressing the council shall be requested to give his or her name and address in an audible tone of voice for the records. All remarks shall be addressed to the council as a body and not to any member thereof. No person, other than the council and person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the council, without permission of the presiding officer. No question shall be asked a councilmember or staff member, except through the presiding officer. (Ord. 830 § 1, 2001; Ord. 375 (part), 1974)

2.04.250 Voting.

No member of the council shall be allowed to explain his or her vote or discuss the question while the roll is being called, and no member shall be allowed to change his or her vote after the vote is announced by the presiding officer. (Ord. 375 (part), 1974)

2.04.260 Adjournment – Time and date continued.

The council may adjourn any regular, adjourned or special meeting to a time and place specified in the order for adjournment. Whenever an order for adjournment fails to state the hour at which the adjourned meeting is to be held, it shall be at seven-six p.m. on the day specified in the order for adjournment. All matters may be considered and passed upon at such adjourned meetings as could have been considered and passed upon at the meetings from which such adjournments were taken and shall be deemed to be a continuation of the meeting from which the adjournment was taken. (Ord. 830 § 1, 2001; Ord. 375 (part), 1974)

2.04.270 Adjournment – When in order.

A motion to adjourn, except during roll call, shall always be in order and decided without debate. When a motion is made and seconded to adjourn, it shall be in order for the presiding officer before putting the question, to permit any member to state any fact to the council relating to the condition of the business of the council which would seem to render it improper to adjourn at that time. Such statement shall not be debatable and shall not be of more than two minutes duration. (Ord. 375 (part), 1975)

2.04.275 City council member salary.

Pursuant to California Government Code Section 36516, commencing December 2022 the salary for city council members shall be six hundred and sixty dollars per month and may be adjusted in accordance with state law. Such salary shall be payable in the same manner as salaries are paid to other officers and employees of the city. (Ord. 1054 § 2, 2022; Ord. 1032 § 2, 2019; Ord. 901 § 2, 2006)

2.04.280 Administrative procedures.

A. The administrative procedures of the city shall be established through formal documents approved by the city manager.

B. In the absence of established administrative procedures, the appropriate department head may establish an interim procedure pending the formal action of the city manager on the subject provided that the procedure has been submitted to the city manager's office for later review.

C. In cases of conflict between such administrative procedure and: state law, federal law, council resolution, council ordinance or council policy adopted pursuant to Section 2.04.070, the latter shall supersede the administrative procedure. (Ord. 830 § 1, 2001; Ord. 375 (part), 1974)

2.04.285 Redevelopment agency.

Repealed by Ord. 1038. (Ord. 505 §§ 1 – 4, 1981)

2.04.290 Public Participation at Meetings.

The chair of the meeting may establish a uniform time limit for public comments.

- A. Comments on Non-Agendized Items: members of the public may address the City Council on any consent item, or on any topic within the subject matter jurisdiction of the City Council that is not on the general government or public hearing section of the agenda, during the oral communications portion of the agenda. Individuals may not speak more than once during oral communications. All speakers must address their comments to the City Council.
- B. Comments on Agendized Items: members of the public may address the city council on any general government or public hearing item during the public comment period on that particular item. Individuals may not speak more than once during the public comment period. All speakers must address their comments to the City Council.
- C. Removing an Item from Consent: Any Council Member may pull an item from the consent calendar by motion. Items pulled from the consent calendar will be considered following general government items.

V. City Manager

2.04.290 Office established.

The office of city manager is established by Chapter 2.08. (Ord. 375 (part), 1974)

2.04.300 Powers and duties.

The powers, duties and responsibilities of the city manager shall be set forth in Chapter 2.08. In addition to those responsibilities therein set forth it shall be his or her responsibility to cause to be prepared administrative manuals setting forth administrative rules, regulations and procedures necessary for the proper functioning of a coordination among all departments of city government. These administrative manuals shall be consistent with the provisions of the code and city ordinance. (Ord. 375 (part), 1974)

VI. City Clerk

2.04.310 Office created.

The office of city clerk is established pursuant to Government Code Sections 40800 through 40814 subject to the modifications set forth in Section 2.04.600. This office shall be under the direct control of the city clerk as to statutory duties but subject to the general administrative direction of the city manager. (Ord. 830 § 1, 2001; Ord. 375 (part), 1974)

2.04.320 Powers and duties.

The powers and duties of the city clerk shall be as set forth in applicable Government Code sections. (Ord. 375 (part), 1974)

2.04.330 Insurance and Claims.

Process all insurance matters and claims against the city.

VII. City Attorney

2.04.330 Office created.

The office of the city attorney is created pursuant to Government Code Sections 41800 through 41804. (Ord. 375 (part), 1974)

2.04.340 Powers and duties.

The powers and duties of the city attorney are set forth in Government Code Sections 41801 through 41804. In addition to those powers and duties therein set forth, the city attorney shall be responsible for and be required to:

A. Legislation. Keep the council and city manager informed as to all legislation affecting the city government;

~~B. Insurance and Claims. Process all insurance matters and claims against the city;~~

C. Meetings. Attend designated meetings of boards, commissions and special committees of the city government, and represent city departments and offices before state and local courts, boards or commissions when there is opposing counsel;

D. Proposed Legislation. Prepare and promote state and federal legislation proposed by the city;

E. Annexation Proceedings. Process all annexation proceedings;

F. Ordinance Summaries. For any ordinance, which is lengthy and which can be adequately summarized, the city attorney is empowered to prepare, as an alternative to publishing the full text of the proposed ordinance, a summary in the manner set forth in Government Code Section 36933. (Ord. 591, 1985; Ord. 375 (part), 1974)

VIII. City Treasurer

2.04.350 Office created.

The office of city treasurer is created pursuant to Government Code Sections 41001 through 41007. (Ord. 1028 § 1 (part), 2019; Ord. 375 (part), 1974)

2.04.360 Powers and duties.

The powers and duties of the city treasurer shall be as set forth in applicable Government Code sections. (Ord. 1028 § 1 (part), 2019; Ord. 375 (part), 1974)

2.04.365 Appointment.

The city manager shall nominate a city treasurer for consideration by the city council, which may appoint the nominee with a majority vote. (Ord. 1028 § 1 (part), 2019)

IX. Department of Public Works

2.04.370 Created.

The department of public works is created. (Ord. 375 (part), 1974)

2.04.380 Director – Appointment.

The director of public works shall be the head of the department of public works and shall be appointed by the city manager. ~~The city manager shall serve as director of public works until such time as the growth and expansion of city services demands an increase in staff and personnel in this office.~~ (Ord. 375 (part), 1974)

2.04.390 Director – Powers and duties.

In all cases where the duty is not expressly charged to any other department or office, it shall be the duty of the director of public works to act to secure and preserve the physical properties of the city and to direct and control all the functions assignable to this department. The director of public works shall:

- A. Public Works and Utilities. Supervise the construction, inspection maintenance and operation of the city's public works;
- B. Buildings and Installations. Direct and be responsible for the proper maintenance of city-owned buildings and installations which are not directly assigned to another department or office or which may be assigned by the city manager;
- C. Laws and Regulations. Enforce the laws, ordinances and regulations relating to work done in public streets, easements and rights-of way;
- D. Engineering Work. Perform or direct all phases of engineering work required in connection with the functions of the city;
- E. Contract Work. Approve for acceptance after proper inspection all contract work let by the city affecting streets, alleys;
- F. Other Duties. Perform such other duties as may be required by the city manager. (Ord. 357 (part), 1974)

X. Department of Police

2.04.450 Created.

The department of police is created. (Ord. 375 (part), 1974)

2.04.460 Chief – Appointment.

The police department shall be under the direct supervision of a chief of police who shall be appointed by the city manager. (Ord. 375 (part), 1974)

XI. Director of Finance

2.04.600 Powers and duties.

The power and duties of the director of finance are as follows:

- A. With respect to the city's accounting and necessarily related matters, the director of finance shall act within the official and professional rules of his or her profession and may not be directed to act contrary to those rules.
- B. The director of finance prepares, or supervises preparation of, the city ~~and redevelopment agency's~~ annual financial report(s); oversees annual independent audits; and interfaces with independent auditor(s).
- C. The director of finance conducts, directs and/or oversees all investigative and corrective accounting projects.
- D. As requested, the director of finance advises and consults with the city treasurer on accounting and financial matters relative to his or her office. The director of finance is not staff to the city treasurer, but works closely with and assists that office. The director of finance may serve as the city treasurer.

E. “Finance” and “financial” primarily refers to accounting, reporting and information management aspects of city/agency fiscal activities and procedures related to those activities. It does not include providing advice as to the social desirability of any proposed expenditure over another.

F. Pursuant to Government Code Section 37209, the director of finance shall have the powers and duties otherwise vested in the city clerk under the Government Code Sections 37203, 37205, 37207, 37208, 40802 and 40804. (Ord. 1028 § 1 (part), 2019; Ord. 830 § 1, 2001)

Chapter 2.08
CITY MANAGER

Sections:

- 2.08.010 Office created.
- 2.08.020 Residence.
- 2.08.030 Council member eligibility.
- 2.08.040 Bond.
- 2.08.050 Acting city manager.
- 2.08.060 Compensation.
- 2.08.065 Exemption from civil service.
- 2.08.070 Powers and duties.
- 2.08.080 Law enforcement.
- 2.08.090 Authority over employees.
- 2.08.100 Power of appointment and removal.
- 2.08.110 Administrative reorganization of officers.
- 2.08.120 Ordinances.
- 2.08.130 Attendance at council meetings.
- 2.08.140 Financial reports.
- 2.08.150 Budget.
- 2.08.160 Purchasing agent.
- 2.08.170 Investigations and complaints.
- 2.08.180 Public buildings.
- 2.08.190 Hours of employment.
- 2.08.200 Additional duties.
- 2.08.210 Internal relations with council.
- 2.08.220 Departmental cooperation.
- 2.08.230 Attendance at commission meetings.
- 2.08.240 At-will employment.

2.08.010 Office created.

The office of the city manager of the city is created and established. The city manager shall be appointed by the city council wholly on the basis of his or her administrative and executive ability and qualifications and shall hold office for and during the pleasure of the city council. (Ord. 990 § 1 (part), 2014; Ord. 308 § 1, 1968)

2.08.020 Residence.

Residence in the city at the time of appointment of a city manager shall not be required as a condition of the appointment, but within one hundred eighty days thereafter the city manager must become a resident of the county of Santa Cruz. (Ord. 990 § 1 (part), 2014; Ord. 308 § 2, 1968)

2.08.030 Council member eligibility.

No member of the city council shall be eligible for appointment as city manager until one year has elapsed after such council member has ceased to be a member of the city council. (Ord. 990 § 1 (part), 2014; Ord. 308 § 3, 1968)

2.08.040 ~~Bond.~~

~~The city manager shall furnish a corporate surety bond to be approved by the city council in such sum as may be determined by the city council and shall be conditioned upon the faithful performance of the duties imposed upon the city manager as prescribed in this chapter. Any premium for such bond shall be a proper charge against the city. (Ord. 990 § 1 (part), 2014; Ord. 308 § 4, 1968) Repealed to align with Chapter 2.04.080. Repealed by Ord. _____, 2023.~~

2.08.050 Acting city manager.

The assistant city manager shall serve as manager pro tempore during any temporary absence or disability of the city manager. In the event there is no assistant city manager, the city manager, by a letter filed with the city clerk, shall designate a qualified city administrative officer to exercise the powers and perform the duties of manager during his or her temporary absence or disability. In the event the city manager's absence or disability extends over a six-month period, the city council may, after the six-month period, appoint an acting city manager. (Ord. 990 § 1 (part), 2014; Ord. 308 § 5, 1968)

2.08.060 Compensation.

The city manager shall receive such compensation and expense allowances as the city council from time to time determines, and said compensation and expenses shall be a proper charge against such funds of the city as the city council designates.

In addition, the city manager shall be reimbursed for all actual and necessary expenses incurred by him or her in the performance of his or her official duties, including those incurred when traveling on business pertaining to the city; reimbursement shall only be made, however, when an itemized claim, setting forth the sums expended for such business for which reimbursement is requested, has been presented to and approved by the mayor. (Ord. 990 § 1 (part), 2014; Ord. 308 § 6, 1968)

2.08.065 Exemption from civil service.

The city manager is excluded from civil service or personnel system of the city, and the city manager shall not be entitled to the benefits, advantages or protection of the civil service or personnel system and shall not be subject to the procedures outlined or prevailing to such system. (Ord. 990 § 1 (part), 2014)

2.08.070 Powers and duties.

The city manager shall be the administrative head of the government of the city under the direction and control of the city council except as otherwise provided in this chapter. The city manager shall be responsible for the efficient administration of all the affairs of the city which are under his or her control. In addition to these general powers and administrative head, and not as a limitation thereon, it shall be his or her duty and he or she shall have the powers set forth in Sections 2.08.080 through 2.08.200. (Ord. 990 § 1 (part), 2014; Ord. 308 § 7, 1968)

2.08.080 Law enforcement.

It shall be the duty of the city manager to enforce all laws and ordinances of the city and to see that all franchises, contracts, permits and privileges granted by the city council are faithfully observed. (Ord. 990 § 1 (part), 2014; Ord. 308 § 7.1, 1968)

2.08.090 Authority over employees.

It shall be the duty of the city manager and he or she shall have the authority to control, order and give directions to all heads of departments and to subordinate officers and employees of the city under his or her jurisdiction through their department heads. (Ord. 990 § 1 (part), 2014; Ord. 308 § 7.2, 1968)

2.08.100 Power of appointment and removal.

It shall be the duty of the city manager to, and he or she shall, appoint, remove, promote and demote any and all officers and employees of the city except the city attorney subject to all applicable personnel ordinances, rules and regulations. (Ord. 1028 § 2, 2019; Ord. 990 § 1 (part), 2014; Ord. 308 § 7.3, 1968)

2.08.110 Administrative reorganization of officers.

It shall be the duty and responsibility of the city manager to conduct studies and effect such administrative reorganization of offices, positions or units under his or her direction as may be indicated in the interest of efficient, effective and economical conduct of the city's business. (Ord. 990 § 1 (part), 2014; Ord. 308 § 7.4, 1968)

2.08.120 Ordinances.

It shall be the duty of the city manager and he or she shall recommend to the city council for adoption such measures and ordinances as he or she deems necessary. (Ord. 990 § 1 (part), 2014; Ord. 308 § 7.5, 1968)

2.08.130 Attendance at council meetings.

It shall be the duty of the city manager to attend all meetings of the city council unless excused therefrom by the mayor individually or city council as a whole, except when his or her removal is under consideration. (Ord. 990 § 1 (part), 2014; Ord. 308 § 7.6, 1968)

2.08.140 Financial reports.

It shall be the duty of the city manager to keep the city council at all times fully advised as to the financial condition and needs of the city. (Ord. 990 § 1 (part), 2014; Ord. 308 § 7.7, 1968)

2.08.150 Budget.

It shall be the duty of the city manager to prepare and submit the proposed annual budget to the city council for its approval. (Ord. 990 § 1 (part), 2014; Ord. 308 § 7.8, 1968)

2.08.160 Purchasing agent.

It shall be the duty of the city manager and he or she shall be responsible for the purchase of all supplies and services for all the departments or divisions of the city in accordance with city purchasing policy. The city manager shall make no purchase exceeding twenty-five thousand dollars without prior city council approval. No expenditures shall be submitted or recommended to the city council except on report and approval of the city manager. (Ord. 990 § 1 (part), 2014; Ord. 308 § 7.9, 1968)

2.08.170 Investigations and complaints.

It shall be the duty of the city manager to make investigations into the affairs of the city and any department or division thereof, and any contract or the proper performance of any obligations of the city. Further, it shall be the duty of the city manager to investigate all complaints in relation to matters concerning the administration of the city government in regard to the service maintained by public utilities in the city. (Ord. 990 § 1 (part), 2014; Ord. 308 § 7.10, 1968)

2.08.180 Public buildings.

It shall be the duty of the city manager and he or she shall exercise general supervision over all public buildings, public parks and all other public property which are under the control and jurisdiction of the city council. (Ord. 990 § 1 (part), 2014; Ord. 308 § 7.11, 1968)

2.08.190 Hours of employment.

It shall be the duty of the city manager to devote his or her entire time to the duties of his or her office and in furthering the interests of the city. (Ord. 990 § 1 (part), 2014; Ord. 308 § 7.12, 1968)

2.08.200 Additional duties.

It shall be the duty of the city manager to perform such other duties and exercise such other powers as may be delegated to him or her from time to time by ordinance or resolution or other official action of the city council. (Ord. 990 § 1 (part), 2014; Ord. 308 § 7.13, 1968)

2.08.210 Internal relations with council.

The city council and its members shall deal with the administrative services of the city only through the city manager, except for the purpose of inquiry, and neither the city council nor any member thereof shall give orders to any subordinates of the city manager. The city manager shall take his or her orders and instructions from the city council only when sitting in a duly convened meeting of the city council and no individual councilmember shall give any orders or instructions to the city manager. (Ord. 990 § 1 (part), 2014; Ord. 308 § 8, 1968)

2.08.220 Departmental cooperation.

It shall be the duty of all subordinate officers and the city treasurer and city attorney to assist the city manager in administering the affairs of the city efficiently, economically and harmoniously. (Ord. 990 § 1 (part), 2014; Ord. 308 § 8.1, 1968)

2.08.230 Attendance at commission meetings.

The city manager may attend any and all meetings of the planning commission, ~~recreation and park commission~~, and any other commissions, boards or committees created by the city council, upon his or her own volition or upon direction of the city council. At such meetings which the city manager attends, he or she shall be heard by such

commissions, boards or committees as to all matters upon which he or she wishes to address the members thereof, and he or she shall inform said members as to the status of any matter being considered by the city council, and he or she shall cooperate to the fullest extent with the members of all commissions, boards or committees appointed by the city council. (Ord. 990 § 1 (part), 2014; Ord. 308 § 8.2, 1968)

2.08.240 At-will employment.

The city manager shall be an at-will employee, who may be removed from office, or his or her authority temporarily suspended, at the sole discretion of the majority vote of the whole city council, subject to any such restrictions as are specifically set forth in the city manager's contract of employment. (Ord. 990 § 1 (part), 2014; Ord. 818 § 1, 2000; Ord. 308 § 9, 1968)

Chapter 2.12

PLANNING COMMISSION

Sections:

- 2.12.010 Members – Number.
- 2.12.020 Appointment.
- 2.12.030 Vacancy filling.
- 2.12.035 Alternates.
- 2.12.040 Officers – Organization.
- 2.12.050 Powers and duties.
- 2.12.054 Historic preservation duties.
- 2.12.060 Reference for study.

2.12.010 Members – Number.

The planning commission of the city shall consist of five members. Those commissioners serving at the time of adoption of the ordinance codified in this chapter may continue to serve until replaced in the manner provided in this chapter. All commissioners shall live within the city limits of Capitola or within the sphere of influence of Capitola, as defined by the Santa Cruz Local Area Formation Commission. (Ord. 1036 § 1, 2019; Ord. 428 (part), 1978; Ord. 295 § 1, 1967; Ord. 58 § 1, 1951)

2.12.020 Appointment.

Beginning as soon as the ordinance codified in this chapter becomes effective, each council member may appoint one planning commission member. Except as provided in this chapter, the term of any commissioner so appointed shall terminate fourteen days after the canvassing of the next regular election of council members. However, a commissioner may serve until his or her successor takes office.

