



NOTICE OF MEETING

CITY OF PACIFIC GROVE

CITY COUNCIL

CLOSED SESSION MEETING AGENDA

Wednesday, February 2, 2022, 5:00 P.M.

Council Chamber – City Hall – 300 Forest Avenue, Pacific Grove, CA

THIS MEETING WILL BE HELD VIRTUALLY AND IS COMPLIANT WITH THE GOVERNOR'S EXECUTIVE ORDERS ALLOWING FOR A DEVIATION OF TELECONFERENCE RULES REQUIRED BY THE BROWN ACT.

Join the Zoom Meeting to participate live at:

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AGENDA

CALL TO ORDER

APPROVAL OF AGENDA

CLOSED SESSION

PUBLIC COMMENT ON CLOSED SESSION MATTERS

Comments from the public will not receive Council action. Comments must deal with matters on the Closed Session agenda and will be limited to three minutes

- A. Conference with Labor Negotiators (Government Code Section 54957.6)
City Negotiators: Ben Harvey, City Manager, Tori Hannah, Assistant City Manager/Administrative Services Director, Leticia Livian, Human Resources Director, and Donna Williams, Liebert Cassidy Whitmore, LLP
Employee Organization: Police Officers Association

ADJOURNMENT



NOTICE OF MEETING

CITY OF PACIFIC GROVE

CITY COUNCIL

AMENDED REGULAR MEETING AGENDA

Wednesday, February 2, 2022, 6:00 P.M.

Council Chamber – City Hall – 300 Forest Avenue, Pacific Grove, CA

The Council will not begin consideration of any item on this agenda later than 10:00 p.m. unless such consideration is approved. Any items on this agenda not considered this evening will be continued to a future meeting.

Copies of the agenda packet are available for review at the Pacific Grove Library, in the Finance Department, and electronically at www.cityofpacificgrove.org/agendas. The most effective method of communication with the City Council is by sending an email to citycouncil@cityofpacificgrove.org. In order to allow the City Council adequate time to review communication related to an agenda item, it is recommended that the communication be sent no later than 9:00 AM on the day prior to the City Council meeting.

THIS MEETING WILL BE HELD VIRTUALLY AND IS COMPLIANT WITH THE GOVERNOR'S EXECUTIVE ORDERS ALLOWING FOR A DEVIATION OF TELECONFERENCE RULES REQUIRED BY THE BROWN ACT.

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[MEETING INSTRUCTIONS](#)

The public may also view the meeting on the Peninsula Channel 25.

AGENDA

CALL TO ORDER

A. Remote Teleconference - AB 361 **PG 9**

Reference: Sandra Kandell, City Clerk

Recommended Action: Ratify Resolution No. 21-029 Emergency Teleconferencing authorizing remote teleconference meetings of all City legislative bodies for the following 30 days in accord with the Ralph M. Brown Act.

CEQA: Does not constitute a “Project” per California Environmental Quality Act Guidelines Section 15378

PLEDGE OF ALLEGIANCE: Mayor Peake

1. **APPROVAL OF AGENDA**

2. **PRESENTATIONS**

A. Mayor's Proclamation Recognizing Moe Ammar's 29 Years of Service on the Pacific Grove Chamber of Commerce **PG 15**

Reference: Bill Peake, Mayor

Recommended Action: Receive proclamation.

CEQA: Does not constitute a “Project” per California Environmental Quality Act Guidelines Section 15378

3. **COUNCIL AND STAFF ANNOUNCEMENTS (City-Related Items Only)**

A. Report on Closed Session by City Attorney

B. Other

4. **GENERAL PUBLIC COMMENT**

General Public Comment must deal with matters subject to the jurisdiction of the City and the Council that are not on the Regular Agenda. This is the appropriate place to comment as to items on the Consent Agenda, only if you do not wish to have the item pulled for individual consideration by the Council. Comments from the public will be limited to three minutes and will not receive Council action. Comments regarding items on the Regular Agenda shall be heard prior to Council's consideration of such items at the time such items are called. Whenever possible, written correspondence should be submitted to the Council in advance of the meeting, to provide adequate time for its consideration.

CONSENT AGENDA

The Consent Agenda deals with routine and non-controversial matters, and may include action on resolutions, ordinances, or other public hearings for which testimony is not anticipated. The vote on the Consent Agenda shall apply to each item that has not been removed. Any member of Council, staff, or the public may remove an item from the Consent Agenda for individual consideration. When items are pulled for discussion, they will be automatically placed at the end of their respective section within the Regular Agenda. One motion shall be made to adopt all non-removed items on the Consent Agenda.

5. **APPROVAL OF CITY COUNCIL MEETING MINUTES**
Items pulled from this section will be placed under 12. Unfinished and Ongoing Business

6. **RESOLUTIONS**
Items pulled from this section will be placed under 12. Unfinished and Ongoing Business or 13. New Business

- A. Adoption of a Resolution Approving the Property Tax Transfer Agreement with the County of Monterey Relating to the Mission Linen Property Annexation **PG 17**
Reference: Alyson Hunter, AICP, CDD Director
Recommended Action: Adopt the Resolution and direct staff to submit to the Monterey County Local Agency Formation Commission (LAFCO) in support of the City's application to annex the Mission Linen property located at 801 Sunset Drive.
CEQA: Does not constitute a “Project” per California Environmental Quality Act Guidelines Section 15378
- B. City Manager Performance Evaluation Policy 000-27 **PG 37**
Reference: Bill Peake, Mayor
Recommended Action: Adopt a Resolution to create City Manager Performance Evaluation Policy 000-27.
CEQA: Does not constitute a “Project” per California Environmental Quality Act Guidelines Section 15378

7. **ORDINANCES**
Items pulled from this section will be placed under 11. Public Hearings

8. **REPORTS – INFORMATION ONLY**
Items pulled from this section will be placed under 12. Unfinished and Ongoing Business or 13. New Business

- A. Second Quarter Treasurer’s Quarterly Report – Fiscal Year 2021-22 **PG 43**
Reference: Tori Hannah, Administrative Services Director/Assistant City Manager
Recommended Action: Receive the Report.
CEQA: Does not constitute a “Project” per California Environmental Quality Act Guidelines Section 15378
- B. Second Quarter Budget Report **PG 47**
Reference: Tori Hannah, Administrative Services Director/Assistant City Manager
Recommended Action: Receive the report.
CEQA: Does not constitute a “Project” per California Environmental Quality Act Guidelines Section 15378

- C. Second Quarter Workers' Compensation Report **PG 55**
Reference: Audrey Cray, Management Analyst
Recommended Action: Receive the report.
CEQA: Does not constitute a “Project” per California Environmental Quality Act Guidelines Section 15378
- D. Second Quarter Purchase Order Report **PG 59**
Reference: Jennifer Pope, Management Analyst
Recommended Action: Receive the Second Quarter Purchase Order Report.
CEQA: Does not constitute a “Project” per California Environmental Quality Act Guidelines Section 15378
- E. Association of Monterey Bay Area Governments Minutes of December 8, 2021 and January 5, 2022 **PG 65**
Reference: Jenny McAdams, Mayor Pro Tempore
Recommended Action: Receive minutes.
CEQA: Does not constitute a “Project” per California Environmental Quality Act Guidelines Section 15378

9. **REPORTS – REQUIRING ACTION**

Items pulled from this section will be placed under 12. Unfinished and Ongoing Business or 13. New Business

- A. Monterey Regional Waste Management District Appointment **PG 81**
Reference: Bill Peake, Mayor
Recommended Action: Approve appointment of Mayor Peake to Monterey Regional Waste Management District Joint Powers Authority (MRWMD) Board of Directors serving until December 31, 2022.
CEQA: Does not constitute a “Project” per California Environmental Quality Act Guidelines Section 15378
- B. Mary Ann Whitten Appointment to Library Board **PG 83**
Reference: Bill Peake, Mayor
Recommended Action: Approve appointment of Mary Ann Whitten to Library Board for a term ending January 31, 2026.
CEQA: Does not constitute a “Project” per California Environmental Quality Act Guidelines Section 15378

10. **MEETING MINUTES OF COMMISSIONS, BOARDS, AND COMMITTEES**

Items pulled from this section will be placed under 13. New Business

- A. September Recreation Board Minutes **PG 85**
Reference: Daniel Gho, Public Works Director / Deputy City Manager
Recommended Action: Receive September 2021 Recreation Board Meeting Minutes
CEQA: Does not constitute a “Project” per California Environmental Quality Act Guidelines Section 15378

REGULAR AGENDA

11. PUBLIC HEARINGS

For public hearings involving a quasi-judicial determination by the Council, the proponent of an item may be given 10 minutes to speak and others in support of the proponent's position may be given three minutes each. A designated spokesperson for opposition to the item may be given 10 minutes to speak and all others in opposition may be given three minutes each. Very brief rebuttal and surrebuttal may be allowed in the sole discretion of the Council. In public hearings not involving a quasi-judicial determination by the Council, all persons may be given three minutes to speak on the matter. Public hearings on non-controversial matters or for which testimony is not anticipated may be placed on the Consent Agenda, but shall be removed if any person requests a staff presentation or wishes to be heard on the matter.

- A. **DRAFT Adoption of a Resolution Conditionally Authorizing the Vacation of Excess Right-of-Way Located on Sloat Ave.** *This public hearing will be opened, public comment shall begin at the February 2, 2022, City Council meeting, but the hearing will then be continued to the February 16, 2022 City Council meeting; the public hearing shall remain open -- but NOTE -- individual members of the public may choose to speak either at the February 2, 2022 meeting or the February 16, 2022 meeting, but no person shall be allowed to speak at more than one hearing date. PG 87*

Reference: Alyson Hunter, AICP, CDD Director

Recommended Action: Open the public hearing and continue the item to the February 16, 2022, meeting.

CEQA: Environmental Impact Report

- B. Approval of Amendments to PGMC 23.80 - Accessory Dwelling Units (ADU) **PG 89**
Reference: Alyson Hunter, AICP, CDD Director
Recommended Action: Approve first reading of an ordinance to amendment PGMC 23.80 - Accessory Dwelling Units (ADUs) as recommended by the Planning Commission, and direct publication of a summary as approved by the City Attorney..
CEQA: Statutory Exemption, CEQA Guidelines 15282(h) - Adoption Regarding Second Units in a Single or Multi Family Residential Zone

12. UNFINISHED AND ONGOING BUSINESS

13. NEW BUSINESS

- A. Promissory Agreement for Payment of Water Entitlement for the PG Hotel, formerly known as the Hotel Durrell *This item was continued from the January 19, 2022 meeting* **PG 103**

Reference: Laurel O'Halloran, Associate Planner

Recommended Action: Consider a promissory agreement for water entitlement for the Pacific Grove (PG) Hotel, formerly known as the Hotel Durrell, to be located at 157 Grand Avenue (APN 006-173-002)

CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

- B. CONCEPT REVIEW: ARPA Funding Public Outreach *This item was continued from the January 19, 2022 meeting PG 143*

Reference: Ben Harvey, City Manager

Recommended Action: Review proposed public outreach approach and provide direction to staff.

CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

- C. Leadership - Mastering Your Role as an Elected Official *This item was continued from the January 19, 2022 meeting PG 147*

Reference: Bill Peake, Mayor

Recommended Action: Receive report and discuss.

CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

- D. Council Liaison Role *This item was continued from the January 19, 2022 meeting PG 149*

Reference: Nick Smith, Councilmember

Recommended Action: Review role and provide staff direction.

CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

14. **FULL PRESENTATIONS**

15. **CLOSED SESSION**

ADJOURNMENT

NOTICE OF ADA COMPLIANCE: Pursuant to Title II of the Americans with Disabilities Act (Codified At 42 United States Code Section 12101 and 28 Code of Federal Regulations Part 35), and Section 504 of the Rehabilitation Act of 1973, the City of Pacific Grove does not discriminate on the basis of race, color, religion, national origin, ancestry, sex, disability, age or sexual orientation in the provision of any services, programs, or activities. The City of Pacific Grove does not discriminate against persons with disabilities. City Hall is an accessible facility. A limited number of assisted listening devices will be available at this meeting. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting or provide the requested agenda format.

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CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council
FROM: Sandra Kandell, City Clerk
MEETING DATE: February 2, 2022
SUBJECT: Remote Teleconference - AB 361
CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

Ratify Resolution No. 21-029 Emergency Teleconferencing authorizing remote teleconference meetings of all City legislative bodies for the following 30 days in accord with the Ralph M. Brown Act.

DISCUSSION

Governor Newsom signed AB 361 into law on September 16, 2021 to become effective on October 1, 2021. AB 361 extends the provisions of the Governor's Executive Order N-29-20 and Executive Order N-35-20 and is effective until January 1, 2024. AB 361 amends sections of the Brown Act to allow legislative bodies to continue to hold teleconference meetings during a state of emergency if the legislative body finds that as a result of the proclaimed state of emergency, meeting in person would present imminent risks to the health or safety of attendees.

Assembly Bill 361 requires the City within 30 days of holding a virtual meeting for the first time, and every 30 days thereafter, to make findings ratifying the state of emergency.

The exact language of the Bill is as follows:

If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

At its October 6, 2021 meeting, Council approved Resolution No. 21-029 Proclaiming a Local Emergency, Ratifying the State of Emergency Proclaimed on March 4, 2020, and Authorizing Remote

Teleconference Meetings of All City Legislative Bodies for the Following 30 days in Accord with the Ralph M. Brown Act. Resolution No. 21-029 has effect for only 30 days. The Council has ratified that resolution each month since. The Council must now renew the effect of the resolution by ratifying it again or adopting another.

This item will be added to the Council's first meeting of the month as the first item of business.

OPTIONS

Take no action and resume in person meetings.

FINANCIAL IMPACT:

There is no fiscal impact.

GOAL ALIGNMENT: Transparency, Accountability and Communication: Implement programs, processes, revisions, and training to improve and advance the City's efforts.

Attachments

Reso 21-029

RESOLUTION NO. 21-029

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE PROCLAIMING A LOCAL EMERGENCY, RATIFYING THE STATE OF EMERGENCY PROCLAIMED ON MARCH 4, 2020, AND AUTHORIZING REMOTE TELECONFERENCE MEETINGS OF ALL CITY LEGISLATIVE BODIES FOR THE FOLLOWING 30 DAYS IN ACCORD WITH THE RALPH M. BROWN ACT

FACTS

1. The City of Pacific Grove (City) is a charter city and public entity established under the laws of the State of California.
2. The City is committed to preserving and nurturing public access and participation in meetings of the City Council and all its Boards and Commissions; and
3. All meetings of City legislative bodies are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963), so that any member of the public may attend, participate, and observe City legislative bodies conduct business; and
4. The Brown Act, Government Code section 54953(e), enables remote teleconferencing participation in meetings by members of a legislative body, without strict compliance with requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and
5. One required condition is that a state of emergency has been declared by the Governor of the State of California pursuant to Government Code section 8625, proclaiming existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and
6. A proclamation is made that there is an actual incident, threat of disaster, or extreme peril to the safety of persons and property within the City's jurisdiction, caused by natural, technological, or human-caused disasters; and
7. State or local officials have imposed or recommended measures to promote social distancing, or that having the legislative body meet in person would present imminent risks to the health and safety of attendees; and
8. The City Council affirms these conditions now exist in the City. Specifically, on March 4, 2020, the Governor proclaimed a State of Emergency to exist as a result of the threat of COVID-19. That Proclamation has not been terminated by either the Governor or the Legislature pursuant to Government Code section 8629; and

9. Despite sustained efforts to remedy this circumstance, the City determines that meeting in person poses an imminent risk to health and safety of attendees due to the COVID-19 virus and its variants; and
10. The City Council finds the emergency created by the COVID-19 virus and its variants has caused, and will continue to cause, conditions of peril to the safety of persons within the City that are likely to be beyond the control of services, personnel, equipment, and facilities of the City, and desires to proclaim a local emergency and ratify the proclamation of state of emergency by the Governor and similar local health orders that require social distancing; and
11. As a consequence of the local emergency, the City Council determines that all legislative bodies of the City of Pacific Grove are required to conduct their meetings without full compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and that those City legislative bodies shall comply with the requirements to provide public access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953; and
12. Each City legislative body shall continue to conduct meetings with public access available via call-in or internet-based service options and the public shall be allowed to address the legislative body directly in real time; and
13. This Resolution shall authorize the City Manager to establish and maintain platforms necessary for each City legislative body to hold teleconference meetings and provide an avenue for real-time public comments for such meetings; and
14. The City Council finds the introduction and adoption of this resolution is not subject to the California Environmental Quality Act (CEQA) as the activity is not a project as defined in Section 15378) of the CEQA Guidelines.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE:

SECTION 1. RECITALS. The foregoing Findings are true and correct and are adopted by the City Council as though set forth in full.