Once appointed, a planning commissioner may serve the term above provided unless:

- A. The council member who made the appointment requests removal; or
- B. At least three council members vote for the commissioner’s removal at a noticed open city council meeting. (Ord. 1038 § 1 (part), 2020; Ord. 428 (part), 1978; Ord. 295 § 2, 1967; Ord. 58 § 2, 1951)

2.12.030 Vacancy filling.

In case of a vacancy on the planning commission for any reason except the swearing into office of a new city council member, the city council member who made the appointment to the then vacated position may appoint the replacement. If for any reason the appropriate council member fails to make an appointment to the planning commission within fourteen days after a term has ended or a position vacated, the mayor shall appoint a commissioner to the vacancy. Council members shall appoint either by oral announcement at any regular meeting or special meeting or by a writing delivered to the city manager. Any such appointee may take office as soon as state law allows. (Ord. 428 (part), 1978; Ord. 419, 1977; Ord. 391, 1975; Ord. 295 § 3, 1967; Ord. 285, 1966; Ord. 58 § 3, 1951)

2.12.035 Alternates.

If a planning commissioner does not intend to vacate his or her position, but will be unable to attend two or more consecutive meetings, he or she should, in writing, so notify the city clerk and the council member that appointed him/her. The appointing council member may at any time before or during any long term absence, name an alternate, remove an alternate, or replace an alternate. Three members of the city council may nullify any such appointments. (Ord. 732 § 1, 1992)

2.12.040 Officers – Organization.

The commission shall elect its chairperson from among the appointed members for a term of one year and subject to other provisions of law, may create and fill such other offices as it may determine and may employ such individuals and/or firms as may be required to carry on the work of the commission; provided, however, that expenditures covering such employment must first be authorized by the city council. The commission shall hold at least one

The Capitola Municipal Code is current through Ordinance 1061, passed June 22, 2023.

regular meeting in each month. The commission shall adopt rules for the transaction of business, and shall keep a record of its resolutions, transactions, findings and determinations, which record shall be a public record. (Ord. 58 § 4, 1951)

2.12.050 Powers and duties.

It shall be, the function and duty of the commission to make, adopt and recommend city council adoption of a master plan for the physical development of the city, and of any land outside of the boundaries which, in the judgment of the commission, bears relations to the planning thereof, and to perform all other proper functions of a planning commission pursuant to and in accordance with the planning and zoning law of the state, beginning with Section 65100 of the Government Code and pursuant to and in accordance with any directions issued by the city council whether by ordinance, resolution or minute order. (Ord. 295 § 4, 1967; Ord. 58 § 5, 1951)

2.12.054 Historic preservation duties.

The planning commission shall have the following historic preservation duties:

A. Advise the city council how best to preserve and enhance the historic resources of Capitola and carry on consultations for this purpose;

B. Review periodically the historic preservation element of the general plan;

C. Carry out, assist, and collaborate in studies to identify and evaluate improvements, sites, areas, and vistas worthy of preservation; and recommend to the council designation of historic landmarks, (including archaeological resources) and of vistas to be protected;

D. Advise the council with respect to execution and administration of historic property contracts permitted by Sections 50280 and 50281 of the California Government Code; and advise the council upon aid and assistance available to Capitola under federal, state, county, or other grants-in-aid;

E. Maintain for commission use and for consultation by the public a copy of the register of historic features, of which the city clerk is the official custodian;

F. Recommend a standard design for the markers of plaques which may be erected at designated historic landmarks or historic features. (Ord. 515 § 2, 1982)

2.12.060 Reference for study.

The council may by general or special rule, provide for the reference of any other matter or class of matters to the commission before final action thereon by the public body or officer of the city having final authority thereon, with the provisions that final action thereon shall not be taken until the commission has submitted its report thereon or has had reasonable time to submit the report. The commission shall have full power and authority to make such investigations, maps and reports, and recommendations in connection therewith relating to the planning and development of the city as it seems desirable, providing the total expenditures of the commission shall not exceed the funds available therefor. (Ord. 58 § 6, 1951)

Chapter 2.16

PLANNING DEPARTMENT

Sections:

- 2.16.010 Created.
- 2.16.020 Employees.
- 2.16.030 Director – Appointment and qualifications.
- 2.16.040 Director – Powers and duties.
- 2.16.050 *Repealed.*

2.16.010 Created.

The department of planning is created and established in accordance with Section 65200 et seq., of the Government Code of the state of California. (Ord. 991 § 1 (part), 2014; Ord. 331 § 1, 1970)

2.16.020 Employees.

The number of employees to carry out the functions of the planning department shall be designated by the city manager and the community development director with the approval of the city council. (Ord. 991 § 1 (part), 2014; Ord. 331 § 2, 1970)

2.16.030 Director – Appointment and qualifications.

The community development director shall be appointed by the city manager. He or she shall be qualified pursuant to Section 65201 of the Government Code of the state of California and shall have the ability to manage and direct the planning department, and possess knowledge of the principles of state laws and city ordinances relating to zoning and planning, together with a working knowledge of engineers' drawings, mapping and topography, and have the ability to collect, analyze and interpret data pertaining to planning and zoning activities. (Ord. 991 § 1 (part), 2014; Ord. 331 § 3, 1970)

2.16.040 Director – Powers and duties.

The community development director shall plan and supervise the technical work and administrative detail of the planning commission; serve as secretary to the planning commission and carry out their directives; develop and promote long range planning programs; prepare zoning and other regulatory ordinances in preliminary form; supervise the work of the staff of the planning department; supervise and participate in the administration of zoning ordinances; make land use studies and reports; consult with citizens and officials on planning problems; advise the city council on planning problems; maintain cooperative liaison with other agencies in the planning field, including state and local agencies; answer inquiries from the public concerning zoning regulations. (Ord. 991 § 1 (part), 2014; Ord. 331 § 4, 1970)

2.16.050 Director – Compensation.

Repealed by Ord. 991. (Ord. 331 § 5, 1970)

Chapter 2.18

MOBILE HOME PARK RENT STABILIZATION Revised 7/23

Sections:

- 2.18.010 Purpose and findings. Revised 7/23
- 2.18.020 Definitions. Revised 7/23
- 2.18.030 Applicability. Revised 7/23
- 2.18.031 Exemptions. Revised 7/23
- 2.18.040 Stabilization of rents. Revised 7/23
- 2.18.050 Vacancy control – Establishment of a new base rent. Revised 7/23
- 2.18.060 Anniversary date. Revised 7/23
- 2.18.070 Rent increase limitations. Revised 7/23
- 2.18.080 Information required from mobile home park owner. Revised 7/23
- 2.18.090 Rent dispute resolution process. Revised 7/23
- 2.18.110 Standards of review. Revised 7/23
- 2.18.120 Net operating income. Revised 7/23
- 2.18.130 Gross income. Revised 7/23
- 2.18.140 Operating expenses. Revised 7/23
- 2.18.150 Special base year NOI/base rent adjustments. Revised 7/23
- 2.18.160 Obligations of the parties. Revised 7/23
- 2.18.170 Homeowner’s right of refusal. Revised 7/23
- 2.18.180 Retaliatory acts – Homeowner’s right to organize. Revised 7/23
- 2.18.190 Fees. Revised 7/23
- 2.18.200 Remedies and waiver of rights. Revised 7/23
- 2.18.210 Rights of affected parties reserved. Revised 7/23
- 2.18.220 Extension of time limits. Revised 7/23
- 2.18.230 Regulations. Revised 7/23

2.18.010 Purpose and findings. Revised 7/23

A. The purpose of this chapter is to stabilize mobile home space rents by preventing excessive and unreasonable rent increases, and to assure that mobile home park owners receive a fair and reasonable return on their investment.

B. The city council finds and declares the following:

1. Mobile homes provide an important alternative form of housing; and
2. Based on the most recent available data, within Capitola city limits there are mobile home parks with a total of six hundred eighty-one spaces. Approximately six hundred seventy-four of those spaces are occupied, thus resulting in a vacancy rate of just one percent, and market conditions suggest that the high demand for mobile home spaces is likely to persist; and
3. Capitola does not currently regulate rental amounts or rent increases on mobile homeowners to ensure that rents remain affordable; and
4. Residents of mobile home parks, unlike apartment tenants or residents of other rental properties, are in a unique position in that they have made a substantial investment in a residence for which space is rented or leased; and
5. Some residents of mobile home parks own their coaches, and rent space from the park owner; and
6. The imposition of sudden and excessive rent increases that are beyond the reach of mobile home park residents require such residents to identify alternative sites for the relocation of mobile homes, which is difficult to do given the shortage of vacant mobile home spaces, and restrictions on the age, size or style of mobile homes permitted in many mobile-home parks; and

7. The potential for rents to increase within mobile home parks within the city could cause hardship to a substantial number of mobile homeowners and residents of the parks, many of whom are elderly, on fixed incomes, or are persons of low or moderate income, and these residents would be vulnerable to displacement; and

8. It is necessary to protect mobile homeowners and residents of mobile home parks from unreasonable rent increases and at the same time recognize the rights of mobile home park owners to receive a reasonable return on their investments. (Ord. 1060 § 1 (Att. A), 2023)

2.18.020 Definitions. Revised 7/23

A. “Administrator” means the administrator of the city’s mobile home space rent stabilization program. The administrator shall be the community development director, or such other city employee as the city manager may appoint to serve as administrator.

B. “Affected homeowners” means those mobile homeowners who are subject to a rent increase. For purposes of providing notice of any rent increase and copies pursuant to this chapter and calculating the number of affected homeowners in support of a rent arbitration petition, each mobile home space subject to a rent increase shall be deemed to have only one affected homeowner. Reference to “all affected homeowners” shall mean one homeowner from each mobile home space subject to the proposed rent increase.

C. “Arbitrator” refers to a person who is appointed by the administrator, and is neither a homeowner, nor has an interest in a mobile home park of a nature that would require disqualification under the provisions of the Political Reform Act.

D. “Arms-length transaction” shall refer to a transaction negotiated by unrelated parties, each acting in his or her own self-interest, which serves as a basis for a fair return determination in this chapter.

E. “Base rent” means the authorized rent calculated pursuant to the provisions of Section 2.18.040, plus any rent increase allowed under this chapter, unless it is expressly excluded from base rent, plus any adjustment attributable to vacancy control as provided in Section 2.18.050.

F. “Capital improvements” means those new improvements, replacements, upgrades, or remodeling, which directly and primarily benefit and serve mobile home park homeowners by materially adding to the value of the property and appreciably prolonging its useful life or adapting it to new uses. Capital improvements consist of more than ordinary maintenance and/or repairs, and may be amortized over the useful remaining life of the improvement to the property. Capital improvement costs shall include all costs reasonably and necessarily related to the planning, engineering, and construction of the improvement or replacement and shall include debt service costs, if any, incurred as a direct result of the capital improvement or replacement.

G. “City information sheet” is prepared by the city, and will provide information about the mobile home park rent stabilization ordinance and include the administrator’s contact information.

H. “Comparable space” means a mobile home space in the same mobile home park that is suitable for comparison, taking into account such characteristics as the location and size of the space, lot size, landscaping, adjacency to freeways, ocean views or amenities.

I. “Consumer Price Index” or “CPI” shall mean the Consumer Price Index for All Urban Consumers, San Francisco-Oakland-San Jose region.

J. “Gross income” shall have the meaning set forth in Section 2.18.130.

K. “Homeowner” shall mean an existing mobile homeowner.

L. “Homeowner representative” shall mean a designated homeowner association (HOA) or its designee who shall have the authority to represent the interest of, negotiate on behalf of, and bind the homeowners.

M. “Housing service” shall mean a service or facility provided by the mobile home park owner related to the use or occupancy of a mobile home space, which is neither a capital improvement nor a substantial rehabilitation.

“Housing service” includes, but is not limited to, repairs (including street repairs), replacement, maintenance, landscaping, painting, lighting, heat, water, utilities, laundry facilities, refuse removal, recreational and meeting facilities, parking, security service, and employee services.

N. “Mobile home” has the same meaning as the definition of “mobilehome” defined in Civil Code Section 798.3, as it may be amended from time to time, or a successor code provision.

O. “Mobile homeowner” means a person who owns a mobile home and also rents a mobile home space in a mobile home park pursuant to a rental agreement that is not otherwise exempt from regulation under this chapter.

P. “Mobile home park” has the same meaning as the definition of “mobilehome park” defined in Civil Code Section 798.4, as it may be amended from time to time, or successor code section.

Q. “Mobile home park owner” means a park owner, lessor, or sublessor of a mobile home park in the city who receives or is entitled to receive rent for the use or occupancy of any mobile home space thereof and who reports to the Internal Revenue Service any income received or loss of income resulting from such ownership or claims any expenses, credits, or deductions because of such ownership.

R. “Mobile home space” means any site within a mobile home park located in the city intended, designed, or used for the location or accommodation of a mobile home. “Mobile home space” includes any accessory structures or appurtenances attached to the mobile home or used in conjunction therewith.

S. “Net operating income” shall have the meaning set forth in Section 2.18.120.

T. “Operating expenses” shall have the meaning set forth in Section 2.18.140.

U. “Rent” means the total consideration, including any bonus, benefit, or gratuity, demanded or received by a mobile home park owner for or in connection with the use occupancy of a mobile home dwelling unit.

V. “Rent increase” means any additional rent demanded of, or paid by, a homeowner for mobile home space. “Rent increase” includes any reduction in housing services without a corresponding reduction in the amount demanded or paid for rent.

W. “Rent stabilization administration fee” means a fee established by resolution of the city council in accordance with the provisions of Section 2.18.190.

X. “Substantial rehabilitation” means that work done by a mobile home park owner to a mobile home space or to the common areas of the mobile home park, exclusive of capital improvements, which has a value in excess of twenty thousand dollars, and is performed either to secure compliance with any state or local law, or to repair damage resulting from fire, earthquake, or other casualty or natural disaster, to the extent such work is not reimbursed by insurance or other benefits. Costs of substantial rehabilitation include all costs reasonably and necessarily related to the planning, engineering, and construction of the work. Such costs shall also include debt service costs incurred as a direct result of the substantial rehabilitation work, if any. (Ord. 1060 § 1 (Att. A), 2023)

2.18.030 Applicability. Revised 7/23

This chapter applies to every mobile home park within the city, except those to which an exemption applies. (Ord. 1060 § 1 (Att. A), 2023)

2.18.031 Exemptions. Revised 7/23

A. This chapter shall not apply to mobile home spaces that are subject to a written rental agreement exempt from regulation pursuant to Civil Code Section 798.17. This chapter shall also not apply to a newly constructed space exempt from regulation pursuant to Civil Code Sections 798.45 and 798.7.

B. These exceptions shall be effective only until the expiration or other termination of the rental agreement subject to the exception, whereupon all provisions of this chapter shall immediately be applicable to the mobile home space, unless the rental agreement meets the criteria of Civil Code Section 798.17.

C. This chapter shall not apply to any mobile home spaces that are exempt from local mobile home rent stabilization ordinances as required by law, including, but not limited to, Civil Code Section 798.21, and including but not limited to mobile home spaces that are not the principle residence of the mobile homeowner and mobile homeowner has not rented the mobile home to another party.

D. This chapter shall not apply to any mobile home parks that are owned by the mobile homeowners in the mobile home park, pursuant to Civil Code Section 799.1(a).

E. This chapter shall not apply to any mobile home space subject to any agreement that restricts rent increases in a manner that is more protective than this chapter. (Ord. 1060 § 1 (Att. A), 2023)

2.18.040 Stabilization of rents. Revised 7/23

A. It shall be unlawful to demand, accept, receive, or retain rent for a mobile home space in excess of the base rent plus any increases that are authorized by this chapter, unless an exemption applies.

B. Base Rent Calculation.

1. Except as provided herein, a mobile home park owner shall not demand, accept, or retain rent for a mobile home space exceeding the rent in effect for that space on May 25, 2023. In the event that a mobile home space was not occupied on May 25, 2023, the base rent for that mobile home space shall be the highest mobile home space rent charged by the mobile home park owner for a comparable space in the mobile home park on May 25, 2023, plus any rent increases allowed thereafter pursuant to this chapter.

2. If a mobile home space is exempted from the provisions of this chapter because it is the subject of a rental agreement pursuant to California Civil Code Section 798.17, and that agreement expires or is terminated by operation of law and is not renewed, then the base rent, until the next annual adjustment pursuant to this chapter, shall be the average of the three highest rents of comparable spaces on May 25, 2023, plus any rent increases allowed thereafter pursuant to this chapter.

3. It shall be presumed that the base rent yields a fair return.

C. A mobile home park owner may seek an adjustment to the initial base rent if it can be clearly established that an adjustment is necessary for the mobile home park owner to receive a fair return. In seeking an adjustment to the initial base rent under this section, the procedures set forth in Sections 2.18.080 and 2.18.090 shall apply.

The guidelines for determining an adjustment to the initial base rent are set forth in Section 2.18.150. (Ord. 1060 § 1 (Att. A), 2023)

2.18.050 Vacancy control – Establishment of a new base rent. Revised 7/23

A. A mobile home park owner shall be permitted to increase the space rent by up to 15 percent whenever a lawful vacancy occurs, and this amount shall be considered the new base rent for a mobile home space. For purposes of this chapter, “lawful space vacancy” shall mean:

1. A vacancy occurring because of the termination of the tenancy of a mobile homeowner in accordance with California Civil Code Sections 798.56 through 798.58; or

2. A vacancy occurring because of the abandonment of a mobile home pursuant to California Civil Code Section 798.61; or

3. A vacancy occurring due to sale of a mobile home on site to any mobile home park owner-approved purchaser, pursuant to California Civil Code Section 798.74.

B. Any alleged violation of this section shall be subject to arbitration pursuant to Section 2.18.090. (Ord. 1060 § 1 (Att. A), 2023)

2.18.060 Anniversary date. Revised 7/23

The anniversary date for all rent increases in the mobile home park owner’s park shall be established by city council resolution. Rent increases, if any, except as specified below, shall be enacted only on the anniversary date. The

mobile home park owner shall post the anniversary date in the park office or areas where it can easily be seen by homeowners. (Ord. 1060 § 1 (Att. A), 2023)

2.18.070 Rent increase limitations. Revised 7/23

A. As of the effective date of the ordinance codified in this chapter, no rent increases may be implemented within twelve months of the effective date of the preceding rent increase unless otherwise authorized under this chapter. The permissible annual increase shall be the lesser of:

1. Five percent of the base rent plus one hundred percent of the preceding year's annual average change in the Consumer Price Index; or
2. Ten percent of the base rent.

B. A mobile home park owner shall not implement any additional rent increase within a twelve-month period above the authorized amount pursuant to subsection A of this section, unless otherwise provided in this chapter.

C. In the event that a mobile home park owner wishes to implement a rent increase on the anniversary date or within a twelve-month period more than the amount permitted in subsection A of this section the procedures set forth in Sections 2.18.080 and 2.18.090 shall apply.

D. The arbitrator may reduce the proposed rent increases pursuant to subsection B or C of this section to a figure based on the evidence submitted by the mobile home park owner or the park owner representative to be a fair return.

E. Any notice of a rent increase shall be provided in writing to affected homeowners at least ninety days before any rent increase is to take effect. (Ord. 1060 § 1 (Att. A), 2023)

2.18.080 Information required from mobile home park owner. Revised 7/23

A. Within thirty days after the effective date of this chapter and upon the re-renting of each mobile home space thereafter, the mobile home park owner shall supply each affected homeowner or prospective homeowner with a copy of the city information sheet.

B. Whenever the mobile home park owner serves a notice of a proposed rent increase, except a notice of proposed rent increase implemented pursuant to Section 2.18.070(A), the mobile home park owner shall simultaneously serve a written notice that sets forth the following:

1. The amount of the rent increase both in dollars and as a percentage of existing rent and documentation supporting the proposed increase, including but not limited to: a summary of the unavoidable increases in maintenance and operating expenses; a statement of the cost, nature, amortization, and allocation among mobile home spaces of any substantial rehabilitation or capital improvement; a summary of the increased cost of the mobile home park owner's debt service and the date and nature of the sale or refinancing transaction; a summary of the mobile home park owner's net operating income of the preceding twenty-four months and other relevant information that supports the level of rent increase desired;
2. The availability of a current listing of all other affected homeowners and the spaces which they rent;
3. The address and telephone number of the administrator and statement that the homeowner is encouraged to contact the administrator for an explanation of this chapter;
4. A copy of the petition form prepared and provided by the administrator that initiates the rent review process established by this chapter;
5. The time and place for a mandatory meeting with the mobile home park owner and homeowners to be held on the mobile home park premises. The meeting shall be held within ten days from the service of the notice of proposed rent increase. The mobile home park owner and homeowner shall endeavor to resolve the dispute informally.
6. In the event the dispute is not resolved informally, the mobile home park owner shall, within ten days of the meeting required in subsection (B)(5) of this section, file with the administrator two copies of the notice and

summary of expenses required in subsection (B)(1) of this section, along with two copies of all relevant financial records, bills or documents that substantiate the proposed increase. This financial information shall be verified in writing by an auditor or certified public accountant or certified in writing as true and correct under penalty of perjury by the mobile home park owner. This information will be made available at City Hall for inspection and copying by the affected homeowners.

C. A mobile home park owner failing to provide any information, documents, or notices required by this section shall not be entitled to collect any rent increase that might otherwise be awarded by an arbitrator. Such failure shall also be a defense in any action brought by the mobile home park owner to recover possession of a mobile home space or to collect any rent increase from the homeowner.

D. An affected homeowner who is given notice of a rent increase is entitled to file a petition for rent review as provided in Section 2.18.090 regardless of whether the mobile home park owner has provided the affected homeowner with all the information, documents and notices required by this chapter. (Ord. 1060 § 1 (Att. A), 2023)

2.18.090 Rent dispute resolution process. Revised 7/23

A. If a rent increase is proposed pursuant to Section 2.18.070(B) and (C), then after service of the rent increase notice and the production of the accompanying information required by Section 2.18.080, the mobile home park owner shall set a time and place for an informational meeting with the homeowners on the mobile home park premises, or an alternative location with the agreement of the homeowners' representative. The informational meeting shall be held within twenty days from the service of the notice of proposed rent increase. The mobile home park owner shall give affected homeowners and the administrator at least ten days' advance written notice of this meeting.

B. Petition Procedures.

1. If discussions between the mobile home park owner and affected homeowners do not resolve the dispute, the homeowners or homeowner representative may file with the administrator a petition for rent review with a copy of the notice of rent increase within thirty days after receipt of the rent increase notice.
2. As soon as possible after a petition has been filed with respect to mobile home spaces that are within a mobile home park, the administrator shall, to the extent possible, consistent with the time limitations provided herein, consolidate petitions involving similarly situated affected homeowners.
3. Upon the filing of a petition, the rent increase shall not be implemented until and to the extent it is awarded by an arbitrator or until the petition is abandoned by the affected homeowners or the homeowner representative. "Abandoned" as used herein shall mean a failure to actively pursue the necessary steps to prepare the homeowners' case for the arbitration.

C. Contents of Petition.

1. The petition for rent review shall: (a) set forth the total number of affected mobile home spaces in the mobile home park; (b) identify the name of the homeowners who occupy each space; and (c) state the date upon which the notice of the rent increase was received by the homeowner.
2. After obtaining the required signatures of affected homeowners, the homeowners shall deliver the petition or mail it by certified mail to the administrator at the following address: City of Capitola, 420 Capitola Avenue, Capitola, California 95010. No petition shall be accepted unless it is accompanied by the requisite number of signatures and is received in the office of the administrator within the thirty-day period set forth in subsection B of this section. The administrator shall provide a copy of the completed petition to the mobile home park owner and the arbitrator.

D. After the administrator has accepted a petition for rent review, the administrator shall remit to the mobile home park owner and petitioning homeowners or the homeowner representative an information questionnaire in such form as the administrator may prescribe. The completed information questionnaire must be returned to the administrator at least five business days prior to the date scheduled for hearing of the petition by the arbitrator. The administrator

shall provide copies of the completed information questionnaire to the arbitrator, the mobile home park owner, and the affected homeowners or the homeowner representative.

E. Upon receipt of a petition, or upon an affected homeowner's claim of a vacancy control rent increase violation pursuant to Section 2.18.050, the administrator shall assign an arbitrator. The administrator shall set a date for the arbitration hearing. The mobile home park owner and all affected homeowners shall be notified immediately in writing by the administrator of the date, time, and place of the hearing either in person or by ordinary mail. Any documents to be presented at the hearing by either the park owner or the affected homeowners shall be served on the other party, the administrator, and the arbitrator at least ten working days before the hearing by mail or in-person delivery. All financial documents submitted shall be verified in writing by an auditor or certified public accountant, or certified in writing as true and correct under penalty of perjury by the mobile home park owner.

F. Arbitration Hearing.

1. The mobile home park owner and any affected homeowners, or their representatives, may appear at the hearing and offer oral and documentary evidence. The burden of proving that the amount of rent increase is reasonable shall be on the mobile home park owner by a preponderance of the evidence. The hearing need not be conducted according to technical rules relating to evidence and witnesses.

2. Any jurisdictional or procedural dispute regarding the process set forth herein may be decided by the arbitrator.

3. The arbitrator shall, within fourteen days of the conclusion of the hearing, submit by mail a written statement of decision and the reasons for the decision to the administrator. The administrator shall mail copies of the decision to the mobile home park owner and affected homeowners.

4. The decision of the arbitrator shall be final and binding upon the mobile home park owner and affected homeowners, and subject to the provisions of California Code of Civil Procedure Section 1094.5.

G. It is the intent of the council to have a final decision rendered within ninety days of the initial notice of the rent increase. The administrator or the arbitrator may, however, modify the time periods set forth herein at his or her discretion to promote the purposes of this chapter. (Ord. 1060 § 1 (Att. A), 2023)

2.18.110 Standards of review. Revised 7/23

A. The arbitrator shall determine whether rent increases proposed or imposed by the mobile home park owner are reasonable based upon the circumstances and this chapter. The arbitrator shall take into consideration that the purpose of this chapter is to permit mobile home park owners a just and reasonable return, while protecting homeowners from unnecessary or unreasonable rent increases.

B. The arbitrator shall not allow more than one rent increase per mobile home space per twelve-month period, unless a mobile home park owner can clearly establish that the rent increase is necessary to cover costs of operation, maintenance, capital improvements, and/or substantial rehabilitation not reasonably foreseeable at the time notice of the preceding rent increase was given.

C. Maintenance of Net Operating Income.

1. It shall be presumed that the base year net operating income adjusted by seventy-five percent of the increase or decrease in the CPI since the base year yields a fair return. Mobile home park owners shall be entitled to maintain and increase their net operating income in accordance with this section. The arbitrator shall make a determination of whether the mobile home park owner's net operating income yields a fair return under this standard.

2. The formula for calculating the fair NOI return shall be as follows:

$$\text{Fair NOI} = \text{Base Year NOI} \times (1 + 0.75) \% \text{ preceding years' annual average change in CPI}$$

3. Except as provided in Section 2.18.150, it shall be presumed that the net operating income produced by the mobile home park during the base year provided a fair return.

4. Calendar year 2022 shall be established as the base year for purposes of determining whether a mobile home park owner's net operating income provides a fair return. If a satisfactory base year is, in the arbitrator's opinion, not otherwise available, such as where a mobile home park owner did not own the subject property in the base year and/or the 2022 operating expenses are not available, the arbitrator may take any relevant evidence into account to construct a base year.

5. The base year CPI shall be the CPI level in May 2022.

6. The percentage change in the CPI shall be calculated by using the preceding year's average CPI prior to the noticed increase.

7. The comparison NOI year shall be the most recent calendar or fiscal year, unless another period is found by the arbitrator to be more appropriate.

D. A park owner may seek a rent increase based on the cost of a completed new capital improvement, as defined in Section 2.18.020, together with a reasonable return upon the capital improvement investment, only if the mobile home park owner has:

1. Established by written verification or other competent evidence to the satisfaction of the arbitrator that the costs of the new capital improvement are factually correct as claimed;

2. Cost factored and amortized the costs of the capital improvement over the good faith estimate of the remaining life of the improvement, but in no event for a period of less than sixty months; and

3. Allocated the increase among affected homeowners on a per space basis and separately itemized such increase on the rent bill. Such increases shall not be considered included in the base rent for purposes of the annual permissible rent increases pursuant to Section 2.18.070(A).

E. Mitigating Factors. In evaluating a rent increase, the arbitrator shall also consider the following factors in addition to any other factors the arbitrator deems relevant in order to determine whether there are any circumstances that may justify a reduction in a proposed rent increase:

1. In the event the mobile home park owner reduces or eliminates any housing services, a proportionate share of the cost savings due to such reduction or elimination shall be passed on in the form of a decrease in existing rent or a decrease in the amount of a rent increase otherwise proposed or permitted by this chapter.

2. The physical condition of the mobile home space or park of which it is a part, including the quantity and quality of maintenance and repairs performed during the preceding twelve months.

F. Notwithstanding any other provision to the contrary, no provision of this chapter shall be applied to prohibit the granting of a rent increase that is demonstrated to be necessary to provide a mobile home park owner with a fair and reasonable return. (Ord. 1060 § 1 (Att. A), 2023)

2.18.120 Net operating income. Revised 7/23

In evaluating a rent increase imposed by a mobile home park owner to maintain the mobile home park owner's net operating income, "net operating income" (NOI) shall mean the gross income as defined in Section 2.18.130 of the mobile home park less the operating expenses as defined in Section 2.18.140. (Ord. 1060 § 1 (Att. A), 2023)

2.18.130 Gross income. Revised 7/23

For purposes of calculating the net operating income pursuant to Section 2.18.120, "gross income" shall mean the sum of the following:

A. Gross mobile home space rents, computed as gross space rental income at one hundred percent occupancy; plus

B. Other income generated as a result of the operation of the mobile home park, including, but not limited to, fees for services actually rendered; plus

C. Revenue received by a mobile home park owner from the sale of water, sewer, refuse collection, gas, and electricity to homeowners where such utilities or services are billed individually to the homeowners by the mobile home park owner. Such revenue shall equal the total cost of the utilities or services to the homeowners minus the amount paid by the mobile home park owner for such utilities or services to the utility or service provider; minus

D. Uncollected mobile home space rents due to vacancy and bad debts to the extent that the same are beyond a mobile home park owner's control. Uncollected mobile home space rents in excess of three percent of gross mobile home space rents shall be presumed to be unreasonable unless established otherwise and shall not be included in computing gross income. If uncollected mobile home space rents must be estimated, then the average of the preceding three years' experience shall be used. (Ord. 1060 § 1 (Att. A), 2023)

2.18.140 Operating expenses. Revised 7/23

A. For purposes of calculating net operating income pursuant to Section 2.18.120, "operating expenses" may include:

1. Real property taxes and assessments.
2. Utility costs to the extent that they represent costs to the mobile home park owner which are not passed through to homeowners of the mobile home park.
3. Management expenses (including the compensation of administrative personnel, including the value of any mobile home space offered as part of compensation for such services), reasonable and necessary advertising to ensure occupancy, legal and accounting services as permitted herein, and other managerial expenses. Management expenses are presumed to be not more than five percent of gross income, unless established otherwise.
4. In addition to the management expenses listed above, if the mobile home park owner performs managerial or maintenance services which are uncompensated, the mobile home park owner may include the reasonable value of such services or operating expenses. Mobile home park owner-performed labor shall be limited to five percent of gross income unless the arbitrator finds that such a limitation would be substantially unfair in a given case. A mobile home park owner must devote substantially all of the mobile home park owner's time, that is, at least forty hours per week, to performing such managerial or maintenance services in order to warrant the full five percent credit as an operating expense. No credit for such services shall be authorized unless a mobile home park owner documents the hours utilized in performing such services and the nature of the services provided.
5. Normal repair and maintenance expenses for the grounds and common facilities, including but not limited to landscaping, cleaning, and repair of equipment and facilities.
6. Operating supplies such as janitorial supplies, gardening supplies, and stationery.
7. Insurance premiums prorated over the life of the policy.
8. Other taxes, fees, and permits, except as provided in Section 2.18.190.
9. Reserves for replacement of long-term improvements or facilities, provided that accumulated reserves shall not exceed five percent of gross income.
10. A mobile home park owner may include the cost of necessary capital improvement or substantial rehabilitation expenditures which would exceed existing reserves for replacement. A necessary capital improvement shall be an improvement required to maintain the common facilities and areas of the mobile home park in a decent, safe, and sanitary condition or to maintain the existing level of mobile home park amenities and services. In the event that the necessary capital improvement or substantial rehabilitation expenditure is necessitated as the result of an accident, disaster, or other event for which the mobile home park owner

received insurance or other benefits, only those costs otherwise allowable and exceeding such benefits may be calculated as operating expenses.

Expenditures for necessary capital improvements to upgrade existing facilities, together with a reasonable return upon the capital improvement investment made by the mobile home park owner, shall be an allowable operating expense only if the park owner has:

- a. Informed the affected homeowners prior to initiating construction or implementation of the capital improvement regarding the nature, purpose and estimated cost of the improvement; and
- b. Established by written verification or other competent evidence to the satisfaction of the arbitrator that the costs of capital improvement provided to the homeowners for their general use are factually correct as claimed; and
- c. Cost factored and amortized the costs of the improvement over the good faith estimate of the remaining life of the improvement, but in no event for a period of less than sixty months; and
- d. Allocated the increase among affected homeowners on a per space basis and separately itemized such increase on the rent bill. Such increases shall not be considered included in the base rent for purposes of the annual permissible rent increases pursuant to Section 2.18.070(A).

11. Increases in interest payments which result from one of the following situations or the equivalent thereof:

- a. Refinancing of the outstanding principal owed for the acquisition of a park where such refinancing is mandated by the terms of a financing transaction entered into prior to May 25, 2023; for instance, termination of a loan with a balloon payment; or
- b. Increased interest costs incurred as a result of a variable interest rate loan used to finance the acquisition of the park and entered into prior to May 25, 2023.
- c. In the event that the mobile home park is financed as part of a multi-asset portfolio, the allowable increase in interest costs shall be limited to the amount reasonably attributable to the mobile home park or mobile home parks located in the city, based on the percentage of total asset value or such allocation established in loan documents.
- d. In refinancing, increased interest shall be permitted to be considered as an operating expense only where the mobile home park owner can show that the terms of the refinancing were reasonable and consistent with prudent business practices under the circumstances.

B. "Operating expenses" shall not include the following:

1. Debt service expenses, except as provided in subsection (A)(11) of this section;
2. Depreciation;
3. Any expense for which the mobile home park owner is reimbursed; or
4. Attorneys' fees and costs (except printing costs and documentation as required by Section 2.18.080) incurred in proceedings before an arbitrator or in connection with legal proceedings challenging the decision of an arbitrator or the validity or applicability of this chapter.

C. Whenever a particular expense exceeds the normal industry or other comparable standard, the mobile home park owner shall bear the burden of proving the reasonableness of the expense. To the extent that the arbitrator finds any such expense to be unreasonable, the arbitrator shall adjust the expense to reflect the normal industry or other comparable standard. (Ord. 1060 § 1 (Att. A), 2023)

2.18.150 Special base year NOI/base rent adjustments. Revised 7/23

A. Mobile home park owners may obtain a one-time special adjustment to the base year NOI and/or base rent dates if the mobile home park owner rebuts the presumption that the base year NOI and/or base rent date yielded a fair return. The arbitrator shall not make such a determination unless the arbitrator has first made at least one of the following findings:

1. That the mobile home park owner's operating expenses in the base year were unusually high or low in comparison to the three years prior to the base year. The average expenses for this period shall be presumed to reflect reasonable average annual expenses and the average of such expenses shall be used to calculate and adjust the base year NOI.

In determining whether the park owner's operating expenses were unusually high or low, the arbitrator shall consider whether:

- a. The park owner made substantial capital improvements during the base year, which were not reflected in the rent levels on the base rent date.
- b. Substantial repairs were made due to uninsured damage caused by fire, natural disaster or vandalism.
- c. Maintenance and repair were below accepted standards so as to cause significant deterioration in the quality of housing services.
- d. Other expenses were unreasonably high or low notwithstanding the following of prudent business practice.

2. That the rent was disproportionate due to one of the enumerated factors below:

- a. The rent on the base date was exceptionally high or low due to the fact that the rent was not established in an arms-length transaction.
- b. The rent on the base rent date was substantially higher or lower than at other times of the year by reason of premiums being charged or rebates given for reasons unique to particular spaces.

B. If the circumstances specified in subsection (A)(2) of this section are demonstrated, the base rent date shall be adjusted to reflect the rent that would have been received if the base rent date had been set under general market conditions. In making this adjustment, the arbitrator shall utilize the median rent in effect on the base rent date, or a good faith estimate of such median rent, for comparable spaces within the mobile home park or, if necessary, other comparable parks. Comparability shall be judged based on the location of the park, services, amenities provided, ocean views, lot size, landscaping, and other relevant factors. (Ord. 1060 § 1 (Att. A), 2023)

2.18.160 Obligations of the parties. Revised 7/23

A. After the mobile home park owner's proposed effective date of a noticed rent increase, if the arbitrator finds that the proposed increase or any portion thereof that was previously inoperative is justified, all affected homeowners shall pay the amount found justified to the mobile home park within thirty days after the decision is made.

B. If the arbitrator finds that an increase or any portion thereof is not justified, the mobile home park owner shall refund any amount found to be unjustified, but that had been paid, to all affected homeowners within ninety days of the arbitrator's decision. In the event that the tenancy of an affected homeowner is terminated for any reason prior to receipt of a refund, the balance of the credit due the homeowner shall be paid by the mobile home park owner within thirty days from the date of the termination of the tenancy.

C. Any sum of money that under the provisions of this section is the obligation of the mobile home park owner or homeowner to pay, as the case may be, shall constitute a debt and, subject to the foregoing provisions of this section, may be collected in any manner provided by law for the collection of debts. (Ord. 1060 § 1 (Att. A), 2023)

2.18.170 Homeowner's right of refusal. Revised 7/23

An affected homeowner may refuse to pay any increase in rent which is in violation of this chapter, provided a petition has been filed and either no final decision has been reached by an arbitrator or the increase has been

determined to violate the provisions of this chapter. Such right of refusal to pay shall be a defense in any action brought to recover possession of a mobile home space or to collect the rent increase. (Ord. 1060 § 1 (Att. A), 2023)

2.18.180 Retaliatory acts – Homeowner’s right to organize. Revised 7/23

No mobile home park owner may retaliate against a homeowner, homeowner representative, or prospective homeowner for the assertion or exercise of rights under this chapter in any manner. This includes, but is not limited to, threatening to bring or bringing an action to recover possession of a mobile home space, engaging in any form of harassment that causes a homeowner to quit the premises, dissuading a prospective homeowner from freely exercising the homeowner’s legal option to choose a tenancy of a shorter term, decreasing housing services, increasing the mobile home space rent, or imposing or increasing a security deposit or any other charge payable by a homeowner. (Ord. 1060 § 1 (Att. A), 2023)

2.18.190 Fees. Revised 7/23

A. The city is authorized to impose a rent stabilization administration fee (“fee”) chargeable against each mobile home space in the city subject to this chapter. The administrator may recommend to the city from time to time the amount of the fee and the council may adopt such fee by resolution at a public hearing.

B. Within sixty days of the adoption of the ordinance codified in this chapter, each mobile home park owner in the city shall register with the city. The mobile home park owner shall provide the name and address of the mobile home park owner, and the current rent roll for all spaces which shall identify: (1) the length of the lease term for each space; (2) the expiration of the lease term for each space; (3) current rents and other fees or charges that are received by the mobile home park owner itemized per mobile home space; (4) the number of mobile home spaces, including both occupied and unoccupied spaces, contained in that mobile home park owner’s mobile home park; and (5) the mobile home park owner’s determination of comparable spaces in the mobile home park, along with a description of how the spaces are comparable. The provision of the information required by this subsection B must also be made immediately upon change of ownership of the mobile home park, or an increase or a decrease in the number of spaces available at a mobile home park owner’s mobile home park. (Ord. 1060 § 1 (Att. A), 2023)

2.18.200 Remedies and waiver of rights. Revised 7/23

A. In the event that a mobile home park owner demands, accepts, receives, or retains any payment in excess of the amounts allowed under this chapter, the homeowner may file a civil suit against the mobile home park owner. A mobile home park owner who demands, accepts, receives, or retains any payment of rent in excess of the amounts allowed under this chapter shall be liable to the homeowner in the amount by which the payment or payments have exceeded the allowable rent. In such a case, the rent shall be adjusted to reflect the lawful rent pursuant to this chapter.

B. A mobile home park owner who willfully demands, accepts, or retains any payment of rent in violation of the provisions of this chapter shall be liable in a civil action to the person from whom payment is demanded, accepted or retained for damages in the sum of three times the amount by which payment or payments demanded, accepted or retained exceed the maximum rent which could lawfully be demanded, accepted or retained. A prevailing homeowner in a civil action brought to enforce this chapter shall be awarded reasonable attorneys’ fees and costs as determined by the court. No administrative remedy need be exhausted prior to filing suit pursuant to this section.

C. The remedies available in this chapter are not exclusive and may be used cumulatively with any other remedies available in this chapter or at law.

D. Waiver of Rights.

1. Any waiver or purported waiver by a homeowner of rights granted under this chapter prior to the time when said rights may be exercised shall be void as contrary to public policy, except as provided in this section. It shall be unlawful for a mobile home park owner to require or attempt to require, as a condition of tenancy in a mobile home park, a homeowner, or prospective homeowner, to waive, in a lease or rental agreement, the rights granted to a homeowner by this chapter.

2. It shall be unlawful for a mobile home park owner to deny or threaten to deny a tenancy in a mobile home park to any person on account of such person’s refusal to enter into a lease or rental agreement or any other agreement under which such person would waive the rights granted to a tenant by this chapter.

3. Nothing in this section shall preclude a mobile homeowner or tenant, or prospective homeowner, from entering into a lease or rental agreement; provided, that such lease or rental agreement is not procured by a requirement that it be entered into as a condition of tenancy in the mobile home park, and is not procured under a threat of denial of tenancy in the mobile home park. (Ord. 1060 § 1 (Att. A), 2023)

2.18.210 Rights of affected parties reserved. Revised 7/23

A. This chapter shall not be construed to limit or curtail any other action or proceeding which may be pursued by an affected homeowner or mobile home park owner before any court or other body having jurisdiction thereof.

B. Defense to Action for Recovery of Possession.

1. A mobile home park owner's failure to comply with any of the provisions of this chapter or any regulations promulgated hereunder shall serve as a complete affirmative defense in any action brought to recover possession of a mobile home space.

2. A homeowner's refusal to pay rent in excess of the amount allowed under this chapter shall be a complete affirmative defense in any action brought to: (a) recover possession of a mobile home space for nonpayment of rent; or (b) collect rent in excess of the amount allowed under this chapter. (Ord. 1060 § 1 (Att. A), 2023)

2.18.220 Extension of time limits. Revised 7/23

By written agreement of the parties, or for good cause shown to the arbitrator, the time frames provided for under this chapter may be extended. (Ord. 1060 § 1 (Att. A), 2023)

2.18.230 Regulations. Revised 7/23

The city council may issue rules and regulations as necessary to further the purpose of this chapter. If any portion of this chapter is declared invalid or unenforceable by decision of a court of competent jurisdiction or rendered invalid or unenforceable by law, the city council shall have the authority to enact replacement regulations consistent with the intent and purpose of the invalidated or unenforceable provisions of this chapter to the extent necessary to resolve any inconsistency. The subject matter of such replacement regulations shall be limited to the matters addressed in this chapter. (Ord. 1060 § 1 (Att. A), 2023)

Chapter 2.20
HEALTH OFFICER

Sections:

- 2.20.010 Designated.
- 2.20.020 Arrest power.