SECTION 2. PROCLAMATION OF LOCAL EMERGENCY. The Council hereby proclaims that a local emergency now exists throughout the City, and meeting in person would present imminent risk as a result of the COVID-19 virus and its variants.

SECTION 3. RATIFICATION OF PROCLAMATION OF A STATE OF EMERGENCY. The Council hereby ratifies the Governor of the State of California's Proclamation of State of Emergency, effective as of its issuance date of March 4, 2020.

SECTION 4. REMOTE TELECONFERENCE MEETINGS. The City Manager and legislative bodies of City of Pacific Grove are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

SECTION 5. EFFECTIVE DATE OF RESOLUTION. This Resolution shall take effect immediately upon its adoption and shall be remain in effect for a period of 30 days, or until such time the City Council adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which City legislative bodies may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE this 6th day of October 2021, by the following vote:

AYES: Mayor Peake, Mayor Pro Tem Smith, Councilmembers Amelio, Coletti, McAdams, Poduri, and Tomlinson.

NOES: None.

ABSENT: None.

APPROVED:

DocuSigned by:
Bill Peake
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BILL PEAKE, Mayor

ATTEST: 10/25/2021

DATED: _____

DocuSigned by:
Sandra Kandell
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SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:

DocuSigned by:
David C. Laredo
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DAVID C. LAREDO, City Attorney

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CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council
FROM: Bill Peake, Mayor
MEETING DATE: February 2, 2022
SUBJECT: Mayor's Proclamation Recognizing Moe Ammar's 29 Years of Service on the Pacific Grove Chamber of Commerce
CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

Receive Proclamation.

Attachments

Proclamation



Mayor's Proclamation Recognizing Moe Ammar's 29 Years of Service On the Pacific Grove Chamber of Commerce

Whereas, Moe Ammar first came to Pacific Grove as a honeymooner and raised his family in Pacific Grove since 1986; and

Whereas, Moe Ammar has faithfully served on the Pacific Grove Chamber of Commerce for 29 years, recently retiring as President; and

Whereas, Moe Ammar has provided guidance, leadership, and financial stewardship that helped build a strong and vibrant Chamber of Commerce; and

Whereas, Moe Ammar's dedication and enthusiasm for the community has been lasting and without parallel; he was awarded the "Key to PG" by the city council in 2000; and

Whereas, Moe Ammar has made numerous contributions to the community and city government over the years including forming the Business Improvement District and Hospitality Improvement District, establishing the Tourist Information Center, attracting new businesses to Pacific Grove, serving on the Economic Development Committee for 27 years, and building better relations between residents and the business community.

Now, be it resolved that I, Bill Peake, as Mayor of the City of Pacific Grove in the State of California am pleased to recognize Moe Ammar for outstanding dedication and service to Pacific Grove.

Bill Peake

**Bill Peake, Mayor
City of Pacific Grove**



CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council
FROM: Alyson Hunter, AICP, CDD Director
MEETING DATE: February 2, 2022
SUBJECT: Adoption of a Resolution Approving the Property Tax Transfer Agreement with the County of Monterey Relating to the Mission Linen Property Annexation
CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

Adopt the Resolution and direct staff to submit to the Monterey County Local Agency Formation Commission (LAFCO) in support of the City's application to annex the Mission Linen property located at 801 Sunset Drive.

DISCUSSION

On April 21, 2021, the City Council adopted Resolution 21-006 (attached) authorizing staff to file an application for the annexation of the Mission Linen property to the Local Agency Formation Commission (LAFCO). City staff prepared and submitted an application which was accepted by LAFCO and found complete on June 11, 2021. The final item needed by LAFCO in order to schedule the item before its board for action is the Property Tax Transfer Agreement adopted by Resolution by both the County Board of Supervisors and the City Council. The County held a public hearing and adopted its [Board Order](#) on November 16, 2021. The complete Board of Supervisor's agenda item can be viewed at this [link](#).

The City must now adopt the same Property Tax Transfer Agreement by Resolution. The terms and details of the City's draft Resolution (attached) are the same as the County's.

OPTIONS

The City Council could decide not to pursue the annexation of the property and direct staff to withdraw the application from the LAFCO process.

FINANCIAL IMPACT:

As a result of the annexation, The City will receive 6.38% of the property taxes received on the current assessment; and 9.77% on any incremental tax or future increases above the originally assessed value.

GOAL ALIGNMENT: Not Applicable.

Attachments

Resolution 21-006

Draft Resolution

County's Executed Resolution

RESOLUTION 21-006

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE
AUTHORIZING THE FILING OF AN ANNEXATION APPLICATION TO THE
MONTEREY COUNTY LOCAL AGENCY FORMATION COMMISSION FOR THE
MISSION LINEN SUPPLY PROPERTY LOCATED AT 801 SUNSET DRIVE
(APN 007-101-036-000) AND AUTHORIZING ENTERING INTO A MEMORANDUM OF
UNDERSTANDING WITH THE PEBBLE BEACH COMMUNITY SERVICES DISTRICT
RELATING TO THE PROVISION OF SERVICES**

WHEREAS, the City of Pacific Grove (City) desires to initiate proceedings pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, commencing with California Government Code Section 56000, for a change of organization consisting of the annexation of territory to the City of Pacific Grove; and

WHEREAS, the subject 2.99-acre territory is located at 801 Sunset Drive, APN 007-101-036-000 (Exhibit 1), and is within the County of Monterey and located outside City limits; and

WHEREAS, pursuant to Section 56654 of the California Government Code, notice of intent to adopt this Resolution of Application was given to the Monterey County Local Agency Formation Commission (LAFCO), interested agencies and subject agencies at least twenty-one (21) days before the adoption of this Resolution; and

WHEREAS, on April 21, 2021, this Council conducted a public hearing based upon this notification; and

WHEREAS, the principal reasons for the proposed reorganization are as follows:

1. The subject property is surrounded on all sides by City limits;
2. The subject property was rezoned by the City Council through its adoption of Ordinance 20-008 on March 18, 2020;
3. The subject property is identified in the City's 1994 General Plan as the only County of Monterey property within the City's mapped Sphere of Influence and was assigned a land use designation as part of the adoption of the General Plan; and
4. The subject property is accessed by Sunset Drive, a public, City-maintained public street and is served by City fire and police protection.

WHEREAS, the following agency or agencies that would be affected by the proposed jurisdictional changes and tax transfer agreement include:

<u>Agency</u>	<u>Nature of Change</u>
City of Pacific Grove	Jurisdictional Boundary
Pacific Grove Unified School District	Tax Receiving Entity
Monterey Peninsula Community College Dist.	Tax Receiving Entity
County of Monterey	Tax Receiving Entity
Monterey Co. Office of Education	Tax Receiving Entity
Monterey County Library	Tax Receiving Entity
Monterey Co. Water Resources Agency (MCWRA) District	Tax Receiving Entity
MCWRA Zone 11	Tax Receiving Entity
Monterey Peninsula Water District	Tax Receiving Entity
Pebble Beach Community Services District	Tax Receiving Entity

Monterey Regional Park District
Monterey Airport District

Tax Receiving Entity
Tax Receiving Entity

WHEREAS, the annexation of the subject property is supported by the City's General Plan Section 2.6 – *Development Potential and Annexation*; and

WHEREAS, City records indicate that annexation of the subject property has been contemplated since the mid-1980s, thus informing the General Plan language referenced in Section 2.6 – *Development Potential and Annexation*; and

WHEREAS, the property was recently rezoned "Light Commercial (C-1)", which allows a wide variety of potential uses including mixed-use commercial, multi-family residential, and light industrial uses; and

WHEREAS, the City has been in discussions about the rezoning and future annexation of the property with the owner of the subject property, Mission Linen Supply, and has received written support of both actions from the owner; and

WHEREAS, the Pebble Beach Community Services District (PBCSD) authorizes its General Manager to enter into a Memorandum of Understanding (MOU) with the City of Pacific Grove (Exhibit 2) relating to the provision of wastewater services, solid waste, and fire protection into the future.

WHEREAS, the City has been in discussions with LAFCO of Monterey County, which has indicated its support of the annexation given the "island" nature of the current situation; and

WHEREAS, the Pacific Grove Planning Commission recommends the City Council find the proposed annexation of the Mission Linen Supply property exempt from environmental review per the Class 19, § 15319 CEQA exemption for annexations of existing facilities and lots for exempt facilities. The subject property is developed with an industrial laundry facility that has been nonoperable for the past three (3) or more years. No new development, demolition, or establishment of a new use at the subject property is proposed at this time; and

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE:

Section 1. This Resolution of Application is hereby adopted and the Local Agency Formation

Commission of Monterey County is hereby requested to take proceedings in the matter of the annexation of territory as authorized and in the manner provided by the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.

Section 2. The annexation is exempt from environmental review pursuant to CEQA §15319 (Class 19 – Annexations of Existing Facilities and Lots for Exempt Facilities).

Section 3. City Staff is directed to submit an application for annexation of the area included within Exhibit 1, attached hereto and incorporated herein, to the Monterey County Local Agency Formation Commission.

Section 4. The City Manager is hereby authorized to execute the Memorandum of Understanding (MOU) with the Pebble Beach Community Services District referenced herein.

Section 5. In accord with Article 15 of the City Charter, this ordinance shall become effective on the thirtieth (30th) day following passage and adoption hereof.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE this 21st day of April 2021, by the following vote:

AYES: Mayor Peake, Councilmembers Amelio, Coletti, McAdams, Poduri, and Tomlinson.

NOES: None.

ABSENT: None.

APPROVED:

DocuSigned by:
Bill Peake
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BILL PEAKE, Mayor

ATTEST: 4/26/2021
DATED: _____

DocuSigned by:
Sandra Kandell
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SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:

DocuSigned by:
David C. Laredo
E06545E32B2846F

DAVID C. LAREDO, City Attorney

Exhibit 1

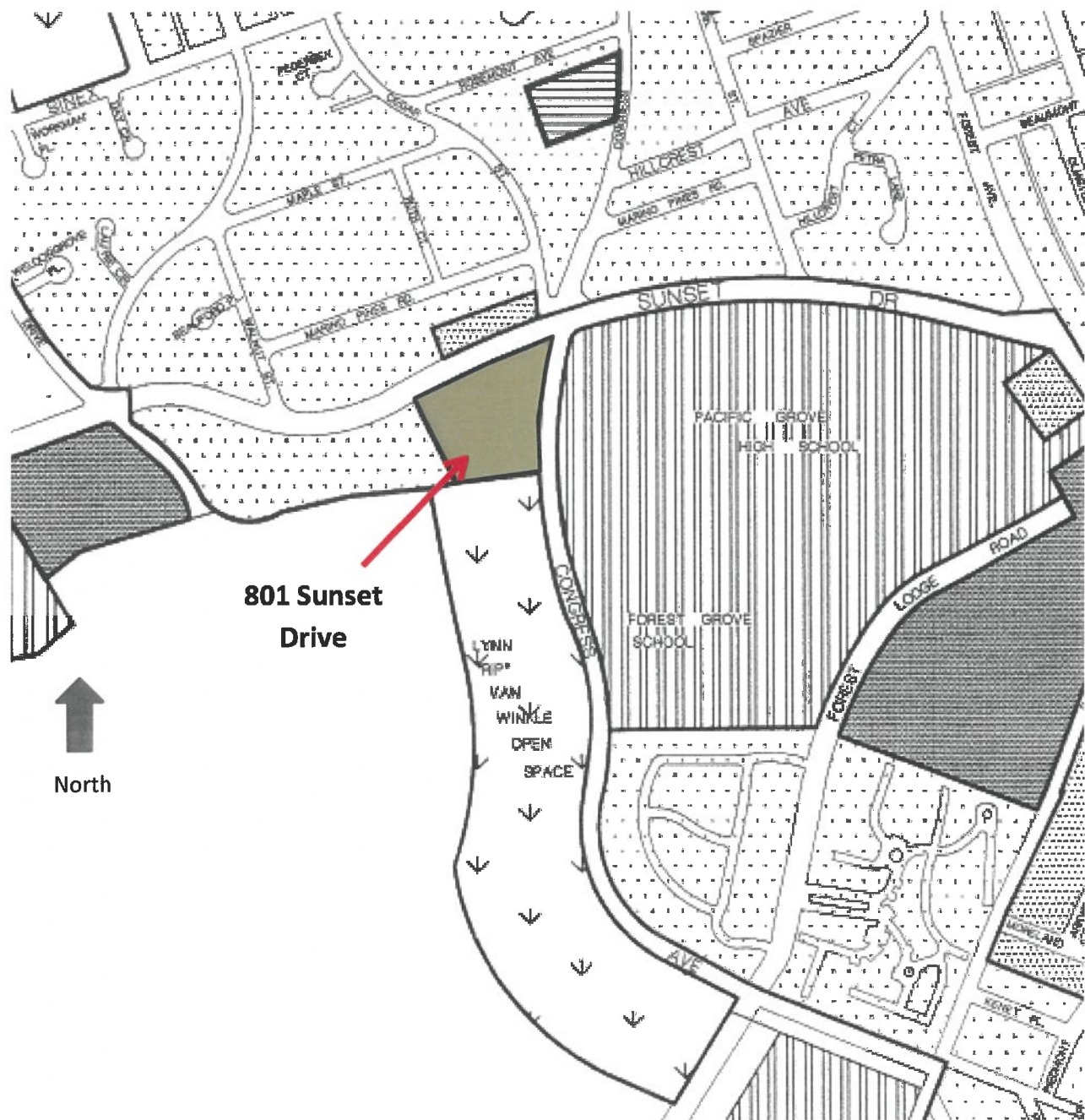


Exhibit 2

MEMORANDUM OF UNDERSTANDING BETWEEN PEBBLE BEACH COMMUNITY SERVICES DISTRICT AND CITY OF PACIFIC GROVE FOR RETAINING EXISTING WASTEWATER SERVICES FOR THE PROPERTY KNOWN AS 801 SUNSET DR., PACIFIC GROVE

THIS MEMORANDUM OF UNDERSTANDING (MOU) is made and entered into this July 30, 2021 (Effective Date), by and between the City of Pacific Grove, a municipal corporation of the State of California (City), and the Pebble Beach Community Services District, a California Community Services District (PBCSD), collectively, the Parties, with reference to the following facts.

FACTS

1. The City has initiated proceedings pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, commencing with California Government Code Section 56000, for a change of organization consisting of the annexation of territory to the City.
2. The subject property is a 2.99-acre territory is located at 801 Sunset Drive, APN 007-101-036-000 (Property), and is within the County of Monterey and located outside City limits.
3. The Property is within the service jurisdiction of the PBCSD. PBCSD currently provides wastewater, solid waste, and fire protection services to the Property and has access to the Property's wastewater flows.
4. The Parties have discussed the potential for PBCSD to retain wastewater rights, post-annexation to the City, and this MOU would be beneficial in moving those efforts forward.
5. Currently, PBCSD receives approximately \$1,828.00 per year in property tax as reflected in the 0.203914 share of total property taxes assessed and collected by the County. This amount is distributed between all three (3) of the services mentioned herein. Because PBCSD will retain wastewater transmission and treatment responsibilities, it requests that a small portion (0.02) of the total County assessment be retained post-annexation. This equates to approximately \$179.34/yr in tax payment. This will be activated through the Property Tax Transfer agreement between the City of Pacific Grove and the County of Monterey upon annexation.

NOW, THEREFORE, the City and PBCSD agree as follows:

The above facts, including the paragraph preceding the facts, are hereby incorporated into this MOU as if set forth herein in full.

ARTICLE 1— RESPONSIBILITIES

- a. CITY shall forgo access to current and future wastewater flows in recognition of the existing infrastructure that PBCSD has constructed to serve the Property.
- b. CITY shall assume the provision of solid waste service, fire protection service, and police service to the Property in accordance with existing ordinances and agreement with the City of Monterey for fire protection services, or its successor. CITY shall be the Authority Having Jurisdiction relative to emergency response, code adoption and enforcement, fire investigation and other legally obligated fire protection services.
- c. CITY shall assume provision of police service and solid waste service to the Property in accordance to existing franchise agreements and other contracts with GreenWaste Recovery (or its successor) for solid waste service.
- d. California-American Water Company or its successor in interest shall continue to provide water to the Property.
- e. Any owner or developer of the Property, in its discretion, may purchase entitlements for reclaimed water or additional potable water, if needed, from the Pebble Beach Company or the City.
- f. PBCSD agrees that it will not object to or oppose City's annexation of the Property into the City's jurisdictional boundaries and the release of all current services other than wastewater to the City.

ARTICLE 2— TERM AND TERMINATION

This MOU shall commence on the Effective Date and shall remain in effect so long as not terminated. Either Party shall be entitled to terminate this MOU at any time with thirty (30) days prior written notice to the other Party.