2.20.010 Designated.

The health officer of the county together with his or her delegated subordinates are designated as the health officer of the city and empowered to carry out all responsibilities of the health officer of the city as set forth in the city code or enumerated by ordinance. (Ord. 400 (part), 1976)

2.20.020 Arrest power.

The health officer and his or her delegated subordinates, pursuant to the provisions of Section 836.5 of the Penal Code of the state of California may arrest a person who has committed a misdemeanor in his or her presence which is a violation of an ordinance, statute, or law, enforcement of which is under the administration of the health officer. Upon making such an arrest, the health officer or his or her delegated subordinate shall release the person arrested pursuant to Section 853.6 of the Penal Code, the provisions of which are adopted by reference as part of this section. (Ord. 400 (part), 1976)

Chapter 2.24

CONFLICT OF INTEREST

Sections:

- 2.24.010 Adoption.
- 2.24.020 Definitions.
- 2.24.030 Applicability.
- 2.24.040 Disclosure requirements.
- 2.24.050 Circumstances requiring disqualification.
- 2.24.055 Acceptance of employment prohibited.
- 2.24.060 Copy filed.

2.24.010 Adoption.

In compliance with Section 87300 of the Government Code, the city council adopts this conflict of interest ordinance. (Ord. 405 § 1, 1976)

2.24.020 Definitions.

Except as otherwise indicated, the definitions contained in the Political Reform Act of 1974 (Government Code Section 81000) and regulations adopted pursuant hereto are incorporated into this conflict of interest code. (Ord. 405 § 5, 1976)

2.24.030 Applicability.

This conflict of interest ordinance shall be applicable to members of the city council, whether acting as council members or as members of any city board or commission. (Ord. 405 § 2, 1976)

2.24.040 Disclosure requirements.

Members of the city council are required, pursuant to Government Code Section 87200, to disclose investments, interest in real property and income. No other or no additional disclosure requirements are imposed by this conflict of interest ordinance. (Ord. 405 § 3, 1976)

2.24.050 Circumstances requiring disqualification.

Any member of the city council must disqualify himself or herself from making or participating in the making of any decisions which will foreseeably have a material financial effect, distinguishable from its effect on the public generally, on any economic interest, as defined in Government Code Section 87103. No member shall be prevented from making or participating in the making of any decision to the extent his or her participation is legally required for the decision to be made. (Ord. 405 § 4, 1976)

2.24.055 Acceptance of employment prohibited.

A member of the city council, planning commission or architectural and site review committee shall not solicit employment relative to a project which has previously come before that member's council, commission or committee for hearing. (Ord. 847 § 1, 2003)

2.24.060 Copy filed.

The city clerk is directed to forward a certified copy of the ordinance codified in this chapter to the Fair Political Practices Commission. (Ord. 405 § 6, 1976)

Chapter 2.28
PUBLIC MUSEUM

Sections:

- 2.28.010 Museum.
- 2.28.015 Board.
- 2.28.020 Museum board of trustees.
- 2.28.030 Board – Duties.
- 2.28.040 Board – Meetings.
- 2.28.050 Board – Officers.
- 2.28.060 Entry fee.

* Prior ordinance history: Ord. 301.

2.28.010 Museum.

The city’s public museum of natural and historical objects shall be administered as set forth in this chapter. (Ord. 735 (part), 1992)

2.28.015 Board.

The museum board of the city shall hereafter be established as set forth in this chapter. (Ord. 735 (part), 1992)

2.28.020 Museum board of trustees.

A. The museum board of trustees shall consist of seven members.

B. Members of the museum board of trustees shall be appointed by the mayor, subject to the approval of three city council members including the mayor.

C. Term of Office. Members of the museum board of trustees shall serve three-year terms. The terms of the museum board of trustees shall be staggered with three members serving a coextensive term and the other four members serving another coextensive term. Terms shall expire on the second Thursday of June in the year of term expiration.

D. Members of the museum board of trustees shall serve at the pleasure of the city council, and therefore may be removed from office, without cause, and at any time, by the affirmative vote of three city council members. Where a vacancy arises in the board membership prior to a term expiration, the mayor may appoint a person to fill that vacancy for the remainder of the unexpired term in accordance with this section.

E. The city council may, by resolution, establish a recruitment process for individuals who may wish to apply for appointment to the museum board of trustees. (Ord. 836 § 2, 2002)

2.28.030 Board – Duties.

The duties of the board are:

A. To advise the city council and the city manager on the following and related items: financial affairs of the museum; general museum administration; formulation of long term museum plans; formulation of written policies for acquisition by the city of museum objects; and steps that can be taken to bring about a better understanding and appreciation by the Capitola community of its history, architecture, culture, technology, and its creative and natural environment through the promotion of the city’s museum and allied projects;

B. To establish the ethical standards of the Capitola Historical Museum for collecting;

C. To monitor museum finances;

D. To serve as trustees of any trust formed to receive and disburse funds collected solely for museum purposes;

E. To prepare reports, if any, which are appropriate under Government Code Section 37557;

F. To accept donations of museum objects and receive museum objects on loan;

G. To recruit and supervise volunteers. (Ord. 735 (part), 1992)

2.28.040 Board – Meetings.

The board of trustees shall meet in accord with the Brown Act and the board’s bylaws. (Ord. 735 (part), 1992)

2.28.050 Board – Officers.

The board shall elect a president, vice-president, secretary and treasurer. Officers shall serve one year and until successors are elected. In the absence of the president, the vice-president shall act as president pro tem. (Ord. 735 (part), 1992)

2.28.060 Entry fee.

Subject to the rules and regulations of the board, the museum shall be free to the inhabitants and nonresident taxpayers of the city. (Ord. 735 (part), 1992)

Chapter 2.32

PEACE OFFICER TRAINING

Sections:

2.32.010 Qualification.

2.32.020 Standards adherence.

2.32.010 Qualification.

The city declares that it desires to qualify to receive aid from the state under the provisions of Chapter 1 of Title 4, Part 4 of the Penal Code. (Ord. 291 § 1, 1967)

2.32.020 Standards adherence.

Pursuant to Section 13522 of Chapter 1 of the Penal Code, the city while receiving aid from the state pursuant to said Chapter 1 will adhere to the standards for recruitment and training established by the California Commission on Peace Officers Standards and Training. (Ord. 291 § 2, 1967)

Chapter 2.40

UNCLAIMED PROPERTY

Sections:

- 2.40.010 Return to owner.
- 2.40.020 Sale at auction.
- 2.40.030 Destruction when no bids received.

2.40.010 Return to owner.

All personal property coming into the possession of the police department, by under and through the exercise of the proper duties and functions of the police department shall be returned to and delivered to the rightful owners thereof upon presentation of proof of identity and right of possession and ownership. (Ord. 92 § 1, 1955)

2.40.020 Sale at auction.

All unclaimed personal property coming into the possession of the police department shall from and after the effective date of the ordinance codified in this chapter be dealt with in the following manner:

- A. Such unclaimed property shall be held in the possession of the police department for a period of not less than six months;
- B. On or after the expiration of six months such property shall be sold at public auction to the highest bidder; and
- C. Notice of such sale shall be given by the chief of police of the police department at least five days before the time fixed for such sale by publication once in a newspaper of general circulation published in the county. Such notice shall specify the date, hour and place at which such sale shall be conducted. At such sale the chief of police shall deliver possession of such property to the highest bidder therefor and shall receive the sum so paid and issue his or her receipt therefor. All moneys so received shall be paid to the treasurer of the city.

D. Notwithstanding the foregoing, property with a value, estimated by the chief of police, to be not in excess of five hundred dollars may be sold at other than auction in the following circumstances:

- 1. If the property is of a variety which either cannot be legally sold to the general public, or there are public policy reasons for not doing so, or
- 2. The expenses of conducting the auction would exceed the probable return.

In such cases property may be sold or exchanged to prospective purchasers who, in the determination of the chief of police, are likely to pay as much for the property as could be expected through reasonable alternative procedures. Such property may not, however, be sold to any city employee or spouse, child, or parent of a city employee. (Ord. 633 § 1, 1987; Ord. 92 § 2, 1955)

2.40.030 Destruction when no bids received.

In the event that property is not disposed of pursuant to the proceeding section, then the chief of police is authorized and directed to destroy such property. (Ord. 633 § 2, 1987; Ord. 92 § 3, 1955)

Chapter 2.44
PERSONNEL SYSTEM

Sections:

- 2.44.010 Adopted.
- 2.44.020 Definitions.
- 2.44.030 Personnel officer.
- 2.44.040 *Repealed.*
- 2.44.050 *Repealed.*
- 2.44.060 Exempted employees.
- 2.44.062 Exempted officials.
- 2.44.070 Rules adoption and amendment.
- 2.44.080 Appointments.
- 2.44.090 Probationary period.
- 2.44.100 Continuation of employment.
- 2.44.110 *Repealed.*
- 2.44.120 Disciplinary action.
- 2.44.130 Appeal.
- 2.44.140 Layoff and reemployment.
- 2.44.150 Political activity.
- 2.44.160 Discrimination prohibited.
- 2.44.170 Right to contract for special service.
- 2.44.180 Effective date.
- 2.44.190 No conflict with federal or state law.
- 2.44.200 Preemption.

2.44.010 Adopted.

In order to establish an equitable and uniform procedure for dealing with personnel matters, to attract to municipal service the best and most competent persons available, to assure that appointments and promotions of employees will be based on merit and fitness, and to provide a reasonable degree of security for qualified employees, the personnel system set forth in this chapter is adopted. (Ord. 988 § 1 (part), 2014: Ord. 381 § 1, 1974)

2.44.020 Definitions.

As used in this chapter, the following terms shall be defined as indicated:

- A. “Appointing authority” means the city manager, who is the appointing authority of employees in the competitive service; provided, however, the city manager may delegate in writing the appointing authority to any department head.
- B. “Class” means all positions sufficiently similar in duties, authority, and responsibility to permit grouping under a common title in the application with equity of common standards of selection, transfer, demotion and salary.
- C. “Competitive service” means all positions of employment in the service of the city except those specifically excluded by this chapter.
- D. “Days” means calendar days unless otherwise stated.
- E. “Demotion” means the movement of an employee from one class to another class having a lower maximum rate of pay.
- F. “Employment list” means a list of names of persons who may be considered for employment with the city under specified conditions.
- G. “Examination” means selection techniques used to measure the relative capacities of the persons applying for positions within the competitive service.

H. “Layoff” means the separation of employees from the active workforce due to lack of work or funds, or to the abolition of positions by the city council for the above reasons, or due to organizational changes.

I. “Position” means a group of duties and responsibilities in the competitive service requiring the full-time or part-time employment of one person.

J. “Probationary period” means a working test period during which an employee is required to demonstrate his or her fitness for the position to which he or she is appointed by actual performance of the duties of the position.

K. “Promotion” means the movement of an employee from one class to another class having a higher maximum rate of pay.

L. “Provisional appointment” means an appointment of a person who possesses the minimum qualifications established for a particular class and who has been appointed to a position in that class in the absence of available eligibles.

M. “Reinstatement” means the reemployment without examination of a former regular employee or probationary employee.

N. “Suspension” means the temporary separation from the service of an employee without pay, for disciplinary purposes.

O. “Transfer” means a change of an employee from one position to another position in the same class or in a comparable class.

P. “Regular” means a position in the competitive service that is, regardless of the number of hours worked per week, intended to be continuous and uninterrupted (except for authorized or unpaid leave) and receives benefits. Positions intended to be seasonal, of a limited term, on call only, emergency, intermittent, substitute or on any other irregular basis are not “regular.” (Ord. 988 § 1 (part), 2014; Ord. 829 § 1, 2001; Ord. 381 § 2, 1974)

2.44.030 Personnel officer.

The city manager shall be the personnel officer. The city manager may delegate any of the powers and duties conferred upon him or her as personnel officer under this chapter to any other officer or employee of the city or may recommend that such powers and duties be performed under contract as provided in Section 2.44.170. The personnel officer shall:

- A. Act as the appointing authority for the city;
- B. Administer all the provisions of this chapter and of the personnel rules not specifically reserved to the city council;
- C. Prepare and recommend to the city council personnel rules and revisions and amendments to such rules;
- D. Prepare or cause to be prepared a position classification plan, including class specifications, and revisions of the plan. The plan, and any revisions thereof, shall become effective upon approval by the city council;
- E. Have the authority to discipline employees in accordance with this chapter and the personnel rules of the city;
- F. Provide for the publishing or posting of notices of tests for positions in the competitive service, the receiving of applications therefor, the conducting and grading of tests, and the certification of a list of all persons eligible for appointment to the appropriate position in the competitive service. (Ord. 988 § 1 (part), 2014; Ord. 381 § 3, 1974)

2.44.040 Personnel board – Designated.

Repealed by Ord. 988. (Ord. 381 § 4, 1974)

2.44.050 Personnel board – Duties.

Repealed by Ord. 988. (Ord. 381 § 5, 1974)

2.44.060 Exempted employees.

The provisions of this chapter apply to all employees in the service of the city, except:

- A. The city manager and any assistant city manager;
- B. Any department head, including the chief of police, whose first date of employment is July 1, 2001, or after;
- C. Emergency employees who are hired to meet the immediate requirements of an emergency condition, such as fire, flood, or earthquake;
- D. Employees who are not “regular” (as defined in Section 2.44.020(P)) employees. (Ord. 988 § 1 (part), 2014; Ord. 829 § 2, 2001; Ord. 381 § 6, 1974)

2.44.062 Exempted officials.

The provisions of this chapter do not apply to any of the following:

- A. Elective officers;
- B. Members of appointive boards, commissions, and committees;
- C. Persons engaged under contract to supply expert, professional, technical or any other services;
- D. Volunteer personnel;
- E. City attorney, whether or not he or she is an employee. (Ord. 988 § 1 (part), 2014; Ord 829 § 3, 2001)

2.44.070 Rules adoption and amendment.

Personnel rules shall be adopted by resolution of the city council after notice of such action has been publicly posted in at least three public places designated by the city council, and at least five days prior to city council consideration. The personnel officer shall give reasonable written notice to each recognized employee organization affected by the ordinance, rule, resolution or regulation or amendment thereof proposed to be adopted by the city council. Amendments and revisions may be suggested by any interested party and shall be processed as provided in the personnel rules. The rules shall establish regulations governing the personnel system including:

- A. Preparation, installation, revision and maintenance of a position classification plan covering all positions in the competitive service, including employment standards and qualifications for each class;
- B. Public announcement of all tests and acceptance of applications for employment;
- C. Preparation and conduct of tests and the establishment and use of resulting employment lists containing names of persons eligible for appointment;
- D. Certification and appointment of persons from employment lists and the making of provisional appointments;
- E. Establishment of probationary periods;
- F. Evaluation of employees during the probationary period;
- G. Transfer, promotion, demotion, reinstatement, disciplinary action and layoff of employees in the competitive service;
- H. Separation of employees from the city service;
- I. The establishment of adequate personnel records;
- J. The establishment of appeal procedures concerning the interpretation of application of this chapter and any rules adopted under this chapter. (Ord. 988 § 1 (part), 2014; Ord. 381 § 7, 1974)

2.44.080 Appointments.

Appointments to vacant positions in the competitive service shall be made in accordance with the personnel rules. Appointments and promotions shall be based on merit and fitness to be ascertained so far as practicable by competitive examination. Examinations may be used and conducted to aid in the selection of qualified employees and shall consist of selection techniques which will test fairly the qualifications of candidates such as achievement and aptitude tests, written tests, personal interview, performance tests, physical agility tests, evaluation of daily work performance, work samples or any combinations of these or other tests. The probationary period shall be considered an extension of the examination process. Physical and medical tests may be given as a part of any examination.

In any examination the personnel officer may include, in addition to competitive tests, a qualifying test or tests and set minimum standards therefor. (Ord. 988 § 1 (part), 2014; Ord. 381 § 8, 1974)

2.44.090 Probationary period.

All regular appointments, including promotional appointments, shall be for a probationary period of not less than six months. Appointments to public safety positions will ordinarily be twelve months. That period may be reduced (but not below six months) if the chief of police so recommends and the city manager approves. Such a recommendation should only be made after the chief has had ample opportunity to evaluate the officer. During the probationary period, the employee may be rejected at any time without the right of appeal or hearing. An employee rejected during the probationary period from a position to which he or she has been promoted shall be reinstated to a position in the class from which he or she was promoted unless he or she is discharged from the city service as provided in this chapter and the rules.

An employee in the competitive service promoted or transferred to a position not included in the competitive service shall be reinstated to a position in the class from which he or she was promoted or transferred if action is taken to reject him or her unless he or she is discharged in the manner provided in this chapter and the personnel rules for positions in the competitive service. (Ord. 988 § 1 (part), 2014; Ord. 831, 2001; Ord. 381 § 9, 1974)

2.44.100 Continuation of employment.

Any person holding a position included in the competitive service who, on the effective date of the ordinance codified in this chapter, has served continuously in such position, or in some other position in the competitive service, for a period equal to the probationary period prescribed in the rules for his or her class, shall assume regular status in the competitive service in the position held on such effective date without qualifying test, and shall thereafter be subject in all respects to the provisions of this chapter and the personnel rules. Any other person holding positions in the competitive service shall be regarded as probationers who are serving out the balance of their probationary periods as prescribed in the rules before obtaining regular status. The probationary period shall be computed from the date of appointment or employment. (Ord. 988 § 1 (part), 2014; Ord. 381 § 10, 1974)

2.44.110 Attendance and leaves for full-time exempt positions.

Repealed by Ord. 988. (Ord. 381 § 11, 1974)

2.44.120 Disciplinary action.

The appointing authority shall have the right, for due cause, to demote, dismiss, reprimand, reduce in pay, or suspend without pay any regular non-sworn employee in accordance with procedures included in the personnel rules.

Notwithstanding any provision in this rule to the contrary, public safety personnel in the police department are subject to provisions of the Public Safety Officers Procedural Bill of Rights (POBR), as set forth in Government Code Section 3300 et seq., and wherever any provisions of these rules and regulations conflict with provisions of the POBR, the provisions of the POBR shall prevail.

The provisions of this section shall not apply to reductions in pay which are a part of a general plan to reduce salaries and wages or to eliminate positions. (Ord. 988 § 1 (part), 2014; Ord. 381 § 12, 1974)

2.44.130 Appeal.

Any employee in the competitive service shall have the right to appeal any disciplinary action, or alleged violation of this chapter, except in those instances where the right of appeal is specifically prohibited by this chapter or the rules adopted under this chapter or the personnel rules.

All appeals shall be concluded as expeditiously as possible and in accordance with the requirements and procedures as set forth in the personnel rules and regulations adopted pursuant to this chapter. (Ord. 988 § 1 (part), 2014; Ord. 381 § 13, 1974)

2.44.140 Layoff and reemployment.

Whenever in the judgment of the city council or the appointing authority it becomes necessary in the interest of economy, or because the necessity for a position no longer exists, the city council or the appointing authority may abolish any position or employment in the competitive service; and the employee holding such position for employment may be laid off without taking disciplinary action.

The order of layoff of employees shall follow the process outlined in the personnel rules adopted pursuant to this chapter. (Ord. 988 § 1 (part), 2014; Ord. 381 § 14, 1974)

2.44.150 Political activity.

The political activities of city employees shall conform to pertinent provisions of state and federal law. (Ord. 988 § 1 (part), 2014; Ord. 381 § 15, 1974)

2.44.160 Discrimination prohibited.

No person in the competitive service, or seeking admission thereto, shall be employed, promoted, demoted or discharged, or in any way favored or discriminated against, because of political opinions or affiliations, race, color, ancestry, national origin, religious creed, sex, age, sexual orientation, or gender identity or because of the exercise of his or her rights under Section 3502 of the Government Code. (Ord. 988 § 1 (part), 2014; Ord. 381 § 16, 1974)

2.44.170 Right to contract for special service.

The city manager shall consider and make recommendations to the city council regarding the extent to which the city should contract for the performance of technical services in connection with the establishment or operation of the personnel system. The city council may contract with any qualified person or public or private agency for the performance of all or any of the following responsibilities and duties imposed by this chapter:

- A. The preparation of personnel rules and subsequent revisions and amendments thereof;
- B. The preparation of a position classification plan, and subsequent revisions and amendments thereof;
- C. The preparation, conduct and grading of competitive tests;
- D. The conduct of employee training programs;
- E. Special and technical services of advisory or informational character on matters relating to personnel administration. (Ord. 988 § 1 (part), 2014; Ord. 381 § 17, 1974)

2.44.180 Effective date.

The ordinance codified in this chapter shall become effective immediately after the date of final passage by the city of Capitola city council. (Ord. 988 § 1 (part), 2014)

2.44.190 No conflict with federal or state law.

Nothing in this chapter shall be interpreted or applied so as to create any requirement, power, or duty in conflict with any federal or state law. (Ord. 988 § 1 (part), 2014)

2.44.200 Preemption.

The provisions of this chapter shall be null and void if state or federal legislation, or administrative regulation, takes effect with the same or substantially similar provisions as contained in this chapter. The city council shall determine whether or not identical or substantially similar statewide legislation has been enacted or regulations issued. (Ord. 988 § 1 (part), 2014)

Chapter 2.48
RETIREMENT SYSTEM

Sections:

2.48.010 P.E.R.S. participation.

2.48.010 P.E.R.S. participation.

The city shall continue to participate in the Public Employees' Retirement System on such terms and conditions as are embodied in the city's contract with P.E.R.S. together with any applicable provisions and individual contracts of employment or memorandums of understanding. (Ord. 828 § 1, 2001; Ord. 334 § 1, 1970)

Chapter 2.52

APPEALS TO CITY COUNCIL

Sections:

- 2.52.010 Applicability of chapter.
- 2.52.020 Time and form of appeal.
- 2.52.030 Setting of the hearing date.
- 2.52.040 Standing to appeal.
- 2.52.050 Conduct of the hearing.
- 2.52.060 Findings.