ARTICLE 3— MUTUAL INDEMNIFICATION

- a. PBCSD shall indemnify, defend, and hold harmless the City, its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this MOU by PBCSD and/or its agents, employees or PBCSD's sub-contractors, excepting only loss, injury or damage caused by the sole negligence or willful misconduct of the City. PBCSD shall reimburse the City for all costs, attorneys' fees, expenses and liabilities incurred with respect to any litigation in which the PBCSD is obligated to indemnify, defend and hold harmless the City under this MOU.
- b. City shall indemnify, defend, and hold harmless PBCSD, its officers, agents and employees from any claim, liability, loss, injury or damage arising out of, or in connection with, performance of this MOU by City and/or its agents, employees or City's sub-contractors, excepting only loss, injury or damage caused by the sole negligence or willful misconduct of PBCSD. The City shall reimburse PBCSD for all costs, attorneys'

fees, expenses and liabilities incurred with respect to any litigation in which the City is obligated to indemnify, defend and hold harmless PBCSD under this MOU.

ARTICLE 4— INSURANCE

Each Party recognizes and accepts the other Party is self-insured. Either Party may purchase commercial insurance to cover its exposure hereunder, in whole or in part.

ARTICLE 5— ASSIGNMENT

Neither Party shall have the right to assign its respective rights and obligations hereunder without the written consent of the other Party.

ARTICLE 6— LAW AND VENUE

This MOU shall be in accordance with the laws of the State of California. Venue shall be within the County of Monterey, California.

ARTICLE 7— ATTORNEY'S FEES AND COSTS

In the event any dispute arising out of this MOU is brought before a court of law, all reasonable fees and costs shall be awarded to the prevailing party, including expert witness fees. These fees and cost shall be taxed as costs in that proceeding and shall not necessitate the filing of a separate action.

ARTICLE 8— NOTICES

Any notices required or given pursuant to this MOU shall be given in writing by personal delivery, or by United States mail, return receipt requested. Notices shall be sent to the addresses as set forth below or to the owner(s) of the Property or to such other address as any party may from time to time specify in writing to the other:

To: Mike Niccum
 General Manager
 Pebble Beach Community
 Services (PBCSD)
 3101 Forest Lake Road
 Pebble Beach, CA 93950

Ben Harvey
City Manager
City of Pacific Grove
300 Forest Ave.
Pacific Grove, CA 93950

ARTICLE 9— ENTIRE AGREEMENT

This MOU constitutes the entire agreement between the Parties hereto concerning the subject matter hereof. This MOU may only be modified by mutual written agreement between the Parties.

ARTICLE 10 — SEVERABILITY

The invalidity of any provision of this MOU as determined by a court of competent jurisdiction shall in no way affect the validity of any other provision hereof.

ARTICLE 11 — COUNTERPARTS

This MOU may be executed in one or more counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

ARTICLE 12 — AUTHORIZATION

The City warrants that the execution of this MOU has been approved and authorized by the City, and that the person who executes this MOU has been authorized to perform said act. PBCSD warrants that the execution of this MOU has been approved and authorized by PBCSD, and that the person who executes this MOU has been authorized to perform said act.

IN WITNESS WHEREOF, the undersigned have executed this MOU as of the dates indicated below.

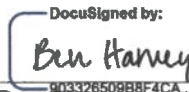
Pebble Beach Community Services
District

Date: 4/30/21

By 
Mike Niccum,
General Manager

City of Pacific Grove

Date: 5/4/2021

By 
Ben Harvey,
City Manager

RESOLUTION 22-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE APPROVING PROPERTY TAX TRANSFER FOR THE PROPOSED “MISSION LINEN REORGANIZATION” INVOLVING ANNEXATION OF 2.9 ACRES TO THE CITY OF PACIFIC GROVE AND DETACHMENT FROM THE MONTEREY COUNTY RESOURCE CONSERVATION DISTRICT; SUBJECT PROPERTY IS LOCATED AT 801 SUNSET DRIVE (APN 007-101-0036)

Facts

1. The City of Pacific Grove (City) desires to annex the subject property commonly known as the “Mission Linen” site located at 801 Sunset Drive (APN 007-101-036); and
2. Pursuant to Resolution 21-006, the City submitted an application to the Local Agency Formation Commission (LAFCO) for the “Mission Linen Reorganization” involving annexation of 2.99 acres to the City and detachment from the Pebble Beach Community Services District (PBCSD); and
3. The City and PBCSD have negotiated a Memorandum of Understanding whereby PBCSD will retain wastewater services for the property and shall accordingly retain a portion (0.02 %) of the County tax allocation; solid waste and fire protection services currently provided to the property by PBCSD would, upon annexation, be provided by the city which shall retain 0.18% of the County tax allocation currently allocated to PBCSD; and
4. Pursuant to Revenue and Taxation Code Section 99(b) (6), the Executive Officer of LAFCO shall not issue a Certificate of Filing (Government Code Section 56828) for a change of organization until an exchange of property tax revenue is negotiated; and
5. The Monterey County Board of Supervisors adopted as policy a set of formulas to be used for all jurisdictional changes of organization on April 29, 1980 (Resolution #80-249); and
6. The current distribution of property taxes within tax rate area 102-003 is as follows:

23.11%	-	Monterey County’s Share
0.21%	-	Affected District’s Share
<u>76.68%</u>	-	Non-affected Districts’ Share
100.00%	-	Total; and

7. The Revenue and Taxation Code Section 99 (Senate Bill 180, Chapter 801) requires that non-affected local agencies percentage share will remain constant; and
8. The County of Monterey and the City wish to agree to a fair share distribution of remaining property tax revenues; and

9. The County of Monterey has realized a 41% reduction and the City has realized a 19% reduction in property tax revenue imposed by the State under Senate Bill 617, Chapter 699, Statutes 1992;and
10. Each year thereafter both the County and the City continue to shift revenues to the EducationRevenue Augmentation Fund (ERAF); and
11. The County of Monterey Board of Supervisors, at its meeting on November 16, 2021, adopted Resolution 21-429 ratifying the following formulas for the transfer of property tax; and
12. Upon adoption of this Resolution, staff will submit the executed document to the Monterey County LAFCO in order to complete the necessary documents to proceed with the application for annexation; and
13. This annexation is exempt from environmental review pursuant to CEQA §15319 (Class 19, Annexations of Existing Facilities and Lots for Exempt Facilities).

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE:

The City of Pacific Grove does hereby agree to the following formulas for property tax base and increment distribution within Tax Rate Area 102-003 after change of organization/reorganization.

A. DISTRIBUTION OF PROPERTY TAX BASE:

Property tax base is the property tax revenue that is available prior to change of organization/reorganization.

Prior to Change or Organization/Reorganization:

(City of Pacific Grove, Tax Rate Area 004-000)

		<u>Current Ratio</u>
City of Pacific Grove -	19.76%	45.52%
Monterey County -	23.65%	54.48%

Within Tax Rate Area 102-003, Monterey County's share of property tax reduced by 41%, an amount equal to 9.48%. After this reduction, the total property tax available for distribution in the proposal area is equal to 13.63%.

After Change of Organization/Reorganization:

(New Tax Rate Area – To Be Assigned)

13.63 % - Property Tax Available for Distribution

1. City of Pacific Grove's Share of Total Property Taxes Collected:

	13.63%	-	Property Tax Available for Distribution
X	45.52%	-	City of Pacific Grove's Current Ratio
=	6.20%		
+	0.18%	-	Pebble Beach Community Services District Share to City of Pacific Grove
=	6.38		

2. Monterey County's Share of Total Property Taxes Collected:

	13.63%	-	Property Tax Available for Distribution
X	54.48%	-	Monterey County's Current Ratio
=	7.43%		

plus

9.48% - The Adjustment for State Tax Shift

= 16.91% Total County share of property tax base Formula for property tax base

allocation to the City of Pacific Grove

City of Pacific Grove's Property Tax Revenue =

Total Property Taxes Collected X 6.38% X Full Months Remaining in
Tax Year Divided by 12.

B. DISTRIBUTION OF PROPERTY TAX INCREMENT:

Property tax increment is the increase in property tax revenue above the base resulting from the increase in assessed value of property after the change in organization/reorganization.

The formula recognizes that all future growth will be subject to a shift to ERAF in the amount of 41% for the County and 19% for the City of Pacific Grove. After the shift, the County and the City will be in the same relative position as before dividing the remainder.

Prior to Change of Organization/Reorganization:

(City of Pacific Grove, Tax Rate Area 004-000)				
	Current Rate	÷	ERAFA Adjustment	= Resulting Rate Resulting Ratio
Pacific Grove	19.76%		81.0%	23.51% 41.5%
Monterey County	23.65%		59.0%	33.13% 58.5%

Based on existing Tax Rate Area 102-003, Monterey County's share of property tax is 23.11%
The total property tax available for distribution in the proposal area is 23.11%. The new
Resulting Ratios calculated above are applied to the increment.

After Change of Organization/Reorganization

(New Tax Rate Area to be Assigned)

23.11% = Property Tax Available for Distribution

1. City of Pacific Grove's Share of Property Tax Increment:

	23.11%	-	Property Tax Available for Distribution
X	41.5%	-	City of Pacific Grove's New Resulting Ratio
=	9.59%		
+	0.18%	-	Pebble Beach Community Services District Share
=	9.77%		

2. Monterey County's Share of Property Tax Increment:

	23.11%	-	Property Tax Available for Distribution
X	58.5%	-	Monterey County's New Resulting Ratio
=	13.52%		

Formula for property tax increment to the City of Pacific Grove from Tax Rate Area 004-000
after change of organization/reorganization:

City of Pacific Grove's Property Tax Increment =
Total Property Tax Increment Collected X 9.77% X
Full Months Remaining in Tax Year Dividend by 12.

PASSED AND ADOPTED this _____ day of _____, 2022, by the following
vote, to-wit:

AYES:

NOES:

ABSENT:

APPROVED:

BILL PEAKE, Mayor

ATTEST:

DATE: _____

SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:

DAVID C. LAREDO, City Attorney

***Before the Board of Supervisors in and for the
County of Monterey, State of California***

Adopt Resolution No.: 21-429

Approve Property Tax Transfer for the proposed “Mission Linen)
Reorganization” involving annexation of 2.9 acres to the City of)
Pacific Grove and detachment from the Monterey County)
Resource Conservation District; subject property is Located at)
801 Sunset Dt, Assessor’s Parcel Number 007-101-0036.....)

WHEREAS, the Revenue and Taxation Code Section 99 (Assembly Bill 8, Chapter 282) Statutes 1979, as amended by Senate Bill 180 (Chapter 801) provides for the Monterey County Board of Supervisors to determine an appropriate tax transfer for all jurisdictional changes of organization occurring within Monterey County and for the city council of any affected City to concur on the transfer prior to the proposal being considered by the Local Agency Formation Commission (LAFCO); and

WHEREAS, the City of Pacific Grove has submitted an application to LAFCO for the “Mission Linen Reorganization” involving annexation of 2.99 acres to the City and detachment from the Pebble Beach Community Services District (PBCSD); and

WHEREAS, the City and PBCSD have negotiated a Memorandum of Understanding whereby PBCSD will retain wastewater services for the property and shall accordingly retain a portion (0.02 %) of the County tax allocation; solid waste and fire protection services currently provided to the property by PBCSD would, upon annexation, be provided by the city which shall retain 0.18% of the County tax allocation currently allocated to PBCSD; and

WHEREAS, pursuant to Revenue and Taxation Code Section 99(b) (6), the Executive Officer of LAFCO shall not issue a Certificate of Filing (Government Code Section 56828) for a change of organization until an exchange of property tax revenue is negotiated; and

WHEREAS, the Monterey County Board of Supervisors adopted as policy a set of formulas to be used for all jurisdictional changes of organization on April 29, 1980 (Resolution #80-249); and

WHEREAS, the current distribution of property taxes within tax rate area 102-003 is as follows:

23.11%	-	Monterey County’s Share
0.21%	-	Affected District’s Share
<u>76.68%</u>	-	Non-affected Districts’ Share
100.00%	-	Total; and

WHEREAS, the Revenue and Taxation Code Section 99 (Senate Bill 180, Chapter 801) requires that non-affected local agencies percentage share will remain constant; and

WHEREAS, the County of Monterey and the City of Pacific Grove wish to agree to a fair share distribution of remaining property tax revenues; and

WHEREAS, the County of Monterey has realized a 41% reduction and the City has realized a 19% reduction in property tax revenue imposed by the State under Senate Bill 617, Chapter 699, Statutes 1992; and

WHEREAS, each year thereafter both the County and the City continue to shift revenues to the Education Revenue Augmentation Fund (ERAF);

NOW, THEREFORE, BE IT RESOLVED that the Monterey County Board of Supervisors does hereby agree to the following formulas for property tax base and increment distribution within Tax Rate Area 102-003 after change of organization/reorganization.

A. DISTRIBUTION OF PROPERTY TAX BASE:

Property tax base is the property tax revenue that is available prior to change of organization/reorganization.

Prior to Change or Organization/Reorganization:

(City of Pacific Grove, Tax Rate Area 004-000)

		<u>Current Ratio</u>
City of Pacific Grove -	19.76%	45.52%
Monterey County -	23.65%	54.48%

Within Tax Rate Area 102-003, Monterey County's share of property tax reduced by 41%, an amount equal to 9.48%. After this reduction, the total property tax available for distribution in the proposal area is equal to 13.63%.

After Change of Organization/Reorganization:

(New Tax Rate Area – To Be Assigned)

13.63 % - Property Tax Available for Distribution

1. City of Pacific Grove's Share of Total Property Taxes Collected:

	13.63%	-	Property Tax Available for Distribution
X	45.52%	-	City of Pacific Grove's Current Ratio
=	6.20%		
+	0.18%	-	Pebble Beach Community Services District Share to City of Pacific Grove
=	6.38		

2. Monterey County's Share of Total Property Taxes Collected:

	13.63%	-	Property Tax Available for Distribution
X	54.48%	-	Monterey County's Current Ratio
=	7.43%		

plus

9.48% - The Adjustment for State Tax Shift

= 16.91% Total County share of property tax base

Formula for property tax base allocation to the City of Pacific Grove

City of Pacific Grove's Property Tax Revenue =

Total Property Taxes Collected X 6.38% X
Full Months Remaining in Tax Year Divided by 12.

B. DISTRIBUTION OF PROPERTY TAX INCREMENT:

Property tax increment is the increase in property tax revenue above the base resulting from the increase in assessed value of property after the change in organization/reorganization.

The formula recognizes that all future growth will be subject to a shift to ERAF in the amount of 41% for the County and 19% for the City of Pacific Grove. After the shift, the County and the City will be in the same relative position as before dividing the remainder.

Prior to Change of Organization/Reorganization:

(City of Pacific Grove, Tax Rate Area 004-000)

	Current Rate	÷	ERAF Adjustment	=	Resulting Rate	Resulting Ratio
Pacific Grove	19.76%		81.0%		23.51%	41.5%
Monterey County	23.65%		59.0%		33.13%	58.5%

Based on existing Tax Rate Area 102-003, Monterey County's share of property tax is 23.11%. The total property tax available for distribution in the proposal area is 23.11%. The new Resulting Ratios calculated above are applied to the increment.

After Change of Organization/Reorganization

(New Tax Rate Area to be Assigned)

23.11% = Property Tax Available for Distribution

1. City of Pacific Grove's Share of Property Tax Increment:

	23.11%	-	Property Tax Available for Distribution
X	41.5%	-	City of Pacific Grove's New Resulting Ratio
=	9.59%		
+	0.18%	-	Pebble Beach Community Services District Share
=	9.77%		

2. Monterey County's Share of Property Tax Increment:

	23.11%	-	Property Tax Available for Distribution
X	58.5%	-	Monterey County's New Resulting Ratio
=	13.52%		

Formula for property tax increment to the City of Pacific Grove from Tax Rate Area 004-000 after change of organization/reorganization:

$$\begin{array}{lcl} \text{City of Pacific Grove's Property Tax Increment} & = & \\ \text{Total Property Tax Increment Collected} & \times & 9.77\% \times \\ \text{Full Months Remaining in Tax Year Dividend by 12.} & & \end{array}$$

PASSED AND ADOPTED on this 16th day of November 2021, by roll call vote:

AYES: Supervisors Alejo, Phillips, Lopez, Askew and Adams

NOES: None

ABSENT: None

(Government Code 54953)

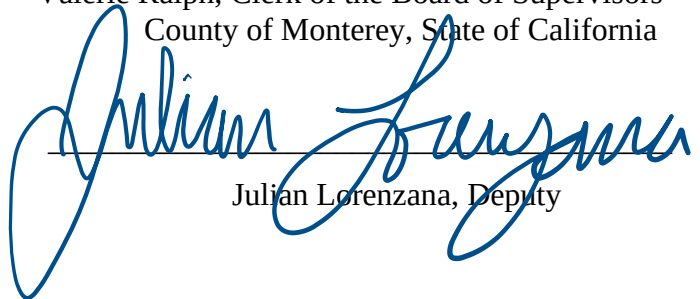
I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof of Minute Book 82 for the meeting November 16, 2021.