2.52.010 Applicability of chapter.

Except when a different procedure is otherwise expressly provided by this code, all appeals to the city council from a decision of any city employee, board, or commission shall be conducted as set out in this chapter. (Ord. 519 (part), 1982)

2.52.020 Time and form of appeal.

All appeals shall be made in writing and delivered to the office of the city clerk with payment of the fee established by resolution. Such appeals shall be made within ten working days from the time of the decision that is the subject of the appeal, except that when neither the applicant nor the applicant's representative has been present at the meeting in which the decision was rendered, the appeal time shall be fourteen working days from the date the staff mails to the applicant a notice of the decision. The request for appeal shall set forth the appellant's name, the phone number for the appellant, an address to which notices may be sent to the appellant and the grounds upon which the appeal is made. (Ord. 1038 § 1 (part), 2020; Ord. 845 § 1, 2003; Ord. 519 (part), 1982)

2.52.030 Setting of the hearing date.

The city staff can either set the hearing for the next city council meeting or shall, at the next city council meeting, request the city council to set the time and place of hearing. (Ord. 519 (part), 1982)

2.52.040 Standing to appeal.

The council may refuse to hear an appeal by a person whom the council determines does not have a significant interest in the matter. In land use matters, any citizen of Capitola or any property owner likely to be affected by the decision, shall be deemed to have a significant interest. (Ord. 519 (part), 1982)

2.52.050 Conduct of the hearing.

The hearing shall be de novo. The appellant's presentation shall be limited to issues raised in the request for appeal and to reasonable rebuttal. The ordinary order of presentation is as follows: staff report; appellant; real property in interest, if any; public comment; appellant's rebuttal; rebuttal by real party in interest, if any; council consideration. The presiding officer may set forth any reasonable time limits for any presentation, and may change these procedures, in his or her discretion. (Ord. 1038 § 1 (part), 2020; Ord. 519 (part), 1982)

2.52.060 Findings.

Findings may either be made by the city council at the time of the hearing or the council may direct the city staff to bring back findings for later council determination. The council may render a final decision, notwithstanding that the findings may be rendered at a later time. (Ord. 519 (part), 1982)

Chapter 2.56

ART AND CULTURAL COMMISSION

Sections:

- 2.56.010 Created.
- 2.56.020 Appointment.
- 2.56.030 Terms of office.
- 2.56.040 Officers, meetings, and procedures.
- 2.56.050 Duties.
- 2.56.060 Definitions.

2.56.010 Created.

The city shall continue to have an art and cultural commission. The art and cultural commission shall consist of nine members as follows:

- A. One city council member;
- B. One planning commissioner;
- C. One artist or arts organization representative member;
- D. One arts professional member;
- E. Five at-large members. (Ord. 944 § 1, 2010; Ord. 851 § 1, 2003)

2.56.020 Appointment.

The council member and planning commissioner appointees shall be selected by a majority vote of their respective boards. The artist or arts organization representative, arts professional, and the at-large appointees shall be appointed to the art and cultural commission by a majority vote of the city council. (Ord. 851 § 1, 2003)

2.56.030 Terms of office.

The art and cultural commissioners shall serve two-year terms. With the addition of two at-large member positions in 2010, one will expire on December 31, 2010, and one will expire on December 31, 2011, in order that there are two at-large member positions expiring in 2010, and three at-large member positions expiring in 2011. (Ord. 944 § 1, 2010; Ord. 851 § 1, 2003)

2.56.040 Officers, meetings, and procedures.

A. Chairperson and Vice Chairperson. As soon as practicable, following the first day of January of each year, the art and cultural commission shall select one of its members as chairperson and one of its members as vice-chairperson. The chairperson and vice chairperson shall serve a term of one year, or until a successor is elected.

B. Committees. The art and cultural commission shall designate specific committees as follows: public art, volunteers, fundraising, marketing, and any other committee as necessary. Committees shall be composed of no fewer than two and no more than three commissioners. The committees may also include nonvoting volunteer members as deemed necessary by the art and cultural commission. The committees shall report to the art and cultural commission on no less than a quarterly basis.

C. Artist Selection Panels. The art and cultural commission may establish an artist selection panel, as defined in the art and cultural master plan, to select works of art for recommendation to the city council.

D. Meetings. The art and cultural commission shall hold a regular meeting at least once each month.

E. Procedures. Procedures for the conduct of the business of the art and cultural commission, not specified in the ordinance establishing the art and cultural commission's authority, shall be set forth in bylaws, forms, applications, rules, and regulations adopted by the art and cultural commission for the conduct of its business subject to approval

of the city council. All meetings of the art and cultural commission shall be open to the public and are subject to Title 5, Division 2, Part 1, Chapter 9 of the California Government Code or successor legislation. The decisions of the art and cultural commission shall be transmitted to the city manager and to such other body or bodies which have jurisdiction to review projects under consideration. If more than one board or commission has jurisdiction over a matter decided by the art and cultural commission, the first to consider it shall refer it to the others. (Ord. 851 § 1, 2003)

2.56.050 Duties.

The art and cultural commission shall have the following duties and responsibilities:

- A. Advise the city council as to the allocation of public funds for the support and encouragement of existing and new programs in the arts, and for the acquisition by purchase, gift, or otherwise, of works of art;
- B. Subject to city council approval, initiate, sponsor, or direct special programs which will enhance the cultural climate of the city;
- C. Establish close liaison with other commissions and civic organizations in order to foster public interest in the arts;
- D. Advise the city council concerning the interpretation and implementation of the city's established policies and practices, including the art and cultural master plan, as they relate to the art and cultural commission's objectives;
- E. In February of each year, prepare for city council review an assessment of the art and cultural commission's goals, plans and objectives from the prior fiscal year and recommend for council approval the art and cultural commission's goals, plans, and objectives for the next fiscal year;
- F. Perform such other functions and duties as may be directed by the city council. (Ord. 851 § 1, 2003)

2.56.060 Definitions.

“Work of art” means, for the purposes of this chapter, any work of visual art, including, but not limited to, drawing, painting, mural, fresco, sculpture, mosaic, decoration, inscription, stained glass, monument, calligraphy, photography, graphic art, crafts, mixed media, electronic art, media art, an artistic or aesthetic element of the project architecture or landscape architecture if created by an artist or artist team, or any other element recommended by the art and cultural commission. The term “work of art” may also include functional elements of capital improvement projects, such as benches, gates, lighting, and landscaping if such elements are designed by a professional artist. (Ord. 851 § 1, 2003)

Chapter 2.58

FUNDING THE PUBLIC ART PROGRAM

Sections:

- 2.58.010 Purpose.
- 2.58.020 Definitions.
- 2.58.030 Public art account.
- 2.58.040 Applicability.
- 2.58.050 Funds for public art.
- 2.58.060 Funding exclusions from, and additions to, the public art program.
- 2.58.070 Application procedures for placement of required public art on private nonresidential property.
- 2.58.080 Approval for placement of public art on private nonresidential property.
- 2.58.090 Application procedure for acceptance of public art donated to the city.
- 2.58.100 Review of application for acceptance of public art donated to the city.
- 2.58.110 Certificate of occupancy.
- 2.58.120 Ownership of public art on private nonresidential property.
- 2.58.130 Removal or alteration of public art.
- 2.58.140 Program administration.

2.58.010 Purpose.

The city of Capitola wishes to enhance the cultural and aesthetic environment of the city, to encourage creativity, the appreciation of the arts and our cultural heritage. Through the establishment of a program of public art funded by private development, the city will promote the general welfare through balancing the community's physical growth and revitalization with its cultural and artistic resources. (Ord. 869 § 1, 2004)

2.58.020 Definitions.

A. "Acquisition" means the acquirement of works of art by donation, purchase or commission.

B. "Public place" means city or privately owned land or buildings which are open to the general public on a regular basis.

C. "Eligible public construction project" means any capital improvement project of the city involving a public place as identified in the annual capital improvement budget of the city and which is paid for wholly or in part by city funds, nonresidential development project which exceeds a total building permit valuation of two hundred fifty thousand dollars as calculated by the city of Capitola building permit application.

EXCEPTION: "Eligible construction project" shall not include capital improvement projects for which the sources of funds are limited to a specified purpose, or for which the terms of a contract, federal or state grant, law, or regulation prohibit or restrict the expenditure of funds on works of art. However, it shall be the policy of the city that all city departments shall, from the effective date of this ordinance, include a request for public art funding in all grant applications or other funding support requests for capital improvement projects to any outside funding agencies.

D. "Eligible private construction project" means and includes any private nonresidential redevelopment project with a total building permit valuation of two hundred fifty thousand dollars or more as calculated by the city of Capitola building permit application.

EXCEPTION: "Eligible private construction project" shall not include projects which consist only of heating, ventilation, air-conditioning, reroofing, cosmetic work that does not affect items regulated by the model building codes, and equipment not considered to be part of the architecture of the building or area.

E. Professional Artist or Artwork. It is the policy of the art and cultural commission that all artworks commissioned or acquired under the public art plan be designed by professional visual artists. A "professional artist" is a person who has established a reputation of artistic excellence, as judged by peers, through a record of exhibitions, public commissions, sale of works, or educational attainment.

The Capitola Municipal Code is current through Ordinance 1061, passed June 22, 2023.

F. Artwork may include, but is not limited to, the following:

1. Sculpture: free-standing, wall supported or suspended; kinetic, electronic; in any material or combination of materials.
2. Murals or portable paintings: in any material or variety of materials, with or without collage or addition of nontraditional materials or means.
3. Earthworks, fiber works, neon glass mosaics, photographs, prints, calligraphy, any combination of forms of media including sound, literary elements, film holographic images, and video systems; hybrids of any media and new genres.
4. Furnishings or fixtures, including but not limited to gates, railings, streetlights, signs, seating, if artist-created as unique elements or limited editions.
5. Artistic or aesthetic elements of the overall architecture or landscape design if created by a professional artist or a design team that includes a professional visual artist.
6. Temporary artworks or installations, as such artworks serve the purpose of providing community and educational outreach.
7. The incremental costs of infrastructure elements, such as sound walls, utility structures, roadway elements and other items if designed by an artist or design team that included an artist as a co-designer.

Ineligible artworks:

1. Art objects which are mass produced or of standard manufacture, such as playground equipment, fountains or statuary elements, unless incorporated into an artwork by a project artist.
2. Reproductions, by mechanical or other means, of original works of art, except in cases of film, video, photography, printmaking or other media arts.
3. Decorative, ornamental, architectural or functional elements which are designed by the building architect, as opposed to the elements created by an artist commissioned for that purpose.
4. Landscape architecture and landscape gardening except where these elements are designed by a professional visual artist and/or are an integral part of the artwork.
5. Services or utilities necessary to operate and maintain an artwork over time.

G. "Total construction cost," as used in this chapter, means the valuation of the proposed structures or improvements, as calculated by the city of Capitola building permit application.

H. "Nonresidential development" means the construction of commercial, residential/ commercial, office, industrial projects or other projects which are not intended for residential purposes.

I. "Artist selection panel" means an ad-hoc committee formed and charged by the art and cultural commission for a limited period of time to recommend artists for individual projects or groups of projects. (Ord. 892 § 1, 2005; Ord. 869 § 1, 2004)

2.58.030 Public art account.

There shall be a noninterest-bearing account designated for public art, into which shall be deposited all fees paid pursuant to this chapter. This account shall be maintained by the city finance director and shall only be used for the acquisition, installation, and improvement (see Program Administration Section 2.58.140) of public art in the city. (Ord. 869 § 1, 2004)

2.58.040 Applicability.

The program described in this chapter is a mandatory program, and the standards specified are minimum standards for compliance.

A. This chapter shall apply to all eligible public and private construction projects as defined by this ordinance having a total construction cost of two hundred and fifty thousand dollars or more, as calculated by the city of Capitola building permit application. The obligation to comply with this chapter shall not be evaded by performing a series of small construction projects if the project could have been performed as a single construction project with in a three-year period.

B. This chapter shall apply to all expansion of, remodeling of, or tenant improvements to existing eligible buildings when any such work has a total construction cost of two hundred fifty thousand dollars or more, as calculated by the city of Capitola building permit application. (Ord. 892 § 2, 2005; Ord. 869 § 1, 2004)

2.58.050 Funds for public art.

A. Private Project Applicant. The project applicant shall acquire and install public art recommended by an art selection panel, with review by the art and cultural commission and approval of the city council, in a public place on or in the vicinity of the development project site. The minimum cost of the public art, including installation, shall be determined by the following:

1. After the effective date of this chapter, if a private developer makes application for a permit to develop a nonresidential project with a total building permit valuation of at least two hundred fifty thousand dollars, excluding land acquisition, not less than two percent of the project budget shall be set aside for the acquisition of art for incorporation into the project or for placement in the general vicinity of the project.
2. The private developer may, with city council approval, in lieu of incorporating public art in their project, deposit an amount equal to one percent of the total building permit valuation with the city, to be used for public art elsewhere in the city. Deposits of funds for public art from the private developer or for the in-lieu payment shall be made to the city prior to the issuance of a building permit for the project.

B. City Projects.

1. The city council shall provide in the annual capital improvement budget for an amount of not less than two percent of the total amount budgeted for each “eligible construction project” to be set aside and identified as sources of funds to be appropriated and expended for acquisition of works of art in accordance with this section. Appropriations for purposes of acquiring works of art in order to carry out the provisions of this chapter shall be made in accordance with law and the budgeting procedures of the city.
2. Appropriations for works of art may be expended to acquire works of art for any public place if the terms of a contract, federal or state grant, law or regulation do not limit or restrict the funds so appropriated to use for a specific “eligible public or private construction project.” Appropriations for works of art shall only be expended for acquisition of works of art to be located on the premises of a specific “eligible public or private construction project” if the terms of a contract, federal or state grant, law, or regulation do limit or restrict the use of funds to a specific “eligible construction project” only.
3. Subject to applicable law, appropriations and expenditures for works of art may include, but are not limited to, the costs and expenses incurred in the process of selecting and installing works of public art and for design and planning services of artists, as well as program administration and project management.
4. The city council shall approve the acquisition of works of art to be funded under the capital improvement budget.
5. All artwork donated to the city shall become the property and responsibility of the city upon acceptance of the city council.
6. Other Public Agencies. If the city enters into an agreement with another public agency, whereby city or agency funds are transferred to such agency for the purpose of performing a capital improvement project which

would otherwise be deemed an “eligible construction project” under this chapter, such agreement shall provide, whenever it is lawful or appropriate to do so, that the recipient agency or its successor in interest shall take appropriate measures to insure that not less than two percent of the city or agency funds so transferred are expended for acquisition of works of art. (Ord. 892 § 3, 2005; Ord. 869 § 1, 2004)

2.58.060 Funding exclusions from, and additions to, the public art program.

City manager responsibilities:

A. The city manager, in conjunction with the submission of the annual capital budgets of the city, and unless otherwise prohibited by law from doing so, may:

1. Propose funds to be added to the public art program, which funds may be utilized to place works of art in existing public places which do not otherwise qualify as “eligible public construction projects.”
2. Prior to the submission of the city’s proposed annual capital improvement project budget to the city council, the city manager shall notify the art and cultural commission of: (i) those capital improvement projects which are designated “eligible public construction projects” in the budget; and (ii) any proposed discretionary funds proposed for addition to the public art program.
3. The following provisions shall apply to the two percent minimum public art calculation only in those circumstances in which the city receives funds from persons, firms, organizations or other agencies which are restricted as to the use of such funds for works of art, or which such funds are otherwise restricted by law or regulation:
 - a. If the terms of a contract, federal or state grant, law or regulation prohibit the use of funds in connection with an “eligible public construction project” for expenditure upon works of art, then the basis on which the public art funding percentage is applied will exclude any funds which are so prohibited or restricted.
 - b. If the terms of a contract, federal or state grant, law or regulation provide that any additional expenditure by the city on works of art for an otherwise “eligible public construction project” shall reduce the amount of funds received by the city for the project, then the project may be wholly or partially exempted from the provisions of this chapter. (Ord. 892 § 3, (part), 2005; Ord. 869 § 1 (part), 2004)

2.58.070 Application procedures for placement of required public art on private nonresidential property.

An application for placement of public art on private nonresidential property shall be submitted to the community development director and shall include:

- A. Preliminary sketches, photographs or other documentation of sufficient descriptive clarity to indicate the nature of the proposed public art;
- B. An appraisal or other evidence of the value of the proposed public artwork, including acquisition and installation costs;
- C. Preliminary plans containing such detailed information as may be required the art and cultural commission to adequately evaluate the location of the artwork in relation to the proposed development and its compatibility to the proposed development, including compatibility with the character of adjacent conforming developed parcels and existing neighborhoods;
- D. A narrative statement to be submitted to the community development director to demonstrate that the public art will be displayed in an area open and freely available to the general public, or that public accessibility will be provided in an equivalent manner based on the characteristics of the artwork or its placement on the site. (Ord. 869 § 1, 2004)

2.58.080 Approval for placement of public art on private nonresidential property.

A. Applications completed in accordance with Section 2.58.070 shall be submitted to the art and cultural commission for review and recommendation to the city council of public art in accordance with this chapter.

B. The art and cultural commission upon receipt of a completed application shall convene an art selection panel to review the proposed public art using adopted public art evaluation criteria.

C. The recommended completed application shall be forwarded by the art and cultural commission to the city council, which shall have the sole authority to accept, reject or conditionally accept the project.

D. All approvals for placement of public art on private property shall be obtained prior issuance of a certificate of occupancy. (Ord. 892 § 4, 2005; Ord. 869 § 1, 2004)

2.58.090 Application procedure for acceptance of public art donated to the city.

An application for the donation of public art to the city shall be submitted to the art and cultural commission and shall include:

A. Preliminary sketches, photographs, models or other documentation of sufficient descriptive clarity to indicate the nature of the proposed public art;

B. An appraisal or other evidence of the value of the proposed public art, including acquisition and installation costs;

C. A written agreement executed by or on behalf of the artist who created the public art which expressly waives his or her rights under the California Art Preservation Act or other applicable law;

D. Other information as may be required by the art and cultural commission to adequately evaluate the proposed donation of public art. (Ord. 869 § 1, 2004)

2.58.100 Review of application for acceptance of public art donated to the city.

A. The art and cultural commission shall convene an art selection panel to review the proposed public art, using adopted public art evaluation criteria.

B. Upon recommendation of the art selection panel, the public art application shall be reviewed by the art and cultural commission.

C. Following the review, the art and cultural commission shall forward the public art application to the city council, which shall have the sole authority to accept, reject or conditionally accept the donation. (Ord. 869 § 1, 2004)

2.58.110 Certificate of occupancy.

The following requirements must be met prior to the city's issuance of a certificate of occupancy:

A. Full compliance with one of the following:

1. The approved public art has been placed on the site of the approved project, in a manner satisfactory to the building official and the Capitola art and cultural commission; or

2. In-lieu art fees have been paid.

B. If public art has been placed on the site of the approved project, the applicant must execute and record with the county recorder covenants, conditions and restrictions (CC&Rs), which require the property owner, successor in interest and assigns to:

1. Maintain the public art in good condition as required by the city's public art guidelines;

2. Indemnify, defend and hold the city and related parties harmless from any and all claims or liabilities from the public art, in a form acceptable to the city attorney;

3. Maintain liability insurance, including coverage and limits as may be specified by the city manager. (Ord. 892 § 5, 2005; Ord. 869 § 1, 2004)

2.58.120 Ownership of public art on private nonresidential property.

A. All public art placed on the site of an applicant's project shall remain the property of the applicant; the obligation to provide all maintenance necessary to preserve the public art in good condition shall remain with the owner of the site.

B. Maintenance of public art, as used in this chapter, shall include without limitation, preservation of the artwork in good condition to the satisfaction of the city, protection of the public art against physical defacement, mutilation or alteration, and securing and maintaining fire and extended coverage insurance and vandalism coverage in an amount to be determined by the city manager. Prior to placement of approved public art, applicant and owner of the site shall execute and record a covenant, in a form approved by the city, requiring maintenance of the public art. Failure to maintain the public art as provided in this chapter is declared to be a public nuisance.

C. In addition to all other remedies provided by law, in the event the owner fails to maintain the public art, upon reasonable notice the city may perform all necessary repairs and maintenance or secure insurance, and the costs therefore shall become a lien against the real property.

D. All artwork donated to the city shall become the property and responsibility of the city upon acceptance by the city council. (Ord. 869 § 1, 2004)

2.58.130 Removal or alteration of public art.

A. Public art installed on or integrated into a construction project pursuant to the provisions of this chapter shall not be removed or altered without the approval of the city council.

B. If any public art provided on a development project pursuant to the provisions of this chapter is knowingly removed by the property owner without prior approval, the property owner shall contribute funds equal to the development project's original public art requirement to the city's public art in-lieu account, or replace the removed artwork with one which is of comparable value and approved by the city council. If this requirement is not met, the occupancy permit for the project may be revoked by the city council upon due notice and an opportunity to be heard. The city may, in addition, pursue any other available civil or criminal remedies or penalties. (Ord. 869 § 1, 2004)

2.58.140 Program administration.

A. Up to twenty percent of the percent for art allocations may be expended on program administration, project management and community outreach activities, including, but not limited to, staffing, artist selection, publicity, community education activities, project documentation, consultants, and other activities necessary for the administration of the program.