Dated: January 4, 2022

File ID: 21-923

Agenda Item No.: 41

Valerie Ralph, Clerk of the Board of Supervisors
County of Monterey, State of California



Julian Lorenzana, Deputy

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CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council
FROM: Bill Peake, Mayor
MEETING DATE: February 2, 2022
SUBJECT: City Manager Performance Evaluation Policy 000-27
CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

Adopt a Resolution to create City Manager Performance Evaluation Policy 000-27.

DISCUSSION

The purpose of this Council policy is to formalize a process for City Manager performance evaluations. Currently no such policy exists. Adopting a policy will ensure that performance evaluations are conducted on a regular basis with an established procedure. The policy is consistent with recent Council discussions and practice.

A performance evaluation provides job performance feedback, promotes alignment with City Council goals, demonstrates organizational accountability, identifies areas for professional development, and is input for future compensation.

OPTIONS

Do not approve or provide alternate direction.

FINANCIAL IMPACT:

None.

GOAL ALIGNMENT: Transparency, Accountability and Communication: Implement programs, processes, revisions, and training to improve and advance the City's efforts.

Attachments

Draft Resolution
Draft Council Policy

RESOLUTION NO. 22-xxx

A RESOLUTION OF THE CITY OF PACIFIC GROVE CITY COUNCIL ESTABLISHING A CITY MANAGER PERFORMANCE EVALUATION POLICY

FINDINGS

1. Currently, a City Manager Performance Evaluation Policy does not exist.
2. A City Manager Performance Evaluation provides job performance feedback, promotes alignment with City Council goals, demonstrates organizational accountability, identifies areas for professional development, and is input for future compensation.
3. The purpose of the City Manager Performance Evaluation Policy is to establish a formal performance evaluation process.
4. City governance will be more effective with a City Manager Performance Evaluation Policy.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE:

1. The Council determines that each of the Findings set forth above is true and correct, and by this reference incorporates those Findings as an integral part of this Resolution.
2. The Council authorizes adoption of a Resolution to create a new City Council Policy establishing a City Manager performance evaluation process.
3. The City Manager Performance Evaluation Policy is hereby approved as attached to this Resolution, which by this reference is incorporated as set forth in its entirety.
4. This Resolution shall become effective immediately following passage and adoption thereof.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE
this 2nd day of February 2022, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

BILL PEAKE, Mayor

ATTEST:

SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:

DAVID C. LAREDO, City Attorney

City of Pacific Grove City Council Policy

Policy Governing	Policy No.	Effective Date	Page
City Manager Performance Evaluation	000-27	February 2, 2022	1 of 1

PURPOSE:

To align City Manager with City Council goals and expectations and promote excellent City Manager performance.

POLICY & PROCEDURE:

A City Manager performance evaluation:

- Plans, reviews, and provides feedback on City Manager performance.
- Demonstrates organizational accountability to citizens and employees.
- Aligns City Manager responsibilities with City Council goals and expectations.
- Identifies further professional development of the City Manager.
- Is input for future compensation.

Council shall conduct annual City Manager performance evaluations consisting of:

1. Goal setting – The City Manager’s goals are those established at the beginning of the performance review period as per Council Goals Policy 000-26.
2. Interim feedback– Any Council Member who wishes to provide interim feedback to the City Manager may do so. These optional, informal discussions will remain private between the Council Member and City Manager.
3. End of year feedback - Process steps are, in order:
 - a. City Manager completes Council goals scorecard and self-evaluation form.
 - b. Council Members individually complete performance evaluation form and sends to a designated Council Member for consolidation.
 - c. Council reviews consolidated performance evaluation and finalizes document with facilitation of an outside human resources professional. The facilitation goal is to reach consensus.
 - d. Council meets with City Manager to discuss performance evaluation.

Performance evaluation should address the following:

- Characteristics of performance
 - Leadership and managerial ability
 - Community and regional relations
 - Knowledge and skills
 - Fiscal management
 - Council relations
 - Overall performance
- Strengths and areas for improvement/development
- Goals

The Brown Act authorizes performance evaluation of a public employee to be conducted in closed session. This applies to City Manager performance evaluations.

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CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council
FROM: Tori Hannah, Administrative Services Director/Assistant City Manager
MEETING DATE: February 2, 2022
SUBJECT: Second Quarter Treasurer's Quarterly Report – Fiscal Year 2021-22
CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

Receive the Report.

DISCUSSION

Article 19, Section (K) of the City Charter requires that a quarterly statement of all funds in the treasury be submitted to the Council. The Treasurer's report allows the Council and public to verify that the City's funds are invested in a safe and prudent manner, and that such investments comply with City policy and state law. The Treasurer's Report is different from a budget report, as its purpose is to report on cash balances.

This report reflects the City's balances as of December 31, 2021 and shows that cash and investments held citywide, with a market value of \$20,475,926. All investments are in government securities, certificates of deposit (CD), or other approved investment vehicles. The maturity dates are laddered, to ensure liquidity. All bank balances are insured. The City does not actively trade either certificates of deposits or federal agency securities but hold investments in the portfolio for maturity.

Date	Description	Rate	Dollar Amt/ Face Value	Activity
10/07/2021	Federal National Mortgage Assoc., Note	1.38%	\$97,000	Maturity
11/16/2021	Discover Bank, Greenwood, Del., CD	1.80%	\$247,000	Maturity
11/18/2021	Nationwide Bank, Columbus, OH., CD	1.50%	\$249,000	Maturity
11/24/2021	Third Fed. Savings & Loan, Cleveland, CD	2.10%	\$247,000	Maturity
01/27/2026	Investors Community Bank, Manitowoc, WI, CD	0.50%	\$249,000	Redemption
12/10/2026	Synchrony Bank Retail, Citigroup, CD	1.25%	\$248,000	Purchase

Investment Notes:

- The average yield on the City's portfolio for the quarter is 1.27%. This represents a yield rate that is 0.02% less than prior quarter and 0.17% less the same quarter in the prior year.

OPTIONS

N/A – This is an informational report.

FINANCIAL IMPACT:

There is no fiscal impact. This is informational only.

GOAL ALIGNMENT: Financial Stability: Develop a strategic plan to better address current and future City expenditure and revenue needs.

Attachments

Second Quarter Treasurers Report

**City of Pacific Grove
Treasurers' Report
As Of December 31, 2021**

DEPOSITORY	ACCOUNT	DESCRIPTION OF SECURITY	MATURITY DATE	INTEREST RATE/ YIELD	DOLLAR/ PAR AMOUNT	MARKET VALUE
State of California	Local Agency Investment Fund (LAIF)		Immediate	0.22%	2,269,555.40	2,269,555.40
					2,269,555.40	2,269,555.40
Bank of America	Checking	Pooled Cash	Immediate	0.00%	6,594,761.04	6,594,761.04
					6,594,761.04	6,594,761.04
N/A	Petty Cash	General	Immediate	0.00%	685.00	685.00
					685.00	685.00
Concourse Financial Group						
Concourse	Cash	Sweep Money Market Fund		0.03%	273,368.86	273,368.86
Concourse	Certificate of Deposit	Ally Bk Sandy Utah	1/31/2022	2.90%	246,000.00	246,560.88
Concourse	Certificate of Deposit	Amerant Bk Natl Assn Coral Gables FL	12/3/2025	0.45%	249,000.00	242,625.60
Concourse	Certificate of Deposit	BMW Bk North Amer Salt Lake City Utah	11/20/2025	0.50%	249,000.00	243,248.10
Concourse	Certificate of Deposit	Bank Baroda New York Brh	7/22/2025	0.65%	249,000.00	245,693.28
Concourse	Certificate of Deposit	Baycoast Bnk Swansea Mass CTF	1/24/2025	1.70%	247,000.00	252,846.49
Concourse	Certificate of Deposit	Bell Bank Fargo ND CTF Dep	3/24/2023	0.85%	249,000.00	250,307.25
Concourse	Certificate of Deposit	Bridgewater Bk St Louis Pk, MN	11/28/2025	0.45%	249,000.00	242,672.91
Concourse	Certificate of Deposit	Capital One Natl Assn McLean VA CTF	8/7/2024	2.25%	247,000.00	256,215.57
Concourse	Certificate of Deposit	Centerstate Bank Fla Winterhaven Fla	3/30/2023	0.90%	242,000.00	243,425.38
Concourse	Certificate of Deposit	Enerbank Salt Lake City UT CTF	6/28/2023	3.20%	246,000.00	255,894.12
Concourse	Certificate of Deposit	Goldman Sachs Bk USA New York CTF	11/22/2022	2.40%	247,000.00	251,554.68
Concourse	Certificate of Deposit	Industrial & Coml Bk China USA Natl Assn NY CTF	2/11/2026	0.45%	249,000.00	241,955.79
Concourse	Certificate of Deposit	JPMorgan Chase BK NA Columbus OH CTF Dep	12/15/2025	0.50%	248,000.00	242,015.76
Concourse	Certificate of Deposit	Live Oak Bkg Co Wilmington NC CTF Dep	11/27/2024	1.85%	249,000.00	255,957.06
Concourse	Certificate of Deposit	Medallion Bk Salt Lake City Utah CTF Dep	9/19/2022	1.70%	249,000.00	251,512.41
Concourse	Certificate of Deposit	Merrick Bk South Jordan Utah	1/31/2025	1.80%	249,000.00	255,665.73
Concourse	Certificate of Deposit	Minnwest Bk Redwood Falls Minn Ctf Dep	7/15/2025	0.50%	249,000.00	244,445.79
Concourse	Certificate of Deposit	Morgan Stanley Bk N A Salt Lake City Ut CTF	1/25/2023	2.65%	246,000.00	251,965.50
Concourse	Certificate of Deposit	Morgan Stanley Private Bk Natl Assn Pur N Y	12/6/2023	3.55%	245,000.00	258,744.50
Concourse	Certificate of Deposit	New York Cmnty Bk Westbury N Y	7/1/2026	0.70%	249,000.00	243,295.41
Concourse	Certificate of Deposit	Preferred Bk Los Angeles Calif Ctf Dep	8/16/2024	2.00%	249,000.00	256,723.98
Concourse	Certificate of Deposit	Raymond Jmes Bk Natl Assn St Petersburg FL CTF De	11/8/2023	1.75%	247,000.00	252,199.35
Concourse	Certificate of Deposit	Sallie Mae Bk Salt Lake City UT CTF	5/23/2023	3.20%	246,000.00	255,338.16
Concourse	Certificate of Deposit	Synchrony Bk Retail CTF Dep Citigroup Instl CTF Dep	12/10/2026	1.25%	248,000.00	247,883.44
Concourse	Certificate of Deposit	TIAA FSB Jacksonville FLA CTF	11/22/2022	2.20%	247,000.00	251,115.02
Concourse	Certificate of Deposit	Texas Exchange Bk SSB Crowley Ctf Dep	11/25/2025	0.60%	249,000.00	242,633.07
Concourse	Certificate of Deposit	UBS Bk USA Salt Lake City Ut	6/23/2026	0.75%	249,000.00	243,895.50
Concourse	Certificate of Deposit	Wells Fargo Natl BkWest Las Vegas N V	1/30/2023	1.90%	249,000.00	253,101.03
Concourse	U.S. Treasury Securities	United Sts Treas NTS	9/30/2025	0.60%	250,000.00	242,187.50
Concourse	U.S. Treasury Securities	United Sts Treas NTS	5/31/2026	0.70%	250,000.00	245,000.00
Concourse	U.S. Government Bonds	Federal Farm Cr Bks Cons Systemwide Bds	6/1/2022	1.550%	1,016,000.00	1,021,882.64
Total Concourse - General					8,726,368.86	8,761,930.76
TOTAL GENERAL INVESTMENTS					17,591,370.30	17,626,932.20
Concourse	Cash	Sweep Money Market Fund		0.03%	97,006.81	97,006.81
Concourse	Fixed Income	Bank Hapoalim B M New York BRH Ctf Dep	12/15/2025	0.50%	205,000.00	200,051.30
Concourse	U.S. Government Bonds	Federal Farm Cr Bks Cons Systemwide BDS Cons Bon	6/1/2022	1.55%	180,000.00	181,042.20
Concourse	U.S. Government Bonds	Federal Farm Cr Bks Cons Systemwide BDS	9/16/2025	0.55%	96,000.00	93,556.80
Concourse	U.S. Government Bonds	Federal Farm Cr Bks Cons Systemwide	5/13/2026	0.88%	170,000.00	167,652.30
Concourse	U.S. Government Bonds	Federal Agric Mtg corp Madium Terms Nts Fed	1/15/2026	0.48%	95,000.00	92,422.65
Total Concourse - Endowments					843,006.81	831,732.06
TOTAL INVESTMENTS HELD FOR ENDOWMENTS					843,006.81	831,732.06
Umpqua Bank	Money Market			0.01%	2,017,261.65	2,017,261.65
Total Umpqua Bank					2,017,261.65	2,017,261.65
TOTAL RESERVE INVESTMENT					2,017,261.65	2,017,261.65
GRAND TOTAL					20,451,638.76	20,475,925.91

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CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council
FROM: Tori Hannah, Administrative Services Director/Assistant City Manager
MEETING DATE: February 2, 2022
SUBJECT: Second Quarter Budget Report
CEQA: Does not constitute a “Project” per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

Receive the report.

DISCUSSION

The Administrative Services Department produces quarterly financial reports to assist in evaluating the City's fiscal condition. The attached report provides details on General Fund revenues and expenditures, as well as a summary related to enterprise funds.

This report has been modified to remove the capital improvement budgetary update and the list of purchase orders under \$40,000. These two sections of the Quarterly Budget Report are now presented in two separate documents based on recommendations by the Financial Report Subcommittee.

Additional opportunities to review City financial information are listed below:

- Mid-Year Budget presentation: Tentatively scheduled for the last Council Meeting in February or the first meeting in March.
- Five-Year Forecast: Anticipated to be presented at a City Council Meeting in March.

The annual budget, as well as supplementary information regarding City finances, can be accessed from the following link: [City Finance Information](#).

OPTIONS

N/A. This is informational only.

FINANCIAL IMPACT:

There is no fiscal impact. The report is informational only.

GOAL ALIGNMENT: Financial Stability: Develop a strategic plan to better address current and future City expenditure and revenue needs.

Attachments

Second Quarter Budget Report



City of Pacific Grove

Second Quarter Budget Report – Fiscal Year 21/22

Fund Summaries

The following tables provide an overview of current revenues and expenditures for each major fund. A summary of each fund, along with additional details on the General Fund are provided in the subsequent sections.

		FY 21/22	YTD		
Fund		Amended Budget	Revenues	% of Budget	Prior YTD
01	General Fund	\$27,240,559	\$13,433,182	49%	\$10,637,330
74	Local Water Project	725,800	429,362	59%	638,632
75	Cemetery	485,500	340,151	70%	241,033
76	Sewer Fund	3,599,693	586,735	16%	87,379
77	Golf	371,500	188,518	51%	186,509

		FY 21/22	YTD		
Fund		Amended Budget	Expenditures	% of Budget	Prior YTD
01	General Fund	\$27,417,158	\$13,736,333	50%	\$12,054,033
74	Local Water Project	715,948	279,749	39%	167,991
75	Cemetery	542,639	247,405	46%	255,854
76	Sewer Fund	5,090,178	1,332,113	26%	4,634,946
77	Golf	334,044	153,890	46%	202,016

General Fund Overview

General Fund revenues and expenditures are trending relatively consistent with the budgetary projections. The differences between the year-to-date (YTD) revenues and expenditures are primarily related to revenue reductions due to COVID-19; and the related cost savings initiatives that were implemented to assist in balancing the Fiscal Year 20/21 budget.

At the close of the second quarter, expenditures exceeded revenues by approximately \$303,152. This variance is due to uneven revenue receipting patterns, combined with a significant debt service payment at the beginning of the year. This second quarter deficit is also evident in the prior year. Specific information related to major revenue categories and departmental expenditures are provided within this section.

The City continually monitors the budget on a regular basis. If any significant budgetary variances are identified, a budget amendment will be requested as part of the mid-year budget process; or through a separate budget amendment during the year. The Mid-Year budget presentation is tentatively anticipated to be presented at the second meeting in February, with the Five-Year Fiscal Forecast presented in March.

General Fund Revenues

The subsequent chart provides an overview of the General Fund revenue receipts. All revenues are trending consistent with the prior year or the annual budget. Any significant variances are listed below the chart.

Revenue	FY 21/22 Amended Budget	YTD Transactions	% of Budget	Prior YTD
Taxes:				
Property Taxes	\$8,418,000	\$4,877,380	58%	\$4,629,757
Transient Occupancy Tax	4,703,000	2,889,334	61%	1,521,031
Transient Use Licenses	80,000	3,345	4%	9,136
Sales and Use Tax	4,109,000	1,408,686	34%	1,372,507
Business License Tax	359,000	308,485	86%	323,654
Franchise Tax	1,316,000	257,309	20%	248,986
Utility User Tax	1,775,000	718,944	41%	699,311
Other Tax	117,000	109,940	94%	93,830
Total Taxes	\$20,877,000	\$10,573,423	51%	\$8,898,212
Other:				
Licenses and Permits	1,304,000	416,196	32%	440,472
Intergovernmental	153,000	52,521	34%	37,623
Charges for Services	1,826,000	723,417	40%	707,106
Fines and Forfeitures	138,000	6,574	5%	12,749
Interest, Rents, Conc.	304,000	148,218	49%	151,750
Other Revenues	614,000	501,238	82%	324,418
Interfund Transfers	2,024,559	1,011,595	50%	65,000
Total Revenues	\$27,240,559	\$13,433,182	49%	\$10,637,330

Transient Occupancy Tax (TOT)

At the close of the second quarter, the City received \$2.9 million in transient occupancy revenues, which includes five months of TOT transactions. This is consistent with the number of monthly transactions included in the \$1.5 million prior year-to-date amount. In Fiscal Year 20/21, additional COVID-19 travel restrictions were imposed during the winter season. These limitations, as well as a gradual recovery within the hospitality industry, contributed to the prior year reduced revenues.

Sales Tax

The Fiscal Year 21/22 amount represents four months of sales tax receipts, which is equivalent to the amount of months received in the prior year. In Fiscal Year 20/21 sales tax revenues exceeded budgetary projections, with significant performance seen in the fourth quarter. The City is currently evaluating this revenue source, as well as meeting with the City's sales tax consultant to evaluate any changes to the year-end estimate.

Franchise Taxes

This category of revenues has uneven receipting patterns, with two utilities typically submitting a single large payment during the fourth quarter. The revenues are performing just above the prior year amounts.

Other Tax

In Fiscal Year 20/21, the amount of Real Estate Transfer Taxes doubled, when compared to the prior year. With rising property values and sales, this trend is continuing into the second quarter.

Licenses and Permits

Licenses and permit revenues are performing similar to the prior year. This category primarily reflects building and planning activities. The budgetary estimate is currently being evaluated to determine if increased activity

is projected in the second half of the year. Any reductions in building revenues are anticipated to be offset by reduced building contract costs.

Intergovernmental

The second quarter and budgetary difference reflects the timing of grant reimbursement requests. These amounts could vary each year based on the availability and use of grant funds.

Fines and Forfeitures

The most significant revenue in this category is code enforcement revenues. In prior years, annual code enforcement receipts ranged from approximately \$27,000 to \$243,000, depending on the number and type of violations. The annual estimate will be subject to revaluation as part of the mid-year process.

Other Revenues

In Fiscal Year 21/22, a true-up of prior year Fire contract costs resulting in a refund of \$82,336; and a Franchise Change of Ownership Transfer Fee of \$44,547, contributed to unanticipated revenues within this category.

Interfund Transfers

In Fiscal Year 21/22, the amount represents two quarters of the budgeted transfers. These funds include a transfer from the Operating Donation Fund to assist in supporting Library operations; as well as ARPA Funds.

General Fund Expenditures

During the first half of the year, department expenditures may not typically trend with the percentage of year that has elapsed. The primary exception would be the underlying salary and benefit costs, which are trending consistent with the number of completed payperiods. In the first half of the prior year, the City initiated 10% furloughs and reduced staffing in the Library and Recreation Departments due to COVID-19. In Fiscal Year 21/22, all City staff returned to regular schedules and all frozen positions were reinstated. This change, along with rising unfunded liability costs, contribute to the annual increase. Additional information specific to departments is listed below the table.

Expenditures	FY 21/22		% of Budget	Prior YTD
	Amended Budget	Expenditures		
City Council	\$352,751	\$211,894	60%	\$136,768
City Manager	1,056,185	506,970	48%	407,995
City Attorney	495,280	258,209	52%	192,510
Finance	1,312,023	662,725	51%	526,108
Information Services	824,157	306,198	37%	208,752
Police	7,277,577	3,570,842	49%	3,202,574
Fire	3,949,051	1,949,160	49%	1,861,348
Public Works	3,887,923	1,690,954	43%	1,431,747
Community Development	2,781,059	857,000	31%	900,593
Library	1,042,499	504,226	48%	315,163
Recreation	836,015	330,791	40%	277,002
Museum	282,940	150,913	53%	113,234
Subtotal	\$24,097,460	\$10,999,882	46%	\$9,573,794
Capital Outlay	125,721	-	0%	38,722
Transfers to CIP Fund	701,173	350,587	50%	250,000
Debt Service	2,170,418	2,156,756	99%	2,086,517
Interfund Transfers	322,386	229,108	71%	105,000
Total Expenditures	\$27,417,158	\$13,736,333	50%	\$12,054,033

City Council

In the first quarter, the City receives renewals for most jurisdictional memberships at the beginning of the year. In the first half of Fiscal Year 21/22, a contract for legal services was initiated for lease negotiations and CEQA requirements. These two factors contribute to the increase over the prior year amount.

Information Services

Information Technology expenditures include various software subscriptions for multiple departments, salaries, and technology equipment. While some of the budgetary variance can be attributed to timing, there is also a half-time vacancy; and an employee on extended leave within the department. These factors, combined with a corresponding delay in projects contribute to the annual budgetary difference.

Community Development

The budgetary variance is primarily related to timing of contract services. Some of these expenditures correlate to revenues, such as intergovernmental grants and building fees.

Library and Recreation

In Fiscal Year 20/21 Recreation and Library service operations were significantly reduced due to COVID-19. The increase in expenditures in Fiscal Year 21/22 is primarily related to reinstating all staff and restoring regular funding.

Capital Outlay

In Fiscal Year 21/22, a budget adjustment in December added approximately \$99,000 in capital outlay appropriations. This was combined with funds that were set aside for Library technology improvements. It is anticipated that these funds will be expended or encumbered by the end of the fiscal year.

Interfund Transfers

In Fiscal Year 21/22, the Interfund Transfers include support for 9-1-1 emergency services, a transfer of water entitlement sales to the Local Water Project, \$60,386 in funds allocated to assist with the purchase of a fire truck, and \$12,000 to cover estimated additional Liability Fund costs. The amount transferred includes water entitlement sales of \$117,915 that was received during the first half of the fiscal year.

Other Funds

Local Water Project

In the first half of Fiscal Year 21/22, LWP revenues include \$311,447 in operating revenues; and a transfer of \$117,915 in supplemental water entitlement sales. The transferred amount represents all water entitlement sales receipted in the General Fund through the first half of the fiscal year. In Fiscal Year 20/21, the year-to-date LWP revenues include operating revenues of \$338,632 and a \$300,000 partial transfer of the loan proceeds. The operating expenditures in Fiscal Year 21/22 includes two months of additional payments for contract services; and additional utility payments, when compared to the prior year. A peer review of a draft Local Water Project Business Plan has been completed, with a presentation tentatively scheduled for the last Council Meeting in February.

Cemetery

The Cemetery expenditures are trending relatively close to the budget, while Cemetery sales are exceeding the prior year amount. In Fiscal Year 20/21, sales exceeded budgetary and prior year projections. It is anticipated that an amendment will be needed at mid-year to reflect continued growth.

Sewer Fund

The City contracts with Monterey One Water to collect sewer use fees. The Fiscal Year 21/22 revenues primarily reflect one bi-monthly payment of regular sewer service fees. Due to the timing associated with collecting and remitting payments to the City, there were limited revenues to report in the first half of Fiscal Year 21/22, as well as minimal revenues in the prior fiscal year. The Sewer Fund has sufficient fund balance to manage any cash flow requirements. The annual variance in expenditures is primarily related to the amount of budget appropriated for capital projects and the timing of the related expenditures.

Golf Course

Golf Course revenues are trending similar to the prior year, with reductions in utilities primarily related to a prior period adjustment. Golf course revenues are currently exceeding operating expenditures; and it is anticipated that this trend will continue through the end of the fiscal year.

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CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council
FROM: Audrey Cray, Management Analyst
MEETING DATE: February 2, 2022
SUBJECT: Second Quarter Workers' Compensation Report
CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

Receive the report.

DISCUSSION

On November 4, 2015, the Council approved a five-year [Workers' Compensation phased refunding plan](#) to bring the designated internal service fund into compliance with the Council's Budget and Financial Management Policy. At that time, Staff recommended that Council receive a quarterly status report on case statistics and Workers' Compensation Fund balances. Case statistics for the quarter ending December 31, 2021 is included in Attachment A.

The City Workers' Compensation program is a type of insurance that provides compensation and medical care for employees who become injured during the course of their employment. The City is now a member of the California Joint Powers Insurance Authority (CJPIA). This Authority provides excess Workers' Compensation liability coverage above the City's self-insured retention amount of \$150,000 per occurrence. Workers' Compensation provides for: Payments in place of wages functioning as a type of disability insurance, compensation for past and future economic loss; reimbursement or payment of medical expenses; and benefits payable to the dependents of workers killed during employment, functioning as a form of life insurance.

OPTIONS

N/A - Informational Only

FINANCIAL IMPACT:

There is no financial impact. This is informational only.

GOAL ALIGNMENT: Financial Stability: Develop a strategic plan to better address current and future City expenditure and revenue needs.

Attachments

Second Quarter Workers Comp. Statistics Report



City of Pacific Grove

Second Quarter Workers' Compensation Statistics – Fiscal Year 21/22

Projected Fund Balance

The Workers' Compensation Internal Service Fund (ISF) is used to separately budget and account for services provided to General Fund departments, as well as Enterprise Funds. Contributions to the ISF are calculated on a cost recovery basis, with charges apportioned to City departments based on claim trends and number of participants.

The status of the internal service fund for Workers' Compensation is provided in the tables below.

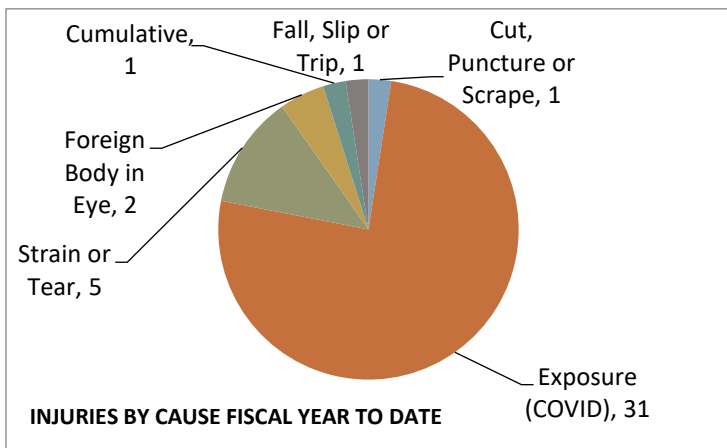
Workers' Compensation Fund (Fund 71)	Amount
Fund Balance, July 1st, 2021	\$ 177,540
Revenues: Through December 31, 2021	\$350,352
Expenditures: Through December 31, 2021	(\$476,827)
Estimated Fund Balance, Second Quarter	\$51,065

Consistent with Council's direction, the Workers' Compensation fund ended Fiscal Year 20/21 with a positive fund balance. The Workers' Compensation expenditures through the second quarter of FY 21/22 represent approximately 69% of the budgeted amount. The revenues reported represent 59% of the budgeted amount; and reflect departmental contributions and excess claim refunds. The estimated ending fund balance is anticipated to be positive at the end of Fiscal Year 21/22.

Cumulative Claims Outstanding

The City meets quarterly with the City's third-party administrator to evaluate and proactively manage claims. At the close of the second quarter, the number of outstanding claims went up by one to 47. This included an increase of three claims to the Non-Litigated/Medical Only category; an increase of one claim to the Litigated/Medical Only category; a decrease of three claims to Non-Litigated/Disability or Lost Time category; and a decrease of one claim to the Litigated/Disability or Lost Time category.

Summary of Open/Reopen Claims as of 12/31/2021			
	Non-Litigated	Litigated	Total
Future Medical	13	19	32
Disability or Lost Time	6	4	10
Medical Only	4	1	5
First Aid	0	0	0
Total Open Claims	23	24	47



New Claims – Second Quarter

In the second quarter of Fiscal Year 21/22, there were eight new claims from three Departments. The adjacent chart provides an overview of the claims by cause. Although Exposure (COVID) represents the highest number of claims for the fiscal year to date, these incidents are filed for reporting purposes only. All but two of these claims were closed at the end of the quarter. At the end of the second quarter, only three new claims remained open.

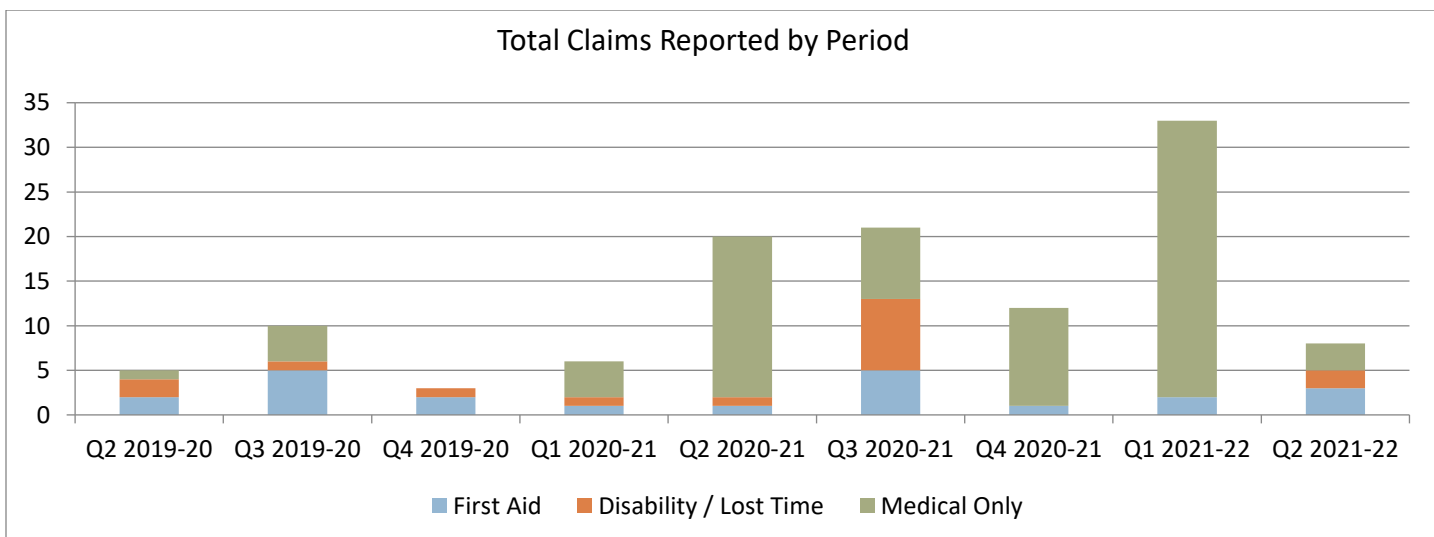
The kickoff for the Safety Incentive Program is expected to be in late February to early March. It was postponed from

the original date of December/January due to the spike in Covid cases. Many City employees are already participating by turning in Near Miss Reports about possible hazards that were identified, and immediately remedied. The safety program has been very active with both virtual and onsite employee safety training, with the next onsite training occurring at the end of February 2022. Staff is continuing to update the Covid Exposure Control Plan with the latest updates from CalOSHA.

The table listed below provides a comparison of claims over the last two fiscal years. In Fiscal Year 21/22, there are fourteen additional claims when compared to the prior Fiscal Year. The increase in claims is related to the Report Only requirement for COVID exposure and vaccine reaction claims.

New Claims by Type				
	Quarter to Date		Year to Date	
	Current Year	Prior Year	Current Year	Prior Year
New Claims Received During the Period				
Disability or Lost Time	2	1	2	2
Medical	3	18	34	23
First Aid	3	1	5	2
Total Claims by Type	8	20	41	27

The following chart provides an overview of quarterly trends.





CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council
FROM: Jennifer Pope, Management Analyst
MEETING DATE: February 2, 2022
SUBJECT: Second Quarter Purchase Order Report
CEQA: Does not constitute a “Project” per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

Receive the Second Quarter Purchase Order Report.