B. Maintenance. Proceeds of the percent for art program shall not be used for maintenance of the public art collection. Routine and preventive maintenance of works of art shall be funded by the city council and performed by the public works department, under the guidance of the art and cultural commission. The art and cultural commission as part of the annual budget process shall submit requests for non-routine and restorative maintenance, as well as other curatorial services. (Ord. 869 § 1 (part), 2004)

Chapter 2.60
MILITARY EQUIPMENT USE

Sections:

- 2.60.010 Name of chapter.
- 2.60.020 Definitions.
- 2.60.030 Military equipment use policy requirement.
- 2.60.040 Use in exigent circumstances.
- 2.60.050 Reports on the use of military equipment.
- 2.60.060 Severability.

2.60.010 Name of chapter.

A. This chapter shall be known as the military equipment use ordinance. (Ord. 1051 § 3 (Exh. A), 2022)

2.60.020 Definitions.

A. "Military equipment" includes all of the following (per Cal. Gov. Code § 7070):

1. Unmanned, remotely piloted, powered aerial or ground vehicles.
2. Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers. However, police versions of standard consumer vehicles are specifically excluded from this definition.
3. High mobility multipurpose wheeled vehicles (HMMWV), commonly referred to as Humvees, two and one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached. However, unarmored all-terrain vehicles (ATVs) and motorized dirt bikes are specifically excluded from this definition.
4. Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.
5. Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
6. Weaponized aircraft, vessels, or vehicles of any kind.
7. Battering rams, slugs, and breaching apparatuses that are explosive in nature. However, items designed to remove a lock, such as bolt cutters, or a handheld ram designed to be operated by one person, are specifically excluded from this definition.
8. Firearms of .50 caliber or greater. However, standard issue shotguns are specifically excluded from this definition.
9. Ammunition of .50 caliber or greater. However, standard issue shotgun ammunition is specifically excluded from this definition.
10. Specialized firearms and ammunition of less than .50 caliber, including assault weapons as defined in Sections 30510 and 30515 of the Penal Code, with the exception of standard issue service weapons and ammunition of less than .50 caliber that are issued to officers, agents, or employees of a law enforcement agency or a state agency.
11. Any firearm or firearm accessory that is designed to launch explosive projectiles.
12. "Flashbang" grenades and explosive breaching tools, "tear gas," and "pepper balls," excluding standard, service-issued handheld pepper spray.
13. Taser Shockwave, microwave weapons, water cannons, and the long range acoustic device (LRAD).

The Capitola Municipal Code is current through Ordinance 1061, passed June 22, 2023.

14. The following projectile launch platforms and their associated munitions: 40mm projectile launchers, “bean bag,” rubber bullet, and specialty impact munition (SIM) weapons.
 15. Any other equipment as determined by a governing body or a state agency to require additional oversight.
 16. Notwithstanding subsections (A)(1) through (15), “military equipment” does not include general equipment not designated as prohibited or controlled by the federal Defense Logistics Agency.
- B. “City” means any department, agency, bureau, and/or subordinate division of the city of Capitola.
- C. “Police department” means any division, section, bureau, employee, volunteer and/or contractor of the Capitola police department.
- D. “City council” means the governing body that is the Capitola city council.
- E. “Military equipment use policy” means a publicly released, written document that includes, at a minimum, all of the following:
1. A description of each type of military equipment, the quantity sought, its capabilities, expected lifespan, and product descriptions from the manufacturer of the military equipment.
 2. The purposes and authorized uses for which the law enforcement agency or the state agency proposes to use each type of military equipment.
 3. The fiscal impact of each type of military equipment, including the initial costs of obtaining the equipment and estimated annual costs of maintaining the equipment.
 4. The legal and procedural rules that govern each authorized use.
 5. The training, including any course required by the Commission on Peace Officer Standards and Training, that must be completed before any officer, agent, or employee of the law enforcement agency or the state agency is allowed to use each specific type of military equipment to ensure the full protection of the public’s welfare, safety, civil rights, and civil liberties and full adherence to the military equipment use policy.
 6. The mechanisms to ensure compliance with the military equipment use policy, including which independent persons or entities have oversight authority, and, if applicable, what legally enforceable sanctions are put in place for violations of the policy.
 7. For a law enforcement agency, the procedures by which members of the public may register complaints or concerns or submit questions about the use of each specific type of military equipment, and how the law enforcement agency will ensure that each complaint, concern, or question receives a response in a timely manner.
- F. “Exigent circumstances” means a law enforcement agency’s good faith belief that an emergency involving the danger of, or imminent threat of death or serious physical injury to any person is occurring, has occurred, or is about to occur.
- G. “State agency” means the law enforcement division of every state office, officer, department, division, bureau, board, and commission or other state body or agency, except those agencies provided for in Article IV (except Section 20 thereof) or Article VI of the California Constitution.
- H. “Type” means each item that shares the same manufacturer model number. (Ord. 1051 § 3 (Exh. A), 2022)

2.60.030 Military equipment use policy requirement.

A. The Capitola police department shall obtain approval of the city council, by a resolution adopting a military equipment use policy (MEUP) at a regular meeting of the city council held pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code) prior to engaging in any of the following:

1. Requesting military equipment made available pursuant to 10 U.S.C. Section 2576a.
2. Seeking funds for military equipment, including, but not limited to, applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.
3. Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.
4. Collaborating with another law enforcement agency in the deployment or other use of military equipment within the territorial jurisdiction of the city of Capitola.
5. Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body pursuant to this chapter.
6. Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of, military equipment.
7. Acquiring military equipment through any means not provided by this section.

B. No later than May 1, 2022, if seeking to continue the use of any military equipment that was acquired prior to January 1, 2022, the Capitola police department shall commence a city council approval process in accordance with this section. If the city council does not approve the continuing use of military equipment, including by adoption pursuant to a military equipment use policy submitted pursuant to this code, within 180 days of submission of the proposed military equipment use policy to city council, the Capitola police department shall cease its use of the military equipment until it receives the approval of city council in accordance with this code.

C. In seeking the approval of city council, the Capitola police department shall submit a proposed military equipment use policy to the city council and make those documents available on the police department's internet website at least 30 days prior to any public hearing concerning the military equipment at issue.

D. The city council shall only approve a military equipment use policy pursuant to this chapter if it determines all of the following:

1. The military equipment is necessary because there is no reasonable alternative that can achieve the same objective of officer and civilian safety.
2. The proposed military equipment use policy will safeguard the public's welfare, safety, civil rights, and civil liberties.
3. If purchasing the equipment, the equipment is reasonably cost effective compared to available alternatives that can achieve the same objective of officer and civilian safety.
4. Prior military equipment use complied with the military equipment use policy that was in effect at the time, or if prior uses did not comply with the accompanying military equipment use policy, corrective action has been taken to remedy nonconforming uses and ensure future compliance.

E. In order to facilitate public participation, any proposed or final military equipment use policy shall be made publicly available on the internet website of the police department for as long as the military equipment is available for use.

F. The city council shall review this chapter at least annually and vote on whether to renew it at a regular meeting held pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code). (Ord. 1051 § 3 (Exh. A), 2022)

2.60.040 Use in exigent circumstances.

A. Notwithstanding the provisions of this chapter, the police department may acquire, borrow and/or use military equipment in exigent circumstances without following the requirements of this code.

B. If the police department acquires, borrows, and/or uses military equipment in exigent circumstances, in accordance with this section, it must take all of the following actions:

1. Provide written notice of that acquisition or use to the city council within 30 days following the commencement of such exigent circumstance, unless such information is confidential or privileged under local, state or federal law.
2. If it is anticipated that the use will continue beyond the exigent circumstance, submit a proposed amended military equipment use policy to the city council within 90 days following the borrowing, acquisition and/or use, and receive approval, as applicable, from the city council.
3. Include the military equipment in the police department's next annual military equipment report. (Ord. 1051 § 3 (Exh. A), 2022)

2.60.050 Reports on the use of military equipment.

A. The police department shall submit to city council an annual military equipment report for each type of military equipment approved by the city council within one year of approval, and annually thereafter for as long as the military equipment is available for use.

B. The police department shall also make each annual military equipment report required by this section publicly available on its internet website for as long as the military equipment is available for use.

C. The annual military equipment report shall, at a minimum, include the following information for the immediately preceding calendar year for each type of military equipment:

1. A summary of how the military equipment was used and the purpose of its use.
2. A summary of any complaints or concerns received concerning the military equipment.
3. The results of any internal audits, any information about violations of the military equipment use policy, and any actions taken in response.
4. The total annual cost for each type of military equipment, including acquisition, personnel, training, transportation, maintenance, storage, upgrade, and other ongoing costs, and from what source funds will be provided for the military equipment in the calendar year following submission of the annual military equipment report.
5. The quantity possessed for each type of military equipment.
6. If the law enforcement agency intends to acquire additional military equipment in the next year, the quantity sought for each type of military equipment.

D. Within 30 days of submitting and publicly releasing an annual military equipment report pursuant to this section, the police department shall hold at least one well publicized and conveniently located community engagement meeting, at which the general public may discuss and ask questions regarding the annual military equipment report and the law enforcement agency's funding, acquisition, or use of military equipment.

E. The city council shall determine, based on the annual military equipment report submitted pursuant to this section, whether each type of military equipment identified in that report has complied with the standards for approval set forth in this code and the military equipment use policy. If the city council determines that a type of military equipment identified in that annual military equipment report has not complied with the standards for approval, the city council shall either disapprove a renewal of the authorization for that type of military equipment or require modifications to the military equipment use policy in a manner that will resolve the lack of compliance. (Ord. 1051 § 3 (Exh. A), 2022)

2.60.060 Severability.

A. If any section, subsection, sentence, clause, phrase, or word of this chapter, or any application thereof to any person or circumstance, is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions or applications of this chapter.

B. The city council hereby declares that it would have passed this chapter and each and every section, subsection, sentence, clause, phrase, and word not declared invalid or unconstitutional without regard to whether any other portion of this chapter or application thereof would be subsequently declared invalid or unconstitutional. (Ord. 1051 § 3 (Exh. A), 2022)



ADMINISTRATIVE POLICY

Item 7 F.

Number: I-15
Issued: 3/25/03
Revised: 10/30/03
Revised: 5/30/13
Revised: 10/31/14
Revised: 12/02/16
Jurisdiction: City Manager

Agenda Preparation Procedures for City Council and Successor Agency Meetings

I. PURPOSE:

This procedure establishes a uniform procedure for the preparation of agendas for City Council and Successor Agency meetings.

II. POLICY:

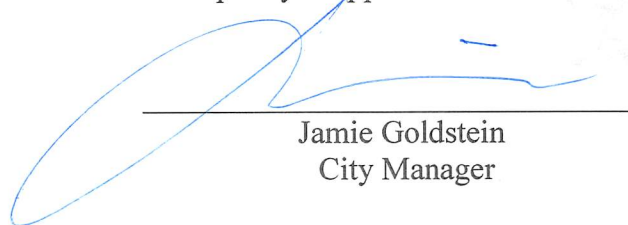
All materials submitted for inclusion in a City Council/Successor Agency meeting agenda must be submitted in accordance with the attached "Agenda Preparation Procedures." Exceptions will only be made with City Manager approval.

City Council/Successor Agency agenda reports are to be prepared and submitted as far in advance of the meeting as possible. Staff is encouraged not to wait until the deadline to submit agenda materials.

Department heads are responsible to review all agenda report attachments to ensure that they are accurate and are vitally required to be copied and distributed.

All agenda items should be treated as documents for internal distribution only until they are presented to the City Council in their agenda packets (at 5:00 p.m. on the Friday preceding the City Council meeting).

This policy is approved and authorized by:



Jamie Goldstein
City Manager

Attachment: Agenda Preparation Procedures

JG/ss

AGENDA PREPARATION PROCEDURES

Table of Contents

I.	Introduction.....	1
II.	City Council Agenda Format Description	
A.	Presentations.....	1
B.	Report on Closed Session.....	1
C.	Additions and Deletions.....	2
E.	Public Comments.....	2
D.	Council/City Treasurer/Staff Announcements.....	2
F.	Boards, Commissions and Committee Appointments.....	2
G.	Consent Calendar.....	2
H.	Items Removed from Consent Calendar.....	3
I.	General Government/Public Hearings.....	3
J.	Additional Material.....	3
III.	Agenda Process and Schedule	
A.	Items Requiring Council Approval.....	4
B.	Agenda Process.....	6
C.	Staff Report Changes.....	7
D.	Agenda Schedule	7
E.	Agenda Deadline/Meeting Date Changes.....	8
F.	Confidential Closed Session Memorandum Transmittal.....	8
G.	City Council Staff Report.....	9
H.	Ordinances.....	10
I.	Resolutions.....	11
J.	Minute Orders.....	11
 Samples		
Attachment 1	City Council Agenda Format	
Attachment 2	Capitola Successor Agency Agenda Format	
Attachment 3	Agenda Report Submittal Dates	
Attachment 4	MinuteTraq Procedure	
Attachment 5	City Council Agenda Report	
Attachment 6	Successor Agency Agenda Report	
Attachment 7	City Council/Successor Agency Agenda Report	
Attachment 8	City Council Ordinance Format	
Attachment 9	City Council Resolution Format	
Attachment 10	Successor Agency Resolution Format	
Attachment 11	Agenda Packet Distribution	

I. Introduction

This Agenda Preparation Procedure has been developed to acquaint City staff with the various aspects of the agenda process, and to provide a helpful guide in the preparation of agenda items for City Council or Successor Agency Agenda Packets. This procedure provides schedules and deadlines concerning the City Council and Successor Agency Agendas, and describes standard procedures for the preparation and coordination of City Council/Successor Agency Agenda Staff Reports using MinuteTraq (legislative management software). All references to City Council relate also to the Successor Agency.

Updates will be provided as procedures change. Please contact the City Clerk with suggestions for improving this procedure or to make it more useful.

II. City Council Agenda Format Description

The Agenda [Attachment 1] is the official order of business at City Council meetings. The Mayor may reorder an item if the need arises. If an item is reordered it retains its original Item No., and the Mayor advises that the item will be discussed (i.e. “following General Government/Public Hearing Item 9.D.”).

Regular City Council meetings are held on the second and fourth Thursday of each month and typically begin at 7:00 p.m. but in no event earlier than 6:00 p.m. If there are items to be discussed in Closed Session, the Council generally meets prior to the Regular Meeting. Capitola Successor Agency meetings are generally held following the City Council Meeting [Agenda - Attachment 2]

A. Presentations

The Presentation section of the Agenda is for awards, plaques, proclamations¹, or other forms of recognition. Special presentations may come from Council Members, community organizations, non-profit organizations, outside agencies, citizens, or City staff. The City Clerk coordinates these matters with the Mayor and the City Manager.

B. Report on Closed Session

Following the Presentation section of the Agenda is “Report on Closed Session.” At this time the City Attorney will provide a verbal report informing the public of items discussed in Closed Session and action taken by the Council, if any.

The Ralph M. Brown Act (GC§ 54950 et seq.) specifies certain matters the City Council is permitted to meet privately on, such as

- Conference with Labor Negotiators
- Conference with Legal Counsel — Anticipated/Existing Litigation
- Conference with Real Property Negotiators
- Liability Claims
- Public Employee Appointment
- Public Employee Discipline/Dismissal
- Public Employment
- Public Employee Performance Evaluation
- Threat to Public Services or Facilities

¹ See Administration Police I-35 Proclamations

II. City Council Agenda Format Description (continued)

C. Additions and Deletions to the Agenda

The Council may add items of business to the Agenda under the following circumstances, after the Mayor publicly identifies the item:

1. Upon a majority vote that an emergency situation exists, as that term is defined in the Brown Act; or
2. Upon a determination by a two-thirds vote or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there is a need to take immediate action and that the need for action came to the attention of the City subsequent to the Agenda being posted; or
3. The item was posted for a prior meeting of the Council not more than five calendar days prior to the date action is taken on the item, and at the prior meeting the item was continued to the meeting at which action is being taken.

D. Public Comments

This section of the Agenda permits members of the public to comment on issues and concerns that are within the jurisdiction of the City of Capitola but are not listed on the Agenda. The Mayor may set a maximum amount of time for each speaker, generally three minutes. The Council may not take action regarding any matter arising from a request or concern voiced during Public Comment except by following the process outlined in Section C above because the matter was not listed on the posted Agenda pursuant to the Brown Act. Council may refer the matter to staff for research and/or ask that it be placed on a future Agenda. A maximum of 30 minutes is set aside for Public Comments at this time.

Pictures, letters, petitions, and similar documents offered for Council Member review during Public Comments should be forwarded to the City Clerk who retains them for the record.

E. City Council/City Treasurer/Staff Announcements

This section of the Agenda is reserved for issues raised by an individual Council Member, City Treasurer, or staff for discussion and/or action or for Council Member reports, that is, briefings and summaries concerning meetings, projects, or miscellaneous comments and statements. A Council report may be entirely oral or may include written information. Written reports are submitted to the City Manager for inclusion in the Agenda Packet. Generally, more complex Council announcements and recommendations are accompanied by a written report. The City Council may not take action or give direction unless the issue was printed on the Agenda and posted 72 hours prior to meeting (unless by urgency motion and a four-fifths vote).

F. Boards, Commissions and Committee Appointments

Board, commission, or committee appointments are placed under this section.²

G. Consent Calendar

All items listed on the Consent Calendar are considered to be routine, not considered controversial, and do not need discussion. The recommended action for Consent Calendar items should be self-explanatory and should not require input by the Council. The Consent Calendar is approved by one motion. There is no separate discussion unless a Council Member, staff member, or citizen requests separate discussion of an item and that item is removed from the Consent Calendar.

² Refer to Administrative Procedure I-20: Board, Commission and Committee Guide Procedures

II. City Council Agenda Format Description (continued)

H. Items Removed from the Consent Calendar

Items removed from the Consent Calendar for separate discussion are placed at the end of the Agenda following the last item of General Government/Public Hearing, unless reordered by the Mayor. The Council may ask for a staff report and/or may ask questions about the item at that time.

I. General Government/Public Hearings

All items required by the Capitola Municipal Code or California Government Code to be Public Hearings are noticed as such and are held under this section of the Agenda. The introduction of new ordinances and ordinance amendments, or controversial business matters are General Government/Public Hearing items. Appeals of Planning Commission applications are generally set for Public Hearing. Public Hearings are items on which the City Council is required to obtain public input in a formal setting. Consideration should be given to the overall length of the City Council meeting when scheduling Public Hearings.

General Government/Public Hearings are intended to provide an opportunity for public discussion of each item. The following procedure is followed for each General Government/Public Hearing listed: 1) staff explanation; 2) Council questions; 3) public comment; 4) Council deliberation; 5) Decision.

J. Additional Material

Occasionally a matter before the Council generates communications from the public prior to the meeting. Such communications can be in writing or via email.

Pursuant to Government Code § 54957.5, all materials relating to an agenda item for an open session of a regular meeting of the City Council which are provided within 72 hours of the meeting are to be made available for public inspection.

If staff is the only recipient of correspondence addressed to the Council after the agenda packet has been delivered or if staff has additional material and/or corrections to an original agenda report, then the City Clerk shall immediately forward by email the documents to the Council. On the header of each document the City Clerk shall add "Additional Material" (including the agenda item number and meeting date).

All other correspondence emailed directly to the City Council after the agenda packet has been delivered shall be emailed by 3:00 p.m. on Wednesday, the day prior to the meeting using the Outlook "Agenda & Agenda Packet Distribution List."³ In addition, the City Clerk shall provide copies of all additional material for public inspection on the designated clipboard (entitled "Additional Material") in the City Hall lobby. The City Clerk is to place copies in the Council Members' places at the dais in the Council Chambers prior to the meeting, and provide additional copies for the public.

All distributed Additional Materials are to be incorporated into a revised agenda and agenda packet through MinuteTraq after the applicable City Council meeting has been held. Each numbered agenda item which has Additional Materials found pertinent to it is added separately under the numbered agenda item listed as "Additional Materials" by its original agenda item number and description of the materials regarding the applicable agenda item (e.g. Item 8.H. Public Communication(s) regarding Installation of Blue Curbed Parking Spaces). This is done by creating a new Communication in MinuteTraq then once the Communication has been created it is added to the agenda and agenda packet through MinuteTraq's Agenda Wizard for finalization of the revision and to the minutes through Minute Wizard for their finalization.

³ The "Agenda & Agenda Packet Distribution List" includes the City Council, City staff, City Attorney, local media, and other interested members of the public. This list is maintained in the City Clerk's Outlook contracts.

II. City Council Agenda Format Description (continued)

In creating the new Communication per each agenda item that has had Additional Materials found applicable to it the following steps are to be taken once in MinuteTraq:

1. Under the drop down menu for New select, Communication.
2. Under the drop down menu for Communication Type select, Additional Materials.
3. Under the drop down menu for Received select, a date prior to the actual meeting date.
4. Under the drop down menu for Target Meeting select, actual meeting date.
5. Within the Subject indicate, Agenda Item Number and Description (e.g. Item 8.H. Public Communications regarding Installation of Blue Curbed Parking Spaces).
6. Under File (Optional) browse and find the PDF of the Additional Materials received to add by clicking on it in its location.
7. Click on OK to save.