DISCUSSION

The Second Quarter Purchase Order Report includes information on open purchase orders that were issued under \$40,000. This report is intended to be consistent with the new reporting requirement in Section 2.16.160 of the City's Purchasing Systems and Procedures.

Purchase orders are issued for all purchases of supplies, services, materials, equipment and contractual services over \$5,000.

The Purchase Order Report includes:

- Vendor name
- Date the purchase order was issued
- Description of the encumbered funds
- Purchase order amount
- Year-to-date expenses for the Second Quarter

This report was previously a part of the Quarterly Budget Report, but based on the recommendation of the Finance Subcommittee it is now presented independently.

OPTIONS

N/A - This report is an informational report.

FINANCIAL IMPACT:

There is no fiscal impact associated with receiving this report.

GOAL ALIGNMENT: Financial Stability: Develop a strategic plan to better address current and future City expenditure and revenue needs.

Attachments

Purchase Order Report

Open Purchase Orders Under \$40,000
Second Quarter FY 21/22

PO	DEPARTMENT	DIVISION	PROJECT	VENDOR NAME	DATE	DESCRIPTION	PURCHASE ORDER AMOUNT	YEAR TO DATE EXPENSE
22000015-01	ADMINISTRATIVE SERVICES	131		CHAVAN & ASSOCIATES, LLP	07/12/21	AUDIT AND ACCOUNTING SERVICE	39,300.00	34,000.00
22000016-01	ADMINISTRATIVE SERVICES	131		BARTEL ASSOCIATES, LLC	07/12/21	GASB 75 ACTUARIAL VALUATION	19,000.00	6,280.00
22000021-01	ADMINISTRATIVE SERVICES	131		WELLS FARGO VENDOR FINANCE	07/20/21	KONICA LEASE FY 21/22	15,035.90	8,572.73
22000073-01	ADMINISTRATIVE SERVICES	131		NOLAND, HAMERLY, ETIENNE	08/25/21	PURCHASING MANUAL	16,227.50	6,755.00
22000075-01	ADMINISTRATIVE SERVICES	105		ACCESS MONTEREY PENINSULA	08/27/21	TELEVISED BROADCASTING	39,000.00	-
22000096-01	ADMINISTRATIVE SERVICES	131		SUPERION, LLC	10/06/21	CONSULTING FINANCE SOFTWARE UPDATE	18,180.00	-
22000105-01	ADMINISTRATIVE SERVICES	131		MCGILLOWAY, RAY, BROWN	10/20/21	PROFESSIONAL LEVEL ACCOUNTING	7,200.00	-
22000004-01	CEMETERY	601		LLORIN-VELASQUEZ CORPORATION	07/08/21	CEMETERY HEADSTONE	31,500.00	15,625.00
22000121-01	CITY ATTORNEY	111		NOLAND, HAMERLY, ETIENNE	11/15/21	SPECIAL LEGAL SERVICES - ENAYATI*	39,000.00	12,093.00
22000136-01	CITY ATTORNEY	111		COLANTUONO, HIGHSMITH & WHATLEY	12/10/21	LEGAL ASSISTANCE - HOBBS	17,000.00	37.50
22000087-01	CITY COUNCIL	101		BEST BEST & KRIEGER	09/13/21	LEASE NEGOTIATIONS- ELIZABETH HULL SERVICES*	39,500.00	39,055.37
22000142-01	CITY COUNCIL	101		ASSOCIATED RIGHT OF WAY	12/15/21	REFRESH APPRAISAL - SLOAT AVENUE*	6,500.00	562.50
22000168-01	CITY MANAGER	121		MEYERS NAVE	6/1/21	LEGAL/ADMINISTRATIVE DECISION	30,000.00	9,324.13
22000169-01	CITY MANAGER	121		BOB MURRAY & ASSOCIATES	5/26/21	EXECUTIVE RECRUITMENT/CDD DIRECTOR	27,500.00	21,791.59
22000170-01	CITY MANAGER	121		BRYCE CONSULTING	8/13/21	COMPENSATION STUDY FOR CITY CLASSIFICATIONS	23,000.00	8,160.00
22000072-01	CITY MANAGER	121		NOLAND, HAMERLY, ETIENNE	08/25/21	EMPLOYEE ADMIN MANUAL	19,500.00	-
22000095-01	COMMUNITY DEVELOPMENT	201		RINCON CONSULTANTS, INC	10/06/21	ON-CALL PEER REVIEW	15,000.00	6,139.75
22000131-01	COMMUNITY DEVELOPMENT	201		BEST BEST & KRIEGER	12/07/21	ASSIST & REVIEW HOUSING POLICY	39,000.00	-
22000020-01	FIRE DEPARTMENT	351		EDWARDS TRUCK CENTER INC	07/15/21	FIRE ENGINE REPAIR	5,540.09	-
22000022-01	INFORMATION TECHNOLOGY	133		ALVAREZ TECHNOLOGY GROUP	07/20/21	MANAGED SERVICES & AFTER HOURS	39,000.00	25,674.00
22000097-01	INFORMATION TECHNOLOGY	133		RICHARD PETTY ELECTRIC	10/13/21	INSTALL POWER TO NEW AC	6,300.00	-
22000099-01	INFORMATION TECHNOLOGY	133		GEOGRAPHIC TECHNOLOGIES	10/13/21	GIS IMPLEMENTATION SERVICE	23,950.00	-
22000101-01	INFORMATION TECHNOLOGY	133		ESRI, INC.	10/13/21	ARCGIS SOFTWARE	20,500.00	-
22000130-01	INFORMATION TECHNOLOGY	133		PROTELESIS	12/07/21	MITEL - MAINT & SUPPORT	12,000.00	5,808.20
22000058-01	LIBRARY	401		CALIFA GROUP	08/06/21	EBSCO DATABASE PACKAGE	6,411.00	-
22000060-01	LIBRARY	401		PACIFIC LIBRARY PARTNERS	08/06/21	PLP MEMBERSHIP FEES	8,641.00	-
Pending	LIBRARY	401		CROZIER STUDIOS		ART CURATOR	11,100.00	11,100.00
22000041-01	LOCAL WATER PROJECT	741		TROJAN TECHNOLOGIES	07/27/21	LWP UV SYSTEM PARTS REPLACEMENT	9,501.80	3,200.00
22000166-01	LOCAL WATER PROJECT	741		DTA	10/26/21	LOCAL WATER PROJECT BUSINESS PLAN	12,500.00	-
22000014-01	NATURAL HISTORY MUSEUM	411		PURE JANITORIAL, LLC	07/12/21	JANITORIAL SERVICES	27,630.00	13,344.00

Open Purchase Orders Under \$40,000
Second Quarter FY 21/22

PO	DEPARTMENT	DIVISION	PROJECT	VENDOR NAME	DATE	DESCRIPTION	PURCHASE ORDER AMOUNT	YEAR TO DATE EXPENSE
22000027-01	POLICE DEPARTMENT	301		SPCA OF MONTEREY COUNTY	07/28/21	SPCA SERVICES MONTEREY COUNTY	12,000.00	4,150.00
22000028-01	POLICE DEPARTMENT	301		STAPLES CREDIT PLAN	07/28/21	OFFICE SUPPLIES	7,500.00	3,154.97
22000029-01	POLICE DEPARTMENT	301		TRACNET CORPORATION	07/28/21	TRACNET RECORDS MANAGEMENT SYSTEM	15,880.00	-
22000030-01	POLICE DEPARTMENT	301		VERIZON WIRELESS	07/28/21	VERIZON WIRELESS MOBILE	7,500.00	2,569.44
22000031-01	POLICE DEPARTMENT	301		LEXIPOL LLC	07/28/21	POLICE POLICY MANAGEMENT	13,000.00	3,150.00
22000032-01	POLICE DEPARTMENT	301		VERIZON BUSINESS	07/28/21	VERIZON PORT ACCESS	9,000.00	2,350.72
22000033-01	POLICE DEPARTMENT	301		SPEAK WRITE	07/28/21	TRANSCRIPTION SERVICES	7,000.00	2,544.49
22000035-01	POLICE DEPARTMENT	301		IPS GROUP, INC	07/28/21	IPS METER BANK FEES	25,000.00	7,886.20
22000036-01	POLICE DEPARTMENT	301		IPS GROUP, INC	07/28/21	PARKING METER MAINTENANCE	5,000.00	4,531.97
22000037-01	POLICE DEPARTMENT	301		AT&T MOBILITY	07/28/21	AT&T FIRSTNET CELLPHONES	20,000.00	7,692.20
22000038-01	POLICE DEPARTMENT	301		SYSTEMS FOR PUBLIC SAFETY	07/28/21	BACKGROUND INVESTIGATIONS	5,000.00	1,350.00
22000039-01	POLICE DEPARTMENT	301		CORDICO, INC.	07/28/21	EMPLOYEE WELLNESS APPLICATION	7,500.00	-
22000040-01	POLICE DEPARTMENT	301		MORELAND INVESTIGATIONS	07/28/21	BACKGROUND INVESTIGATIONS	5,000.00	520.00
22000045-01	POLICE DEPARTMENT	304		AXON ENTERPRISE, INC	07/28/21	BODY WORN AND IN-CAR CAMERAS	26,300.00	19,059.51
22000046-01	POLICE DEPARTMENT	304		ENTERPRISE FM TRUST	07/28/21	LEASED VEHICLES	26,000.00	12,753.60
22000057-01	POLICE DEPARTMENT	301		ARAMARK UNIFORM & CAREER	08/06/21	LINEN SERVICE	5,000.00	2,184.83
22000084-01	POLICE DEPARTMENT	355		CHOMP	09/03/21	9 AUTOMATIC AEDS	12,000.00	9,000.00
22000104-01	POLICE DEPARTMENT	304		LC ACTION POLICE SUPPLY	10/19/21	SERVICE PISTOLS	9,161.34	3,574.20
22000115-01	POLICE DEPARTMENT	301		WATSONVILLE FORD	11/05/21	REPAIRS TO PD VEHICLE	7,903.84	7,847.48
22000139-01	POLICE DEPARTMENT	301		ULINE	12/14/21	TRAINING ROOM FURNITURE	8,089.45	5,766.76
22000167-01	POLICE DEPARTMENT	301		FLAGSTONE INVESTIGATIONS	8/12/21	INTERNAL INVESTIGATION	25,000.00	6,975.00
22000005-01	PUBLIC WORKS	611		NEILL ENGINEERS	07/08/21	ADMINISTRATIVE ENGINEERING	12,000.00	6,000.00
22000006-01	PUBLIC WORKS	503		GACHINA LANDSCAPE MANAGEMENT	07/08/21	MOWING SERVICES	14,244.00	7,122.00
22000018-01	PUBLIC WORKS	631	TRC21-02	AURUM CONSULTING	07/14/21	PW YARD ELECTRICAL ENGINEERING	18,750.00	12,187.50
22000042-01	PUBLIC WORKS	505		CALIFORNIA MARINE SANCTUARY	07/27/21	WATER QUALITY MONITORING	18,319.50	-
22000047-01	PUBLIC WORKS	519	CIP20-17	MILLER & ASSOCIATES	07/28/21	LOVERS POINT BEACH ACCESS	20,000.00	-
22000051-01	PUBLIC WORKS	502		MISSION UNIFORM SERVICE	07/28/21	LINEN SERVICES	16,500.00	11,055.13
22000056-01	PUBLIC WORKS	631	TRC21-02	WILLIAMS SCOTSMAN, INC	08/06/21	PW CONSTRUCTION TRAILER	10,367.98	7,541.41
22000077-01	PUBLIC WORKS	519	CIP20-17	COASTAL FABRICATION	08/31/21	LOVERS POINT STAIRS	8,358.49	2,100.00
22000093-01	PUBLIC WORKS	631	TRC21-02	SERVER SUPPLY, INC	10/05/21	IT INFRASTRUCTURE (PW FIRE)	6,396.69	6,299.79

Open Purchase Orders Under \$40,000
Second Quarter FY 21/22

PO	DEPARTMENT	DIVISION	PROJECT	VENDOR NAME	DATE	DESCRIPTION	PURCHASE ORDER AMOUNT	YEAR TO DATE EXPENSE
22000094-01	PUBLIC WORKS	631	TRC21-02	CLIENT FIRST CONSULTING	10/05/21	TEMPORARY CONNECTIVITY SERVICES	8,690.00	-
22000122-01	PUBLIC WORKS	704	CIP20-22	CONKLIN BROS OF SAN JOSE	11/18/21	ASD FLOORING	17,347.75	15,085.00
22000128-01	PUBLIC WORKS	631	CIP22-15	SCUDDER ROOFING COMPANY	12/01/21	LIBRARY ROOF REPAIR	21,009.60	-
22000134-01	PUBLIC WORKS	503	CIP22-05	SENTRY ALARM SYSTEMS INC	12/08/21	FIRE SUPPRESSION SPRINKLE	10,685.00	-
22000138-01	PUBLIC WORKS	508		WCT PRODUCTS	12/14/21	PURCHASE OF STREET BARRICADES	6,786.50	-
22000086-01	SEWER	611		RINCON CONSULTANTS, INC	09/10/21	ARCHEOLOGICAL & TRIBAL MONITORING	20,376.19	4,093.75
							1,093,183.62	406,068.72

* Services initiated through Council Closed Session action.

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CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council
FROM: Jenny McAdams, Mayor Pro Tem
MEETING DATE: February 2, 2022
SUBJECT: Association of Monterey Bay Area Governments Minutes of December 8, 2021 and January 5, 2022.
CEQA: Does not constitute a “Project” per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

Receive minutes.

Attachments

December Minutes

January Minutes

**MINUTES OF THE PROCEEDINGS
OF THE BOARD OF DIRECTORS OF THE
ASSOCIATION OF MONTEREY BAY AREA GOVERNMENTS**

December 8, 2021

1. CALL TO ORDER

The Board of Directors of the Association of Monterey Bay Area Governments, President, Steve McShane presiding, convened at 6:03 p.m. Wednesday, December 8, 2021 via GoToWebinar.

2. ROLL CALL

<u>AMBAG Board of Directors</u>			
PRESENT:			
Agency	Representative	Agency	Representative
Capitola	Kristen Petersen	County of Monterey	Mary Adams
Carmel-by-the-Sea	Karen Ferlito	County of Monterey	John Phillips
Del Rey Oaks	Kim Shirley	County of San Benito	Bea Gonzales
Gonzales	Scott Funk	County of Santa Cruz	Greg Caput
Greenfield	Lance Walker	County of Santa Cruz	Manu Koenig
Hollister	Rick Perez		
King City	Carlos Victoria	<u>Ex-Officio Members:</u>	
Marina	Lisa Berkley	Caltrans, District 5	Orchid Monroy-Ochoa
Monterey	Ed Smith	MBARD	Richard Stedman
Pacific Grove	Jenny McAdams	MPAD	Michael La Pier
Salinas	Steve McShane	SBtCOG	Veronica Lezama
San Juan Bautista	John Freeman	TAMC	Todd Muck
Sand City	Mary Ann Carbone		
Santa Cruz	Justin Cummings		
Scotts Valley	Derek Timm		
Seaside	Jon Wizard		
Soledad	Anna Velazquez		
Watsonville	Eduardo Montesino		
ABSENT:			
County of San Benito	Bob Tiffany	3CE	JR Killigrew
		MST	Lisa Rheinheimer
		SCCRTC	Guy Preston
		SC METRO	Alex Clifford

Others Present: Beth Jarosz, PRB Consultants; Lowell Hurst, City of Watsonville; Don Freeman, AMBAG Legal Counsel; Margaret Sohagi and Milja Miric; Jeffrey Baron; Alex Black; Tom Brinkhuis, HCD; Lee Butler; Kim Cole, City of Monterey; Colleen Courtney, County of Monterey; Inge Lorentzen Daumer; Kevin Dayton; Michael DeLapa; Scott Eades, Caltrans District 5; John Farrow; Katie Herlihy; Henry Hooker; Megan Hunter, City of Salinas; Carlos Jurado; Kyle Kelley; Erik Lundquist; Elizabeth Madrigal; Natalie Magana; Esther Malkin; Pam Marino; Jonathan Moore; Michael Pisano; Rafa Sonnenfeld; Ryan Stuart; Matthew Sundt; Matt VanHua; Matthew VanOosten; Anastacia Wyatt, City of Pacific Grove; Allison Kerr; Ambur Cameron; Brian Foucht; Emily Ham; Everardo Jaime Jr; Heather

Adamson, Director of Planning; Bhupendra Patel, Director of Modeling; Paul Hierling, Senior Planner; Amaury Berteaud, Special Projects Manager; Sasha Tepedelenova, Planner; Will Condon, Planner; Miranda Taylor, Planner; Cynthia Piña, Office Assistant; Maura Twomey, Executive Director; and Ana Flores, Senior Executive Assistant.

3. ORAL COMMUNICATIONS FROM THE PUBLIC ON ITEMS NOT ON THE AGENDA

There were no oral or written communications from the public.

4. ORAL COMMUNICATIONS FROM THE BOARD ON ITEMS NOT ON THE AGENDA

There were no oral communications from the Board.

5. CONSENT AGENDA

A. Draft Minutes of the November 10, 2021 AMBAG Board of Directors Meeting

The draft minutes of the November 10, 2021 AMBAG Board of Directors meeting were approved.

B. Resolution in accordance with AB 361 regarding the Ralph M. Brown Act and Finding of Imminent Risk to Health and Safety of In-Person Meetings as a Result of the Continuing COVID-19 Pandemic State of Emergency Declared by Governor Newsom

Resolution 2021-11 was adopted.

C. Amendment No. 2 to the Population Reference Bureau Contract

The Population Reference Bureau contract was approved.

Director Velazquez requested that the minutes of the November 10, 2021 AMBAG Board meeting be revised to reflect that she abstained from consent item 8.F. Amendment No. 4 to the employment agreement with Maura F. Twomey.

Motion made by Director Timm seconded by Director Caput to approve the consent agenda. The motion passed with the edits to the minutes of the November 10, 2021 AMBAG Board of Directors meeting.

6. ITEMS REMOVED FROM CONSENT CALENDAR FOR DISCUSSION AND POSSIBLE ACTION

None.

7. PLANNING

A. 6th Cycle Regional Housing Needs Allocation Methodology

Heather Adamson, Director of Planning gave a report on the 6th Cycle Regional Housing Needs Allocation (RHNA) methodology. The RHNA schedule consists of 1) Spring -Fall 2021: Discussions with PDF on potential RHNA methodology options; 2) Summer - Fall 2021: potential RHNA methodology options discussed by AMBAG Board; 3) September 8, 2021: HCD presents at the AMBAG Board meeting; 4) December 8, 2021: Approval of draft RHNA methodology by AMBAG Board; 5) December 2021 to February 2022: HCD reviews the draft methodology; 6) March 9, 2022: Approval of final RHNA methodology by AMBAG Board; 7) March 21, 2022: Release draft RHNA plan

with RHNA allocations by jurisdictions; 8) March 22 – May 5, 2022: local jurisdictions may appeal RHNA allocation within 45 days of release of the draft RHNA plan/allocation; 9) May 2022: AMBAG releases final 2045 MTP/SCS accommodating RHNA; 10) May 6 – June 19, 2022: Local jurisdictions and HCD may comment on appeals during this period; 11) June 2022: adoption of Final 2023-31 RHNA Plan with RHNA allocations by AMBAG Board; 12) July 13, 2022: AMBAG to hold public hearings on appeals (if applicable); 13) August 27, 2022: AMBAG makes final determination that accepts, rejects, modified appeals and issues final proposed allocation plan; 14) September 14, 2022: Adoption of Final 2023-31 RHNA Plan with RHNA allocations by AMBAG Board (if appeals are received); and December 2023: jurisdiction's 6th Cycle Housing Elements are due to HCD. The RHNA methodology development 1) COG is responsible for developing a methodology appropriate for each region; 2) must further and support 5 (five) RHNA objectives: a) increase in housing supply and mix; b) promotes infill, equity, and the environment; c) ensure jobs-housing balance/fit; d) promote regional income parity; and e) affirmatively furthers fair housing; and 3) statute allows for flexibility but specifies what can and cannot be used as allocation factors. Ms. Adamson discussed the modifications to the methodology. Feedback was received from the AMBAG Board of Directors, public input, and recommendations from HCD. The comments received included 1) reduce the 10-year housing growth allocation factor to an 8-year period to match the 8-year RHNA; 2) reduce job allocation factor to 50%; 3) include AFFH as an allocation factor using RCAA data; 4) revise the definition of RCAA to incorporate adjustments for jurisdictions that meet one of the two RCAA criteria; 5) reduce income allocation shift from 50% to 30%; and 6) an option that adds jobs/housing ratio as a new factor. Based on the comments received, AMBAG staff proposed two final draft methodologies. Methodology Option A is as follows.

	Final Draft RHNA Methodology – Option A	Units
Regional Growth Forecast	High	12,524
Employment	50%	20,750
Transit	5%	
Resiliency	10%	
AFFH	35%	

AFFH (income shift)	30%
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	Final Draft RHNA Methodology – Option B	Units
Regional Growth Forecast	High	12,524
Employment	40%	20,750
Transit	20%	
Resiliency	5%	
AFFH	25%	

AFFH (income shift)	30%
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The methodology steps for Option A are 1) 2022 RGF (base unit allocation): distributes portion of RHNA based on eight-year housing growth from the 2022 RGF; 2) Jobs, Transit, Resiliency, and AFFH

(unit allocation): a) jurisdiction's share of 2020 jobs (50%); b) jurisdictions with existing (2020) transit routes with 15- and 30-minute headways (5%); c) jurisdictions who have the smallest percentages of high fire or high sea level risk (10%); and d) jurisdictions full or partial RCAAs (35%); and 3) Income allocation: redistributes a portion of V.L and L income units to RCAA jurisdictions. The methodology steps for Option B are 1) 2022 RGF (base unit allocation): distributes portion of the RHNA based eight-year housing growth from the 2022 RGF; 2) Jobs, Transit, Resiliency, and AFFH (unit allocation): a) jurisdiction's share of 2020 jobs (40%); b) jobs/housing ratio (20%); c) jurisdictions with existing (2020) transit routes with 15- and 30-minute headways (5%); d) jurisdictions who have the smallest percentages of high fire or high sea level risk (10%); and e) jurisdictions full or partial RCAAs (25%); and 3) Income allocation: redistributes a portion of V.L and L income units to RCAA jurisdictions. Income shift decreased from 50% to 30% and AFFH was added as a unit allocation factor and the income shift was reduced to balance it out. It shifted Above Moderate units to Very Low and shifted Moderate units to Low. The jobs/housing ratio for Option B include 1) number of jobs divided by numbers of housing (2020); 2) additional unit allocation factor of a jobs/housing ratio for 20%; and 3) reduced the jobs and AFFH/RCCA weighting to 40% and 25% respectively. The RHNA methodology Options A & B 1) support and further the 5 (five) objectives and are likely to be approved by HCD; and 2) staff prefers Option A since Option B reduced RHNA allocations in higher opportunity areas and increased allocations in lower opportunity areas. Ms. Adamson added that ultimately, it is up to the AMBAG Board to select and approve a methodology to submit to HCD. HCD's proposed RHNA metrics are 1) higher percentage of RHNA as lower income units for jurisdictions with the highest housing costs; 2) higher percentage of RHNA total unit allocations to jurisdictions with highest job/housing ratios; 3) higher percentage of RHNA as lower income units for jurisdictions with the highest ratio of low-wage jobs to housing units affordable to low wage workers; 4) lower percentage of RHNA as lower income units for jurisdictions with a higher share of lower income households; 5) higher percentage of RHNA as lower income units for jurisdictions with a higher share of higher income households; and 6) higher percentage of RHNA as lower income units for jurisdictions with the most households in RCAAs. Next steps include 1) continue a public hearing; 2) approve a draft methodology and direct staff to submit draft methodology for formal HCD review; and 3) following HCD review, the AMBAG board will be asked to approve the final methodology and direct staff to issue draft RHNA Plan with jurisdiction allocations in March 2022. Ms. Adamson stated that AMBAG received several comment letters from member jurisdictions and other agencies that were either included in the agenda packet or forward to the Board at a later date. President McShane asked for questions from the AMBAG Board of Directors regarding Heather Adamson's presentation. Lengthy discussion followed.

President McShane opened the public hearing.

1) Rafa Sonnenfeld, Santa Cruz YIMB stated that he wanted to thank all of the stakeholders and especially the planning staff and Heather Adamson who's really done a remarkable job given the limited resources that the AMBAG has for the RHNA allocation methodology process. I just wanted to highlight some of the comments that that my organization submitted. We think that the recommendations have come a long way, on both, Option A and Option B. They are much better than the previous methodologies that have been considered. We would like to recommend a 40% income shift and we've included a table in our letter, which you all have a copy of, to see how the 40% income shifts for affirmatively furthering fair housing would that change the unit categories within the affordable requirements. 30% isn't adequate because there are some jurisdictions that are receiving an allocation based on the RCAA model that doesn't actually assign all of those units as low-income. So, there are jurisdictions that are receiving units based on the fact that they are high

opportunity and be a good place for low-income housing. But they're actually not getting all of that low-income housing, but that shouldn't be assigned to them, for the purposes of affirmatively furthering fair housing. We'd recommend increasing up to 40% regardless of the methodology that's selected.

2) Kevin Dayton, resident of Monterey and represent various business groups, such as the Salinas Valley Chamber of Commerce and Monterey Peninsula Chamber of Commerce. Mr. Dayton wanted to mention something that it's a harsh reality that probably won't be said otherwise here. Earlier this year, a couple of academics at UC San Diego did a poll, it was released as a report. Do Californians see their state moving in the right direction? Do they see themselves moving out of California? Add the very discouraging statistic in there. To quote from the report, "Growth is not a goal for most Californians asked to look ahead 10 years. 35% of respondents believe it would be better if the population decreases significantly and 46% wanted to stay about the same. Only 19% of those surveyed said that the state would be better off if its population increases." I understand this is the pressure that is put on all of you on the AMBAG board as you consider this. You know what people at home are seeing. And I'm guessing that as this poll was done in the Monterey Bay counties, you probably come up with similar results. They want their regional housing needs allocation to be zero. However, that's the wrong approach, and the wise approach that will benefit the future of California, is making sure that there's enough housing for everyone. The job housing balance is very important. It's a real shame to see the traffic jam going in and out of the Monterey Peninsula every day as people drive long distances to their jobs. It would be excellent to see people have the opportunity to live where they work and have a better life for that reason. To have these regional housing needs allocations used as a way to prod communities, perhaps, to understand that many people's lives, the quality of it depends on living near their job.

3) John Farrow stated that Land Watch primary concern is the jobs related allocation. Land Watch supports the allocation of the rest of the units, and it supports what it thinks is the consensus weighting. The key point is that the proposed mechanism for the jobs related allocation in Option A doesn't further the statutory objectives. That objective is not job share, it's to promote an improved regional jobs housing balance. That means you have to look not just at the numerator, the city share at regional jobs, but also the denominator, the city's housing units. Option A doesn't do that, ignores its denominator. So, the effect is to allocate thousands of units to jurisdictions that don't have a jobs housing imbalance, and not to allocate sufficient units to the cities that do have an imbalance not to allocate units in proportion to that imbalance. But we've proposed something that does just focus on the jobs housing imbalance, which is what the statute calls for. And our proposal would allocate in proportion to the imbalance. The new Option B moves in that direction, but it doesn't go far enough. It still allocates twice as many of the units on the basis of job share, which is simply not a statutory criteria. The units it does allocate to the cities that have severe imbalances are still allocated based on job share. Instead of in proportion to their imbalances, and then inexplicably it reduces the AFFH waiting from 35 to 25%. Staff rejects Option B, because it doesn't put enough units in opportunity areas, which is kind of a self-inflicted wound. We would support the overall weighting is very statutory objectives. Just argue that AMBAG has to make sure that its methodology actually furthers the statutory objective, which is a jobs housing balance, not just a job share calculation.

4) Elizabeth Madrigal, Monterey Bay Economic Partnership, stated that MBEP supports AMBAG's 6th Cycle RHNA final draft methodology of Option A with a minor modification regarding the AFFH Income shift percentage to be weighed at 40%. The City of Salinas, Santa Cruz YIMBY Law, Land Watch Monterey County. And most recently, the City of Soledad add have also signified support for. California's regional housing needs determination requires our region to plan for 33,274 new homes

by 2031 through the 6th Cycle Housing Element update. Including 13,014 that are affordable to lower income households through the final draft methodology, the estimated allocations of these homes grants every Monterey Bay jurisdiction the opportunity to promote equity, sustainability, and racially and economically diverse communities. We would like to thank Land Watch for highlighting the tie of placement of allocations hold to job centers on climate change. These must be central principles as each jurisdiction develops their housing element. We would also like to thank AMBAG staff for implementing MBEP's previous recommendation of incorporating a AFFH as an allocation factor, as opposed to AFFH only being integrated via an income shifting mechanism. This has resulted in a more equitable distribution of homes within our region. In regard to the AFFH income shift percentage being weighed at 30%, it should be applied at 40% to ensure that the allocations RCAA's are receiving are completely satisfying the goal of a AFFH by both having larger allocation due to this factor, as well as receiving a substantive proportion of very low and low-income units within set allocation. Thank you for your leadership in moving our region forward on our existing unprojected housing needs. We look forward to working with all 18 municipalities within the purview of AMBAG as they embark on the next step of updating their respective housing elements.

5) Alex Black stated that this is the first meeting he has attended and learning about this organization and how it functions. There is a big question about how units will be allocated and how do we get more units? I don't believe that this is the appropriate time for that question, but I don't know where else to ask. I don't know if the board would be willing to answer that question. That's my big question, is, how do we get more units?

6) Jonathan Moore, City of Salinas, thanked the AMBAG Board and staff for all their hard work on this. We recognize it's a very challenging process, especially with the dramatic increase. The city of Salinas would like to express its support for Option A. We feel this is the best option for furthering fair housing, for equity, and will help with the jobs, housing balance, by putting jobs or houses where people work but cannot currently afford to live. We'd also like to express support for increasing the income shift percentage from 30 to 40% along with MBEP, YIMBY Law and others and express that as well. We know that none of us jurisdictions are developers that this is a challenging process but we think Option A is the fair way for the future of housing in the region and puts less burden on communities of color and more for the wealthier jurisdictions. We look forward to working our housing element update and thank you again for your time.

7) Kyle Kelly thanked the AMBAG Board, staff, and HCD for putting this together. I'm really excited for communities in California to do their part and approve enough housing. I live in Santa Cruz now and I grew up in California. And I never understood why it was so difficult to find an apartment or why rent was so high. And I think, for the sake of our children's future, our grandchildren's future, we're going to make sure that we do the right thing. That we make sure to build housing in all places including in wealthy communities where there's access to resources and jobs and maybe better transit. This is a great chance to be able to build this out of the kind of the missteps that we've had in the past and make sure that we've got enough in our coastal community here. I just want to reiterate my support for Option A, and I look forward to all your comments. Thank you.

8) Michael Pisano asked how the transit score is calculated?

9) Lowell Hurst, City of Watsonville, thanked the AMBAG Board and staff for their hard work. It's not an easy task by any means and there are lots of considerations. I was around in the last century and we really got it in a pickle with the RHNA numbers. We came up with a general plan that wasn't legal according to the courts. My cautionary message is, whatever you do, let's make it practical and doable. Every jurisdiction certainly needs to do their fair share of housing, but some jurisdictions just

don't have any land. That creates a unique circumstance for various reasons. So, let's keep it practical and doable. And let's get something done. Thank you very much.

10) Megan Hunter, Community Development Director, City of Salinas, thanked the AMBAG Board for the opportunity to speak. We are very pleased at the work that AMBAG has done and all of the listening that they've done to the jurisdictions. We, Jonathan Moore, mentioned, are in favor of Option A. It's really important to point out that Option A results in a lot more equity, in terms, of providing affordable housing across the region. Some of the smaller communities which are densely populated under Option B, would get a much larger share of the units. A lot of the communities of color have people who work in wealthier jurisdictions but cannot afford to live there. I would argue that, as Jonathan mentioned, that an AFFH factor of 35% is necessary, not only to ensure equity and opportunity areas for people of color and low-income areas, but it will also help with the jobs housing balance. At the very least, I think that percentage of 35% needs to be retained if Option B is looked at and maybe shifting jobs but maintaining the jobs housing ratio.

President McShane closed the public hearing.

Director Montesino made a motion for Option B, with a 40% increase to income shift.

Director Petersen stated that she appreciates staff taking a fresh look at the jobs and housing balance and believes that the new RCAA formula deserves more time as well. There's two points that Director Petersen wanted to make 1) the Resiliency and RCAA allocation formulas should be based on land area adequate for development and not the eight-year housing unit change; and 2) RCAA should include a sliding scale.

Director Berkeley stated that she wants to be sure that the City of Marina's comment letter is kept in the record. Director Berkeley also asked if these options were the only options this evening. Is there an opportunity for us to go back and do some tweaking if we choose one of the options or is this final?

Heather Adamson, Director of Planning, AMBAG stated that the Board has the option to provide additional modifications and send it back to staff and not select an option or methodology. It would be brought back at the January 2022 meeting. Just note that it would further push back the RHNA plan development schedule. That would mean that instead of bringing back the final methodology in March, we are looking at April or May the release.