The new created Communication can be added to the agenda and agenda packet through MinuteTraq's Agenda Wizard by selecting it to be added under the "Communications" tab within the applicable meeting. When added both the agenda and agenda packet can be regenerated and reposted to the City's website under "Meeting Video" with the word "REVISED" in red as part of the agenda title and file name. It does not have to be redistributed, but should also be reposted on the City's website under "Agendas/Minutes." Save both the revised agenda and agenda packet regenerated files within the dated Agenda Reports directory. (e.g. R:\CITY COUNCIL\Agenda Staff Reports\2016 Agenda Reports\112216 CC Meeting\Agenda Working Folder 11-22-16 CC Agenda Packet Revised).

Once the revised agenda and agenda packet have been regenerated and are in place the Additional Materials can be reflected in the Minutes through MinuteTraq's Minute Wizard by selecting "Auto Fill From Agenda" using the Action drop down menu.

III. Agenda Process and Schedule

A. Items Requiring City Council Approval

The City Council is the policy making body of the City, and, as such, reviews or approves major policy matters, fiscal concerns, and major projects. The Council can only act as a public body in open or Closed Session as allowed by law when there is a quorum present and the matters before the Council have been properly noticed and agendized. Unless the item being considered is administrative or has otherwise been delegated to the City Manager or City staff, the item will require Council approval. If a City staff member is unclear about whether a matter requires Council action, the Department Head should be consulted and, if there still are questions, the City Manager's office should be consulted. Capitola Municipal Code (CMC) §2.04.140 addresses placement of items on the Council Agenda. Items that are solely for the information of the Council and were not specifically directed to be considered at a City Council meeting should be provided to the Council through the City Manager's office outside the formal Agenda process.

III. Agenda Process and Schedule (continued)

Some Items Requiring Council Approval

- Expenditure of \$25,000 or more
- Increases/decreases to total appropriations for a program area
- Transfers of appropriations between program areas
- Increases/decreases of more than \$25,000 in a capital project
- Transfers to/from reserves, cancellation of appropriations, and appropriations of fund balances
- Agreements/contracts/change orders exceeding \$25,000
- Annual budget
- Appeals of Planning Commission decisions
- Applications for a grant
- Authorization to commence formal bidding (at discretion of City Manager)
- Commission/committee appointments
- Development agreements
- Donation of surplus property (30-day notification)
- Eminent domain
- Fees (new or amended)
- General Plan amendments
- Municipal Code/City Ordinance amendments
- Personnel classifications/amendments to Memorandums of Understanding
- Ratification of emergency purchases
- Resolutions
- Settlement of lawsuits
- Street name changes
- Street vacations
- Zoning Text/Map amendments

III. Agenda Process and Schedule (continued)

B. Agenda Process

The preparation, publication, and distribution of the Agenda and staff reports for the City Council meetings are controlled by deadlines [Attachment 3]. All agenda reports are prepared, reviewed and approved through MinuteTraq (legislative management software). To avoid problems and delays, departments must comply with the MinuteTraq procedures [Attachment 4].

1. The preparer of the Agenda staff reports adds items to MinuteTraq, including “Placement” on Agenda (Consent, General Government/Public Hearings, Presentations, etc.); “Formal Title/Summary”; and “Discussion” (Recommended Action) preferably the earliest the preparer knows the meeting date the item is to go City Council or on Monday afternoon by 4:00 p.m., two weeks prior to the meeting for which the items are to be agendized. This will place the agenda items on the City Council Work in Progress (WIP) list that the City Clerk prepares regularly and is distributed via email to staff.
2. The City Attorney (“Legal Review”) should be included in the MinuteTraq workflow for Agenda Reports containing contracts/agreements and ordinances. The original contracts will be retained by the Contract Manager until approved, and will then be given to the City Manager for signature following the meeting.⁴
3. The final submission of staff reports in MinuteTraq are due no later than Wednesday by 4:00 p.m., the week prior the City Council meeting. An email containing any special instructions regarding the Agenda item; i.e. a list of individuals and/or outside agencies (names, mailing addresses or emails addresses) who should receive a copy of the staff report, special follow-up requirements, etc. should be submitted at this time as well. The City Clerk is included in the MinuteTraq workflow to review all staff reports for format and completeness, particularly with respect to resolutions/ordinances.
4. Following review, the City Clerk or City Manager may email the preparer stating that additional information/changes are needed.
5. The City Clerk/Records Coordinator will generate a Draft Agenda in MinuteTraq for review by Department Heads at the Department Head Staff Meeting which is typically on Thursday morning at 10:00 a.m. the week prior to the City Council meeting.
6. On Friday following the staff meeting (week prior to the City Council meeting) the City Clerk/Records Coordinator will generate the Final Agenda and Agenda Packet for distribution.
7. Distribution of Agenda materials is completed and packets are made for those listed on the Agenda Distribution List [Attachment 11]. A counter copy of the Agenda Packet and copies of the Agenda are placed in the rack in the lobby in the City Hall reception area. A copy of the Agenda is posted on the meeting board located in the City Hall foyer next to the Council Chambers by 5:00 p.m.; other Agenda Packet distribution includes the Capitola Branch Library and Council Members that request hard copies of the packet. Agenda copies are also delivered to the Capitola Post Office.

⁴ Refer to Administrative Procedure I-16: Development, Review, Approval & Custody of Contracts.

III. Agenda Process and Schedule (continued)

C. Staff Report Changes

Should staff members that are included in the MinuteTraq workflow recommend changes be made, it is the responsibility of the originating department to make the required changes in the staff report. No change should be made to a staff report without the knowledge of the preparer and the concurrence of previous reviewers.

Any significant changes in an Agenda item such as the Formal Title/Summary or the Discussion (Recommended Action) need to be communicated promptly to the City Clerk so that the agenda can be updated accordingly.

D. Agenda Schedule

	Monday	Tuesday	Wednesday	Thursday	Friday
TWO WEEKS PRIOR TO THE MEETING	Enter agenda item in MinuteTraq including Formal Title/Summary, Discussion (Recommended Action), Placement, Comments (includes Background, Discussion and Fiscal Impact)	City Clerk/Records Coordinator generates the Draft Agenda			
ONE WEEK PRIOR TO THE MEETING	Submit staff report in MinuteTraq.	City Clerk emails the staff report preparer if corrections are needed. An email with the names, addresses, or emails addresses of individuals or organizations that should receive copies of the Agenda and staff report, as well as any special instructions (i.e. forward certified copy of resolution after adoption) should accompany final staff report.	All staff report must be submitted in MinuteTraq by 4:00 p.m.	Typically the Dept. Head Staff Meeting is 10 a.m. for the final Council agenda review.	Staff reports are generated into Agenda Packet and distributed. Agenda Packet web link is emailed to staff, public, and the press using the MinuteTraq distribution list. Agenda posted in the foyer at City Hall next to the Council Chambers by 5:00 p.m. Agenda Packets delivered to City Council Members that requested hard copies & the Capitola Library by 5 p.m. Agendas only are placed in tray at Capitola Post Office
WEEK OF MEETING		Late item delivery if approved. City Clerk must receive any late items no later than 12 noon for distribution.		City Council/ Successor Agency Meetings	

III. Agenda Process and Schedule (continued)

E. Agenda Deadline/Meeting Date Changes

Deadlines for staff submittal of staff reports are contained on “Staff Report Submittal Deadlines” document, which is updated annually [Attachment 3]. If there are any changes to that schedule, the City Clerk will send an email to all Department Heads informing them of changes to deadlines.

The City Council/Successor Agency may approve having only one regularly scheduled Council/Successor Agency meeting during the month of July and one regular meeting in August. In addition, the second meeting in November is generally held on the fourth Tuesday due to the Thanksgiving Holiday.

F. Confidential Closed Session Memorandum Transmittal


The Brown Act requires that all Closed Session items (restricted by law) be posted on the City Council Agenda. The City Attorney’s Office generally prepares confidential Closed Session memorandums. Filing times are the same as for the Regular City Council staff report transmittal.

Generally, only the City Manager, City Attorney and City Council will use the confidential Closed Session memorandums. The City Attorney’s Memorandums and any attached material will remain confidential.

III. Agenda Process and Schedule (continued)

G. City Council Staff Reports

Note: The staff reports shall be prepared in MinuteTraq using Arial 11 pt. font.

 <p>CAPITOLA CITY COUNCIL AGENDA REPORT</p> <p>MEETING OF _____</p> <p>FROM: (Name of Department; i.e. City Manager's Dept., Police Dept.)</p> <p>SUBJECT: ("Formal Title/Summary" section of Minute Traq) 1</p> <hr/> <p>RECOMMENDED ACTION: ("Discussion" section of MinuteTraq) 2</p> <p style="text-align: center;">.....</p> <p>Following are in the "Comments" section of MinuteTraq</p> <p>BACKGROUND: 3</p> <p>DISCUSSION: 4</p> <p>FISCAL IMPACT: 5</p> <p>The following lists attachment uploaded in Minute Traq</p> <p>ATTACHMENTS: 6</p> <p>Report Prepared by: _____ 7</p> <p style="text-align: right;">Reviewed and Forwarded By City Manager: ____ 8</p>

1. **Formal Title (Summary):** Simple, descriptive phrase identifying the item under consideration. This language will appear on the Agenda.
2. **Discussion (Recommended Action):** The Staff, Committee, or Council Member recommendation for Council consideration and action. It is not necessary to begin the recommended action with the words: "That the City Council...". Merely state the action to be taken (i.e. "Adopt, approve, authorize, award," etc.). If approved, the recommendation generally becomes part of the motion. If more than one action is recommended, the actions should be identified and listed separately. This language will appear on the Agenda.

Comment includes the following:

Background: The background category is intended to provide information regarding prior City Council and/or advisory body discussion or action on this subject.

- a) **Discussion:** The Discussion category is intended to provide information justifying the Recommended Action, including a description of the required action. Staff should list and analyze viable alternatives, including a discussion of the financial impacts and operation benefits/consequences of each alternative. The discussion should be factual, to the point, and easily understood. Conclude discussion by summarizing the facts analyzed and provide justification for the selection of the recommended action.
 - b) **Fiscal Impact:** A complete and verifiable fiscal impact statement is required on all staff reports. If there is a cost to the Recommended Action, identify the total cost of the recommendation and check to indicate whether or not sufficient funds are available. Include all fiscal impacts, including start-up costs, budget implications, budget transfers, annualized operating costs, and projected revenue increases or decreases. The Finance Director is to be included in the MinuteTraq workflow process for review of the fiscal impact.
4. **Attachments:** The contents of voluminous attachments may be summarized in the staff report with the actual materials placed on file in the City Clerk's office (plans and specifications, maps, and the like). Items placed on file with the City Clerk and not distributed with the staff report are indicated in this section. If a attachment is distributed to Council Members only, a notation to that effect is made in parenthesis next to the attachment description.
 5. **Report Prepared By:** The name and title of the person preparing the staff report.
 6. **Reviewed and Forwarded By:** This signature line indicates that the staff report has been reviewed by the City Manager and is approved with an electronic signature.

III. Agenda Process and Schedule (continued)

H. Ordinances

Ordinances are laws of a municipality. The City Council is given the authority to pass local laws (ordinances) pursuant to GC§ 37100 if those ordinances are not in conflict with the laws of the Federal or State government. An ordinance is the most binding form of action that the City Council can take, the violation of which is a misdemeanor, unless it is made an infraction (GC§ 36900). Generally, an ordinance is required when an existing ordinance is amended or repealed, when the law will impose a penalty by fine, imprisonment or forfeiture, or when required by statute. Ordinances are codified by a publisher into the Capitola Municipal Code, which is an exact recitation of the City's ordinances currently in effect as local laws. Chapter 1.01 of the CMC addresses Code Adoption. The procedure for adoption of an ordinance is set forth in the Government Code and must be followed or the ordinance may be subject to challenge and could be declared void. All ordinances require a majority vote of the City Council to be enacted, with the exception of urgency ordinances which requires a 4/5's vote of the City Council.

Types of Ordinances/Placement on the Agenda

There are two types of ordinances:

1. Regular Ordinance

Approval of an ordinance requires a first reading (introduction) and a second reading (adoption). The adoption can occur only at a Regular or Adjourned Regular Meeting held at least five days after introduction of the ordinance. A regular ordinance takes effect on the thirty-first day after adoption.

Regular ordinances being introduced are placed under the General Government/Public Hearings section of the Agenda. Regular ordinances being adopted (read for a second time) are generally placed on the Consent Calendar section of the agenda.

2. Urgency (Emergency) Ordinance

An urgency ordinance takes effect immediately upon adoption or takes effect at a date specified, that is less than thirty days after adoption. The urgency ordinance requires a 4/5's vote of the City Council and may be adopted at a Special or Regular Meeting. The ordinance must contain a declaration of the facts which constitute the urgency, i.e. the reasons why the urgency ordinance is necessary "for the immediate preservation of the public peace, health or safety." (GC§ 36937 (b)). Urgency ordinances are placed under the General Government/Public Hearings section of the Agenda.

III. Agenda Process and Schedule (continued)

Ordinance Drafting Procedures

Ordinances amend, revise, rescind or add sections of the Municipal Code unless the ordinance is designated to be uncodified. The content of the bodies of the ordinances and Municipal Code is identical. When drafting an amendment or repealing an ordinance, it is important to identify within the ordinance the affected municipal code section(s) being amended or repealed. The template for ordinances is located in the shared drive at: <R:\CITY COUNCIL\Templates\Ordinance Template.dotx> [Attachment 8]. The City Attorney (Legal Department) must be included in the MinuteTraq workflow in order to review all ordinances prior to being approved for the Agenda Packet.

I. Resolutions

A Resolution constitutes a written action or decision; however, it usually does not demand the legal processing required of an ordinance. A resolution is generally introduced and adopted at the same meeting and is effective upon adoption. Most resolutions do not require publishing or posting as do ordinances, unless there is a specific statute or local custom making this mandatory.

If a certified copy of a resolution is required for disbursement following the meeting, the staff person is responsible for informing the City Clerk as to whom copies are to be sent and address(es). After a resolution is adopted and executed, the City Clerk will certify copies as requested.

The template for City Council Resolutions is located in the Shared drive at: <R:\CITY COUNCIL\Templates\Resolution Council Template.dotx> [Attachment 9]. Successor Agency Resolution template is located at: <R:\CITY COUNCIL\Templates\Resolution SA Template.dotx> [Attachment 7].

J. Minute Orders

Minute Orders are made to memorialize Council actions when a resolution or ordinance is not necessary, or to address non-recurring situations, and are reflected in the minutes under "ACTION:" taken for the Agenda item.

*Pursuant to Government Code 54957.5, all materials relating to an agenda item for an open session of a regular meeting of the Board of Supervisors which are provided to a majority or all of the members of the Board by Board members, staff or the public within 72 hours of but prior to the meeting will be available for public inspection, at and after the time of such distribution, in the office of the Clerk of the Board of Supervisors, 810 Court Street, Jackson, California 95642, Monday through Friday, between the hours of 8:00 a.m. and 5:00 p.m., except for County holidays. Materials distributed to a majority or all of the members of the Board at the meeting will be available for public inspection at the public meeting if prepared by the members of the Board or County staff and after the public meeting if prepared by some other person. Availability of materials related to agenda items for public inspection does not include materials that are exempt from public disclosure under Government Code sections 6253.5, 6254, 6254.3, 6254.7, 6254.15, 6254.16, or 6254.22.

City of Capitola Agenda

Mayor: Ed Bottorff
 Vice Mayor: Stephanie Harlan
 Council Members: Jacques Bertrand
 Dennis Norton
 Michael Termini
 Treasurer: Christine McBroom



CAPITOLA CITY COUNCIL REGULAR MEETING

THURSDAY, _____, _____

7:00 PM

CITY COUNCIL CHAMBERS
420 CAPITOLA AVENUE, CAPITOLA, CA 95010

CLOSED SESSION - ____ PM
CITY MANAGER'S OFFICE

An announcement regarding the items to be discussed in Closed Session will be made in the City Hall Council Chambers prior to the Closed Session. Members of the public may, at this time, address the City Council on closed session items only. There will be a report of any final decisions in City Council Chambers during the Open Session Meeting.

REGULAR MEETING OF THE CAPITOLA CITY COUNCIL - 7:00 PM

All correspondences received prior to 5:00 p.m. on the Wednesday preceding a Council Meeting will be distributed to Councilmembers to review prior to the meeting. Information submitted after 5 p.m. on that Wednesday may not have time to reach Councilmembers, nor be read by them prior to consideration of an item.

All matters listed on the Regular Meeting of the Capitola City Council Agenda shall be considered as Public Hearings.

1. ROLL CALL AND PLEDGE OF ALLEGIANCE
2. PRESENTATIONS

3. REPORT ON CLOSED SESSION**4. ADDITIONAL MATERIALS**

Additional information submitted to the City after distribution of the agenda packet.

5. ADDITIONS AND DELETIONS TO AGENDA**6. PUBLIC COMMENTS**

Oral Communications allows time for members of the Public to address the City Council on any item not on the Agenda. Presentations will be limited to three minutes per speaker. Individuals may not speak more than once during Oral Communications. All speakers must address the entire legislative body and will not be permitted to engage in dialogue. All speakers are requested to print their name on the sign-in sheet located at the podium so that their name may be accurately recorded in the minutes. A MAXIMUM of 30 MINUTES is set aside for Oral Communications at this time.

7. CITY COUNCIL / CITY TREASURER / STAFF COMMENTS

City Council Members/City Treasurer/Staff may comment on matters of a general nature or identify issues for staff response or future council consideration.

8. CONSENT CALENDAR

All items listed in the "Consent Calendar" will be enacted by one motion in the form listed below. There will be no separate discussion on these items prior to the time the Council votes on the action unless members of the public or the City Council request specific items to be discussed for separate review. Items pulled for separate discussion will be considered following General Government.

Note that all Ordinances which appear on the public agenda shall be determined to have been read by title and further reading waived.

9. GENERAL GOVERNMENT / PUBLIC HEARINGS

All items listed in "General Government" are intended to provide an opportunity for public discussion of each item listed. The following procedure pertains to each General Government item: 1) Staff explanation; 2) Council questions; 3) Public comment; 4) Council deliberation; 5) Decision.

10. ADJOURNMENT

Note: Any person seeking to challenge a City Council decision made as a result of a proceeding in which, by law, a hearing is required to be given, evidence is required to be taken, and the discretion in the determination of facts is vested in the City Council, shall be required to commence that court action within ninety (90) days following the date on which the decision becomes final as provided in Code of Civil Procedure §1094.6. Please refer to code of Civil Procedure §1094.6 to determine how to calculate when a decision becomes "final." Please be advised that in most instances the decision become "final" upon the City Council's announcement of its decision at the completion of the public hearing. Failure to comply with this 90-day rule will preclude any person from challenging the City Council decision in court.

Notice regarding City Council: The City Council meets on the 2nd and 4th Thursday of each month at 7:00 p.m. (or in no event earlier than 6:00 p.m.), in the City Hall Council Chambers located at 420 Capitola Avenue, Capitola.

Agenda and Agenda Packet Materials: The City Council Agenda and the complete Agenda Packet are available for review on the City's website: www.cityofcapitola.org and at Capitola City Hall and at the Capitola Branch Library, 2005 Wharf Road, Capitola, prior to the meeting. Agendas are also available at the Capitola Post Office located at 826 Bay Avenue, Capitola. Need more information? Contact the City Clerk's office at 831-475-7300.

Agenda Materials Distributed after Distribution of the Agenda Packet: Pursuant to Government Code §54957.5, materials related to an agenda item submitted after distribution of the agenda packet are available for public inspection at the Reception Office at City Hall, 420 Capitola Avenue, Capitola, California, during normal business hours.

Americans with Disabilities Act: Disability-related aids or services are available to enable persons with a disability to participate in this meeting consistent with the Federal Americans with Disabilities Act of 1990. Assisted listening devices are available for individuals with hearing impairments at the meeting in the City Council Chambers. Should you require special accommodations to participate in the meeting due to a disability, please contact the City Clerk's office at least 24-hours in advance of the meeting at 831-475-7300. In an effort to accommodate individuals with environmental sensitivities, attendees are requested to refrain from wearing perfumes and other scented products.

Televised Meetings: City Council meetings are cablecast "Live" on Charter Communications Cable TV Channel 8 and are recorded to be rebroadcasted at 8:00 a.m. on the Wednesday following the meetings and at 1:00 p.m. on Saturday following the first rebroadcast on Community Television of Santa Cruz County (Charter Channel 71 and Comcast Channel 25). Meetings are streamed "Live" on the City's website at www.cityofcapitola.org by clicking on the Home Page link "Meeting Video." Archived meetings can be viewed from the website at anytime.

City of Capitola Agenda

ATTACHMENT 2

Mayor: _____
 Vice Mayor: _____
 Council Members: _____

 Treasurer: _____



**CITY OF CAPITOLA, AS SUCCESSOR AGENCY
 TO THE FORMER CAPITOLA REDEVELOPMENT AGENCY
 THURSDAY, _____,**

After the adjournment of the City Council Meeting

All matters listed on the Regular Meeting of the City of Capitola Successor Agency Agenda shall be considered as Public Hearings.

1. **ROLL CALL**
 Board Members Dennis Norton, Sam Storey, Ed Bottorff, Michael Termini, and Chairperson Stephanie Harlan

2. **ORAL COMMUNICATIONS**
 A. Additions and Deletions to Agenda
 B. Public Comments

Oral Communications allows time for members of the Public to address the Successor Agency on any item not on the Agenda. Presentations will be limited to three minutes per speaker. Individuals may not speak more than once during Oral Communications. All speakers must address the entire legislative body and will not be permitted to engage in dialogue. All speakers are requested to print their name on the sign-in sheet located at the podium so that their name may be accurately recorded in the minutes. A MAXIMUM of 30 MINUTES is set aside for Oral Communications at this time.

C. Staff Comments

3. **GENERAL GOVERNMENT/PUBLIC HEARINGS**

General Government items are intended to provide an opportunity for public discussion of each item listed. The following procedure is followed for each General Government item: 1) Staff explanation; 2) Council questions; 3) Public comment; 4) Council deliberation; 5) Decision.

4. **ADJOURNMENT**

Adjourn to the next regular meeting of the City of Capitola, as Successor Agency to the former Capitola Redevelopment Agency, is to be determined.

**2016 CITY OF CAPITOLA
City Council and Successor Agency Meeting Dates
and Deadline for Submittal of Agenda Items**

Item 7 F.

SUBMITTAL DATE ¹	MEETING DATE ²
JANUARY 4	JANUARY 14
JANUARY 19	JANUARY 28
FEBRUARY 1	FEBRUARY 11
FEBRUARY 16	FEBRUARY 25
FEBRUARY 29	MARCH 10
MARCH 14	MARCH 24
APRIL 4	APRIL 14
APRIL 18	APRIL 28
MAY 2	MAY 12
MAY 16	MAY 26
MAY 31	JUNE 9
JUNE 13	JUNE 23
JULY 18	JULY 28
AUGUST 1	AUGUST 25
AUGUST 29	SEPTEMBER 8
SEPTEMBER 12	SEPTEMBER 22
OCTOBER 3	OCTOBER 13
OCTOBER 17	OCTOBER 27
OCTOBER 31	NOVEMBER 10
NOVEMBER 14	TUESDAY, NOVEMBER 22 ▲ ▲
NOVEMBER 28	DECEMBER 8

Items to be included on a particular agenda must be submitted to the City Manager's Office NO LATER than 5 p.m. on the submittal date so that a staff report may be prepared. Items received after that date may be scheduled for the next available agenda.

NOTE: ▲ ▲ DUE TO THANKSGIVING HOLIDAY, THE MEETING WILL BE HELD ON TUESDAY

This schedule was approved at the November 12, 2015, City Council meeting.

¹ Submittal dates are on Mondays, with the exception of Tuesdays that follow a holiday as indicated above.

² Regular Meetings of the City Council/Successor Agency are held on the 2nd & 4th Thursdays of each month. The Regular City Council meetings begin at 7:00 p.m. (or in no event earlier than 6:00 p.m.) in the Capitola City Hall Council Chambers, 420 Capitola Avenue, Capitola, CA.

CREATING A NEW CITY COUNCIL STAFF REPORT IN ACELA

Rev 8/14/15

Item 7 F.

STEP 1:
Click on "New"
to create a new
staff report

Enter brief name
in the "Short
Name" box.

Select target meeting
date from the drop
down.

Leave blank

Select a category from the
"Categories" drop down list. Refer to
the "Category List" handout.

Enter the formal item description by capitalizing each
word (except words like "and", "a", "for", "the", "to",
etc.). This title will be visible on the staff report and the
City Council Agenda

Make sure "City
Council" is selected

Agendas and Minutes

Edit View Lists Tools Reports Window Help

New Save & Close Comment History

Quick Links

Recent Documents

1101: McGregor Park Rem...
McGregor Park_Attachmen...
1107: Su Test 080715
1103: 2015 Grand Jury Res...
1106: Successory Agency...
1100: Capital Improvement...
1106: 411 Beverly Extension
Find More...

Details

File Number (Clerks Office Only):

Workflow

Stage	Reviewer	Description	Due Date	Status
-------	----------	-------------	----------	--------

Staff Report Body

Formal Title / Summary:

Discussion:

RECOMMENDED ACTION:

Comments:

BACKGROUND:

DISCUSSION:

FISCAL IMPACT:

Rich Text

City Council

4:11 PM 8/7/2015

If the "Comments" box is not visible select it by View/Comments

The screenshot shows a software application window titled "Agendas and Minutes". The "View" menu is open, and the "Comments" option is circled in red. A red arrow points from the text box above to the "Comments" option. The main window displays a "Staff Report" form with fields for Name, Status (Draft), Department, Preparer (Jamie Goldstein), Target Meeting, and Category. Below the form is a "Workflow" table with columns for Stage, Reviewer, Description, Due Date, and Status. The "Staff Report Body" section contains text boxes for "Formal Title / Summary", "Discussion" (with "RECOMMENDED ACTION:"), "Comments" (with "BACKGROUND:" and "DISCUSSION:"), and "Recipient Tracking".

Option 1 - Editing in Rich Text (see below):

You may edit text in the "Discussion" or the "Comments" boxes while in the "Rich Text" mode and use the editing tool bar directly below the "Res/Ord /PC Conditions box". **DO NOT SELECT RICH TEXT TO DO TRACK CHANGES IN WORD!**

Option 2 - Editing in Word (see below):

If you click inside either the "Discussion" or the "Comments" boxes you may open the section in Word for editing and to use track changes.

Closing while in Word:

Close the Word document by clicking "X" in the upper right corner. While in Word you do not need to select SAVE because the content is automatically transferred into the staff report.

Option 1 - Editing in Rich Text:

Use "Rich Text" **ONLY** when editing within the "Discussion" or the "Comments" boxes. You can use the editing tool bar.

Option 2 - Editing in Word: If you want to open the "Discussion/Comments" boxes you must select Word in the drop down menu in the bottom left, then click on the Word icon to the right of the dropdown.★

Staff Report

ID# 1101

City Council

Updated 8/7/2015 3:50 PM

Short Name: Status: **Submitted** ▾

Department: Preparer: Target Meeting: ▾

Sponsors (Optional): Category: ▾

8/07 - SS: minor edits
 8/07 - SS: Approved by Susan Sneddon in Stage 2, sent to Jamie Goldstein at Stage 3.
 8/07 - SS: deleted text in Reso box

Details

File Number (Clerks Office Only):

Workflow

[Edit View](#) [Add Work Item](#)

Stag	Reviewer	Description	Due Date	Status
1	Steve Jesberg	Review		✔ Completed
2	Susan Sneddon	Review		✔ Completed
3	Jamie Goldstein	Sign		⌚ Pending
4	City Council	Meeting	08/13/15 07:00 PM	⌚ Pending

To enter the placement in an agenda section (Consent, Gen Gov, etc.) click on "Edit View" to change to "Normal View" and go to the next page.

Attachments

[Add File](#) [Add Note](#)

	Title	Rev #	Review Status	Progress
	McGregor Park_Attachment 1			
	McGregor Park_Attachment 2			
	McGregor Park_Attachment 3			
	McGregor Park_Attachment 4			

Staff Report Body

Formal Title / Summary:

Microsoft Word ribbon: Font (Arial, size 11, bold, italic, underline), Paragraph (bullets, indent), Styles (list, table), and other icons.

Staff Report

ID# 1101

City Council

Updated 8/7/2015 3:50 PM

Short Name: Status: Submitted

Department: Public Works Department Preparer: Steve Jesberg Target Meeting: 8/13/2015 7:00 PM (Thu) - Regular Meeting

Sponsors (Optional): Category: Contract

8/07 - SS: minor edits
8/07 - SS: Approved by Susan Sneddon in Stage 2, sent to Jamie Goldstein at Stage 3.
8/07 - SS: deleted text in Reso box

Details

File Number (Clerks Office Only):

Workflow

Normal View Add Work Item

Stage	Reviewer	Placement	Due Date
1	Steve Jesberg		
2	Susan Sneddon		
3	Jamie Goldstein		
4	City Council	AGENDA / PUBLIC HEARINGS	08/13/15 07:00 PM

To place an item in the correct order in an agenda section select one of the following dropdowns.

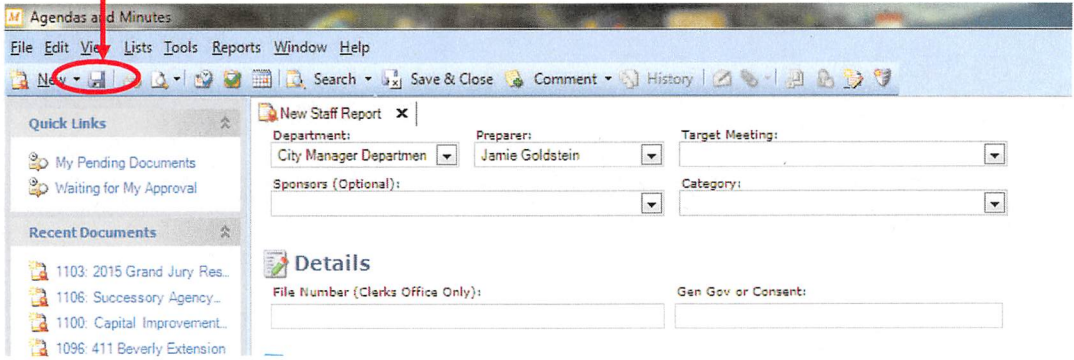
Attachments

File Name	Status	Progress
McGregor Park Attachment 1		
McGregor Park Attachment 2		
McGregor Park Attachment 3		
McGregor Park Attachment 4		

Staff Report Body

Formal Title / Summary:
RECEIVE REPORT REGARDING THE MCGREGOR PARK CONSTRUCTION PROJECT

Make sure you save the document before closing.



Revised 081715

Creating MinuteTraq Agenda Packet

Prior to creating an agenda the following must be in the system:

1. All agenda items must be in the system
2. Each item must have a target meeting
3. Each item must have placement within the agenda (Workflow-Edit View –Placement)

Step 1. Click on the calendar icon in the tool bar.

Step 2. Right click on the correct meeting and choose “Open Agenda Wizard”

Step 3. Right click on the right hand side of the screen and chose “Chose Columns”

Scroll down and check “Placement”. The Placement Column should now show on the right hand side of the screen.

Step 4. Actions: Auto fill Note: Items will only move if they have placement.

If they do not have placement, you can drag and drop an item.

Blue: Ready for agenda.

Gold: Has pending workflow. Not ready.

Green: On agenda. Completed status. Placed on agenda.

Note: Sometimes not all agenda items will show up, such as “Roll Call” or “Pledge of Allegiance”. To fix this:

Close the meeting you’re a working on.

Open a previous meeting that has the correct agenda layout.

Under Action click on Save Default Outline

Step 5. Checking your placement.

Items can be moved by dragging and dropping within the agenda.

It will be saved where you put it. If you auto fill again, the item will move back to the placement identified within the staff report. A good practice is to make sure your placement is correct within the staff report so if you auto fill the items go to the correct placement.

Step 6. Check outline format. City of Capitola uses the following outline format:

1.

A.

1.

If the outline format is not correct, put cursor over the section above the items that are incorrect and right click. Scroll down to “outline format” and chose the correct format.

Step 7. Save. Anytime you modify the agenda you must save.

LOCKING: When you are ready to create the Packet you can lock all documents so coworkers are prevented from modifying any items.

Actions – Lock all documents.

Automatically lock added items.

TAGS: Tags produce a tag to the right of the title of the item in red letters on the agenda. You can create unique tags within the “list” menu for “tags” Example. Revised

ADD On: Items that do not have a staff report, such as a recognition award.

Right click on section of Agenda "Presentation"

Go to add button on the top of the screen. Chose "statement" – "blank"

Type in statement in Agenda. Example "Girl scouts of America receive proclamation"

Publishing an Agenda Packet Mantra: "Synchronize, Generate, Save"

Step 1: Synchronize. Once you have moved Items onto the agenda, new attachments must be synchronized. Go to Actions: Scroll down to synchronize.

NOTE: When you have an irregular sized attachment or small margins on a pdf, your attachment headings will not align correctly. See instructions for attachments on next page.

Step 2: Create a word doc of agenda that can be edited.

- A. Click on Generate.
- B. Click DOC (no appendix) Agenda packet and agenda will be checked off.
- C. Click Generate.
- D. You will receive a message that the agenda was created. Click on Open pulldown in the top tab. Open Agenda Packet
- E. A word document of your agenda will open. Fix as you like then save, highlight the entire text and right click copy, then close.
- F. Click Open pull down in top tab. Open Agenda. Paste your fixed agenda onto the word document. Save. Close.
- G. Save in Agenda Wizard Screen.

Step 3: Create a pdf of Agenda and Agenda Packet

- A. Click on Generate
- B. Click on Generate and select Doc → PDF
- C. Check Agenda Packet and choose "Attachments and Printouts". Note "printout" is staff report.
- D. Check Agenda choose "No Appendix"
- E. Check Board Agenda with Attachments and Printouts. This will include any confidential items.
- F. Generate

Step 3: Save. By saving the document is saved up to the web server. It is not published.

Step 4: View document. Click "Open" on far right to review the documents.

Step 5: Publish document.

- A. Go to Actions
- B. Click on Publish and Distribute Agenda
- C. Check "Finalize Agendas"
- D. Check "Publish to Web" Add date and Versions "both"
- E. Check "Distribute Agenda".
- F. Chose distribution list. Note: All addresses are blind copied.
- G. Click link only.

H. Add message.

I. Click "OK" to publish.

Note: If you need to un-publish. Go to Actions – Publish – Click on "un-publish agenda" in bottom left corner.

Attachments:

Irregularly shaped items and plan. When you have an irregular sized attachment it will throw off the attachment headings. To make the attachments not have this issue you must Print and Attach through Minute Traq.

1. Open the pdf –
2. Go to FILE – PRINT – chose “Minute Traq” printer – PRINT –
3. Minute traq will open on a “file received” page. You must input the document number that you would like it attached to. Chose the correct document and hit ATTACH. When you open the attachment the file path will be tied to IQM2.com.

You have the option to deactivate attachment problem attachment without taking them off the agenda.

1. Double click attachment
2. Go to OPTIONS tab
3. Under Agendas check NONE.
4. Change name of attachment so you know is deactivated.

Creating a Distribution List**Step One: Create the Recipient**

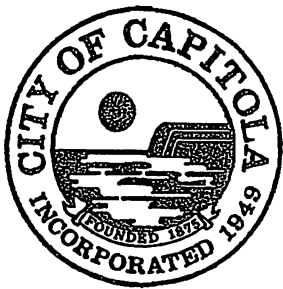
1. Go to List
2. Recipient List
3. Right click to add NEW recipient
4. Fill in 3 required items: Name, Company (can be resident, home owner, etc), and Email

Step Two: Create the Distribution List

1. Go to List Menu
2. Click on Distribution List.
3. Right click. Select new.
4. Type in List Name. Example – Planning Commissioners
5. Under Recipients in Distribution List type in names to find user.
6. Check on box next to the name. If they come up twice just check once.

Put PDF of the Agenda Packet in the following folder R:\dropbox\Dropbox\meetings\Council

Rev 10/06/15



**CAPITOLA SUCCESSOR AGENCY
TO THE FORMER
REDEVELOPMENT AGENCY
AGENDA REPORT**

MEETING OF _____, _____

FROM:

SUBJECT:

RECOMMENDED ACTION:

BACKGROUND:

DISCUSSION:

ATTACHMENTS:

Report Prepared By: _____ (Name)
_____ (Title)

Reviewed and Forwarded by:

Jamie Goldstein, City Manager

9/2/2015



**CAPITOLA
 CITY COUNCIL /SUCCESSOR AGENCY
 TO THE FORMER
 REDEVELOPMENT AGENCY**

AGENDA REPORT

MEETING OF _____, _____

FROM:

SUBJECT:

RECOMMENDED ACTION:

BACKGROUND:

DISCUSSION:

FISCAL IMPACT:

ATTACHMENTS:

Report Prepared By: _____ (Name)
 _____ (Title)

Reviewed and Forwarded by:

 Jamie Goldstein, City Manager

9/2/2015

ATTACHMENT 8

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CAPITOLA

**BE IT ORDAINED BY THE CITY OF CAPITOLA OF THE CITY OF CAPITOLA
AS FOLLOWS:**

Section 1.

Section ____. This ordinance shall be in force and take effect thirty (30) days after final adoption.

This ordinance was introduced on the ____ day of _____, _____, and was passed and adopted by the City Council of the City of Capitola on the ____ day of _____, _____, by the following vote:

- AYES:**
- NOES:**
- ABSENT:**
- ABSTAIN:**

APPROVED:

_____, Mayor

ATTEST:

_____, City Clerk

ATTACHMENT 9

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA

WHEREAS,

WHEREAS,

WHEREAS,

WHEREAS,

NOW, THEREFORE, BE IT FUTHER RESOLVED, by the City Council of the City of Capitola

I HEREBY CERTIFY that the above and foregoing resolution was passed and adopted by the City Council of the City of Capitola at its regular meeting held on the ___ day of _____, _____, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

_____, Mayor

ATTEST:

_____, City Clerk

ATTACHMENT 10

RESOLUTION NO. ____

**RESOLUTION OF THE CITY OF CAPITOLA ACTING AS THE SUCCESSOR AGENCY TO THE
FORMER REDEVELOPMENT AGENCY OF THE CITY OF CAPITOLA**

WHEREAS,

WHEREAS,

WHEREAS,

NOW, THEREFORE, BE IT RESOLVED by the Successor Agency as follows:

Section ____: Effective Date. This Resolution shall take effect

PASSED AND ADOPTED on the ____ day of _____, _____m by the Successor Agency for the
Redevelopment Agency of the City of Capitola with the following vote, to wit:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

_____, Chair

ATTEST: _____
_____, Secretary

**CITY COUNCIL/SUCCESSOR AGENCY
AGENDA PACKET DISTRIBUTION
HARD COPY PACKETS (5)**

COUNCIL MEMBERS

- (1) DENNIS NORTON
ED BOTTORFF, MAYOR (EMAIL ONLY)
- (2) JACQUES BERTRAND
STEPHANIE HARLAN, VICE MAYOR (EMAIL ONLY)
MICHAEL TERMINI (EMAIL ONLY)

AGENDA MAILING LIST

GET SELF-ADDRESSED
ENVELOPES: 4 (DOUBLE SIDED)

TOTAL DOUBLE
SIDED COPIES: 35

CITY TREASURER – CHRISTINE MCBROOM (EMAIL ONLY)

STAFF

- (3) ANTHONY CONDOTTI, CITY ATTORNEY

OTHERS (DOUBLE SIDED)

- (4) CAPITOLA BRANCH LIBRARY (TOP 2-HOLE PUNCH PACKET
MATERIALS + 6 COPIES OF AGENDA) HAND DELIVER
- (5) COUNTER COPY (TOP 2-HOLE PUNCH & PUT IN CLIP BOARD)

AGENDAS ONLY:

JAMIE GOLDSTEIN, CITY MANAGER * (SINGLE SIDED)
TERRY McMANUS, CHIEF OF POLICE * (SINGLE SIDED)
MARK WELCH, FINANCE DIRECTOR* (SINGLE SIDED)
SUSAN SNEDDON, CITY CLERK * (SINGLE SIDED WITH MASTER PACKET)
COPY TO POST - COUNCIL CHAMBERS FOYER (SINGLE SIDED)
CAPITOLA POST OFFICE (12 COPIES) HAND DELIVER (DOUBLE SIDED)
MUSEUM * (SINGLE SIDED)
RECREATION DEPT * (SINGLE SIDED)
CORPORATION YARD * (SINGLE SIDED)

***PUT IN APPROPRIATE TRAYS**

*Regular meetings - blue color agenda
Special meetings - salmon color agenda
Successor Agency - golden rod color agenda*

[REVISED 12/16]



CAPITOLA MUNICIPAL CODE UPDATE – TITLE 2

October 26, 2023



Background

- ❑ Title 2: Administration and Personnel
 - ❑ Composed of 16 chapters, including chapters relating to the powers and duties of City Manager and City Council
- ❑ Regular review of City Codes is best practice
 - ❑ Can identify outdated/ineffective provisions
 - ❑ Staff conducted a review and identified several areas for update
 - ❑ Administrative Policy I-15: Agenda Preparation



Summary of Changes

- Chapter 2.04 Section 4: City Council:
 - Mayor Pro Tempore to Vice Mayor
 - Updated adjournment time
 - Removed language regarding the appointment of Standby City Council Members



Summary of Changes

- Chapter 2.04: Section 4: City Council
 - ▣ Codified current practices for public participation in meetings
 - Comments on non-agendized items during Oral Communications
 - Removing items from Consent Calendar



Summary of Changes

- Chapter 2.04 Section 7: City Attorney:
 - ▣ Updated to reflect current powers and duties.
- Chapter 2.04 Section 9: Public Works:
 - ▣ Appointment of the Public Works Director
- Chapter 2.04 Section 11: Director of Finance:
 - ▣ Removed Redevelopment Agency from annual financial reports
- Chapter 2.08: City Manager:
 - ▣ Bond requirements (2.04.080)
 - ▣ Removed dissolved commission names from 2.08.230



Recommended Action

- Introduce, by title only, waiving further reading of the text, an ordinance of the City of Capitola amending Chapters 2.04 and 2.08 of the Capitola Municipal Code.