Director Adams stated that she wants to second the motion on the floor and offered a friendly amendment. The friendly amendment to Option B, with 35% AFFH, 25% job share, and 40% jobs housing.

President McShane asked if Director Montesino would accept the friendly amendment?

Director Montesino declined the friendly amendment.

President McShane stated that Director Montesino declined the friendly amendment and asked if Director Adams wanted to second the original motion? Director Adams declined to second the original motion.

Director Smith stated that is a difficult process and wanted to thank staff for their hard work. Director Smith encouraged the Board to read the letters from the city managers from the City of Pacific Grove and City of Monterey. Director Smith commented that 1) water is the major issue and the major stumbling block to getting some properties developed; and 2) the City of Monterey had no ability to have the EDD data shared outside of AMBAG staff. The City of Monterey staff and no other

city or county in the AMBAG region was able to see the raw data from the EDD. The numbers show Monterey at over 40,000 jobs and when we do the math in Monterey, we just can't reconcile how we come up with 40,000 jobs for city that's got 30,000 population. We do need housing and we are willing to take our fair share but the numbers with the percentage and an overestimate of jobs skews our true factual RHNA number. Director Smith stated that the AMBAG Board will be moving forward with a motion tonight and is forced to support Option A.

Maura Twomey, AMBAG Executive Director stated that she wanted to clarify that AMBAG had access to the EDD data under a confidentiality agreement. AMBAG asked the EDD to waive that confidentiality agreement so AMBAG could share the data. The EDD declined the request, however, the jurisdictions can request the data from the EDD directly.

Director Velazquez stated that it's important that this be an equitable process and that we look at it on a fair and equitable platform and that all communities build their fair share of housing. Many of our resident's commute to the Peninsula to work in the hospitality industry, which is not considered more of the lower income job, and I want to make sure that our residents have the opportunity to live where they work. Director Velazquez supports Option A.

Director Wizard asked if the Board decides to postpone their decision until January 2022, does staff anticipate only a one-month shift in the entire timeline of the RHNA plan development schedule ?

Heather Adamson, Director of Planning stated that staff will have to double check the timeline because it could be a one-month shift or a two-month shift, because HCD needs 60 days for review. Staff doesn't know if we will hear back from HCD in time to take it to the March 2022 Board meeting. Staff might take it to the April Board meeting. The other issues are 1) there are certain requirements of a review period; and 2) if AMBAG receives appeals. Ms. Adamson stated that there would be at least a month, maybe two months delay, if the Board doesn't take action tonight and return back in January 2022.

Director Wizard made a substitute motion for Option A with an income shift adjustment of 40%.

Director McAdams seconded Director Wizard's motion.

Director Cummings stated that in Santa Cruz, both options are a huge shift from the original option. There's a lot of concern here around feasibility and the impact that this is going to have on local land use and land control in our city. People are upset about the fact that we make up about 8% of the population for the AMBAG region and the new proposals increase the overall amount of housing allocation to the city, which seems unfair. The first option that came before the Board seemed like it was fair. One concern is around the fact that with the RCAA shift, we were 1% below which reduces the amount of housing that was to very low and low. We were hoping that we could be included in that to some extent, even if partially, so that we were increasing our very-low and low income housing allocations. Given that the Income shift were suggested, but not required by HCD, it would have been good for us to have seen options with the adjustments only for the income shifts because that would have required our community to have an allocation that is reflective of our population. The two options before us tonight pushes us into an area where it's going to be extremely difficult for us to continue to produce housing as a city that already is producing housing. Director Cummings agrees of the comments that were made by Director Peterson from Capitola regarding available land and land use. This is a difficult process and very much appreciate our staff for all the hard work that they've done. There could have been a few more options provided to the Board.

Director Berkley requested that Director Adams restate her friendly amendment to Director Montesino's motion?

President McShane stated that Director Adams friendly amendment was to approve Option B, with 35% AFFH, 25% job share, and 40% jobs housing.

Director Berkley asked if Director Adams was willing to put that motion on the floor?

Director Adams put the motion on the floor.

President McShane stated that there was a substitute motion on the floor and it has been seconded.

Director Adams stated that her motion was to approve Option B with 35% AFFH, 20% job share, and 40% jobs housing.

President McShane stated that there was a substitute motion on the floor and would like to limit any comments to that substitute motion.

Heather Adamson, Director of Planning stated that 5% was missing from Director Adam's motion.

Director Adams revised her motion to approve Option B with 35% AFFH, 20% job share, and 40% jobs housing, and 5% transit.

President McShane asked if Director Berkely approved the revision to the substitute motion?

Heather Adamson, Director of Planning asked if that meant 0% for resiliency? Ms. Adamson added that to clarify, staff has not run a scenario option for this recommendation. We can't advise of the outcomes and what the estimates would be.

Director Adams amended her substitute motion to approve Option B with 35% AFFH, 15% employment, 35% job housing, 5% transit, and 10% resiliency. Director Berkley seconded the amended substitute motion.

President McShane took Board comment on the amended substitute motion.

Director Smith stated that he has no idea what the results would be from this change in the calculations. Director Smith would be in favor of staff making the calculations and report back to the Board. Ultimately, what we need to make a decision on is what happens with the proposal, the new math, and allocation for each city. Staff should come back to the Board with this as Option C so we are able to see the results.

Director Freeman stated that he is in favor of this option. We need more fair housing allocation for the low or moderate income because that's the housing we need the most and will help our region.

Maura Twomey, Executive Director read Director Velazquez's comment as she was having technical difficulties. Director Velazquez's comment was "I cannot support a motion that changes calculations without having the final allocation."

Director Caput stated that we need to come back in January 2022 with this new allocation. We are changing things and the people proposing substitute motion had some confusion. The substitute motion would be considered Option C.

Director Timm stated that staff has been in contact with HCD and getting guidance on what will and will not work. I'm concerned that we will start playing with the percentages to benefit our individual

jurisdictions. I don't think I can vote on a motion, especially, when we don't even know what's before us.

Director Peterson stated that she is not prepared to support the substitute motion. I would suggest that we would continue this decision until January. So, that we can get the math of the suggestions that are included in the substitute motion with consideration of the land area available for development and also considerations of a partial RCAA allocation for cities with poverty levels near the 67% number.

Director Phillips stated that he was prepared to move forward on Option B, however, doesn't feel comfortable making the decision on the substitute motion.

Director McAdams stated that she concurs with Supervisor Phillips. Staff has not looked at the adjustments. We are not here to throw in different allocations that suit our city. There's been a lot of thought and process and professionals involved with coming up with what was presented to us this evening. I don't want to get into trying to figure out our own percentages that benefit our own individual city. I don't think that's the task that is in front of us this evening.

Director Carbone stated that she knew how she was going to vote on this item and echoes Director Phillips comments that there has been a lot of work put into the two options and is hesitant to move forward without seeing the numbers. Director Carbone suggested that this item be brought back to the January 2022 meeting.

Director Wizard stated he is not in favor of postponing the vote.

The Clerk of the Board took a roll call vote on the substitute motion. The motion did not pass. Voting details can be found in the Voting Record.

President McShane stated that it brings us back to the original motion made by Director Wizard, seconded by Director McAdams to approve Option A with an income shift adjustment from 30 to 40%. President McShane opened up comments from the Board on this motion.

Director Adams offered a substitute motion to consider the allocation she brought as Option C to be brought back at the January 2022 meeting.

Director Berkely seconded the motion.

President McShane opened up comments on the substitute motion.

Director McAdams questioned the point of order on having another substitute motion.

President McShane referred to Don Freeman, AMBAG legal counsel. Mr. Freeman stated that there can be another substitute motion.

Director Peterson offered a friendly amendment to the substitute motion, that it also include consideration of available land use for development and consideration of partial RCAA allocations for cities with poverty levels near 67%.

Director Adams asked for further clarification.

Heather Adamson stated that Director Petersen is requesting that resiliency is included, however, consider resiliency based on land area. It's a change in how resiliency is calculated not a change in factor percentage. Director Petersen's comment on AFFH and RCAA is that we look at it as more of a

sliding scale. AFFH and RCAA would be calculated differently under the friendly amendment without adding new factors.

Director Adams accepted the friendly amendment.

Director Berkley accepted the friendly amendment.

President McShane clarified that the substitute motion on the floor will be considered as Option C at the January 2022 Board meeting. Option C will consider the new percentages and staff analysis along with Option A and Option B.

Director Velazquez called for the question.

President McShane stated that the substitute motion made by Director Adams, seconded by Director Berkley is to consider an Option C with 35% AFFH, 15% employment, 35% job housing, 5% transit, and 10% resiliency. President McShane asked that staff clarify the additional factors.

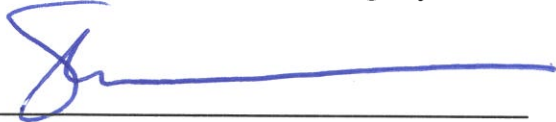
Heather Adamson, Director of Planning added that analysis would include 1) a change on how resiliency is calculated, instead of calculating based on housing units, consider land area and 2) include a sliding scale in the RCAA.

The Clerk of the Board took a roll call vote on the substitute motion. The motion passed. Voting details can be found in the Voting Record.

Maura Twomey, Executive Director stated that a Special meeting of the AMBAG Board on January 5, 2022 consider adoption of a resolution on AB 361.

8. ADJOURNMENT

The Board of Directors meeting adjourned at 8:27 PM.



Steve McShane, President



Maura F. Twomey, Executive Director

AMBAG BOARD OF DIRECTORS MEETING ATTENDANCE & VOTING RECORD
BOARD MEETING DATE: December 8, 2021

Attendance (X= Present; AB= Absent) Voting (Y= Yes; N=No; A=Abstain)					
MEMBER	AMBAG REP	Attendance	Item #5	Item# 7.A 1 ST Motion	Item# 7.A 2 nd Motion
Capitola	Kristen Petersen	X	Y	N	Y
Carmel-by-the-Sea	Karen Ferlito	X	Y	N	Y
Del Rey Oaks	Kim Shirley	X	Y	N	Y
Gonzales	Scott Funk	X	Y	N	Y
Greenfield	Lance Walker	X	Y	N	Y
Hollister	Rick Perez	X	Y	N	Y
King City	Carlos Victoria	X	Y	N	Y
Marina	Lisa Berkley	X	Y	Y	Y
Monterey	Ed Smith	X	Y	N	Y
Pacific Grove	Jenny McAdams	X	Y	N	Y
Salinas	Steve McShane	X	Y	N	N
San Juan Bautista	John Freeman	X	Y	N	Y
Sand City	Mary Ann Carbone	X	Y	N	Y
Santa Cruz	Justin Cummings	X	Y	N	Y
Scotts Valley	Derek Timm	X	Y	N	Y
Seaside	Jon Wizard	X	Y	N	N
Soledad	Anna Velazquez	X	Y	N	N
Watsonville	Eduardo Montesino	X	Y	N	N
County-Monterey	Mary Adams	X	Y	Y	Y
County-Monterey	John Phillips	X	Y	N	N
County-Santa Cruz	Manu Koenig	X	Y	N	N
County-Santa Cruz	Greg Caput	X	Y	N	Y
County-San Benito	Bob Tiffany	AB	n/a	n/a	n/a
County-San Benito	Bea Gonzales	X	Y	N	N

(* = Board Member(s) arrived late or left early, therefore, did not vote on the item. Please refer the minutes)

**MINUTES OF THE PROCEEDINGS
OF THE BOARD OF DIRECTORS OF THE
ASSOCIATION OF MONTEREY BAY AREA GOVERNMENTS**

January 5, 2022

1. CALL TO ORDER

The Board of Directors of the Association of Monterey Bay Area Governments, President, Steve McShane presiding, convened at 5:03 p.m. Wednesday, January 5, 2022 via GoToWebinar.

2. ROLL CALL

<u>AMBAG Board of Directors</u>			
PRESENT:			
Agency	Representative	Agency	Representative
Capitola	Kristen Petersen	County of Monterey	John Phillips
Carmel-by-the-Sea	Karen Ferlito	County of San Benito	Bea Gonzales
Del Rey Oaks	Kim Shirley	County of San Benito	Betsy Dirks
Gonzales	Scott Funk	County of Santa Cruz	Greg Caput
Greenfield	Lance Walker	County of Santa Cruz	Manu Koenig
Hollister	Rick Perez		
King City	Carlos Victoria		
Marina	Lisa Berkley		
Monterey	Ed Smith		
Pacific Grove	Jenny McAdams		
Salinas	Steve McShane		
San Juan Bautista	John Freeman		
Sand City	Mary Ann Carbone		
Santa Cruz	Justin Cummings		
Seaside	Jon Wizard		
Watsonville	Eduardo Montesino		
ABSENT:			
Scotts Valley	Derek Timm	<u>Ex-Officio Members:</u>	
Soledad	Anna Velazquez	3CE	JR Killigrew
County of Monterey	Mary Adams	Caltrans, District 5	Orchid Monroy-Ochoa
		MBARD	Richard Stedman
		MPAD	Michael La Pier
		MST	Lisa Rheinheimer
		SBtCOG	Veronica Lezama
		SCCRTC	Guy Preston
		SC METRO	Alex Clifford
		TAMC	Todd Muck

Others Present: Dolores Morales; Anastacia Wyatt; Amaury Berteaud, Special Projects Manager; Gina Schmidt, GIS Coordinator; Miranda Taylor, Planner; Cynthia Piña, Office Assistant; Heather Adamson, Director of Planning; Maura Twomey, Executive Director; and Ana Flores, Clerk of the Board.

3. ORAL COMMUNICATIONS FROM THE PUBLIC ON ITEMS NOT ON THE AGENDA

There were no oral or written communications from the public.

4. ORAL COMMUNICATIONS FROM THE BOARD ON ITEMS NOT ON THE AGENDA

Supervisor Caput announced that the County of Santa Cruz has purchased 38 acres near the Santa Cruz Fairgrounds and will be converted into a public park.

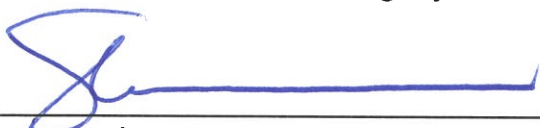
5. Resolution in accordance with AB 361 regarding the Ralph M. Brown Act and Finding of Imminent Risk to Health and Safety of In-Person Meetings as a Result of the Continuing COVID-19 Pandemic State of Emergency Declared by Governor Newsom

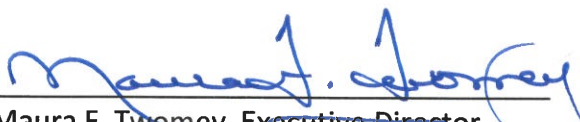
Resolution 2022-1 was adopted.

Motion made by Director Smith seconded by Director Cummings to approve Resolution 2022-1 in accordance with AB 361 regarding the Ralph M. Brown Act and Finding of Imminent Risk to Health and Safety of In-Person Meetings as a Result of the Continuing COVID-19 Pandemic State of Emergency Declared by Governor Newsom. Motion passed unanimously.

6. ADJOURNMENT

The Board of Directors meeting adjourned at 5:13 PM.



Steve McShane, President

Maura F. Twomey, Executive Director

AMBAG BOARD OF DIRECTORS MEETING ATTENDANCE & VOTING RECORD
BOARD MEETING DATE: January 5, 2022

		Attendance (X= Present; AB= Absent) Voting (Y= Yes; N=No; A=Abstain)	
MEMBER	AMBAG REP	Attendance	Item #5
Capitola	Kristen Petersen	X	Y
Carmel-by-the-Sea	Karen Ferlito	X	Y
Del Rey Oaks	Kim Shirley	X	Y
Gonzales	Scott Funk	X	Y
Greenfield	Lance Walker	X	Y
Hollister	Rick Perez	X	Y
King City	Carlos Victoria	X	Y
Marina	Lisa Berkley	X	Y
Monterey	Ed Smith	X	Y
Pacific Grove	Jenny McAdams	X	Y
Salinas	Steve McShane	X	Y
San Juan Bautista	John Freeman	X	Y
Sand City	Mary Ann Carbone	X	Y
Santa Cruz	Justin Cummings	X	Y
Scotts Valley	Derek Timm	AB	N/A
Seaside	Jon Wizard	X	N/A
Soledad	Anna Velazquez	AB	N/A
Watsonville	Eduardo Montesino	X	Y
County-Monterey	Mary Adams	AB	N/A
County-Monterey	John Phillips	X	Y
County-Santa Cruz	Manu Koenig	X	Y
County-Santa Cruz	Greg Caput	X	Y
County-San Benito	Betsy Dirks	X	Y
County-San Benito	Bea Gonzales	X	Y

(* = Board Member(s) arrived late or left early, therefore, did not vote on the item. Please refer the minutes)



CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council
FROM: Bill Peake, Mayor
MEETING DATE: February 2, 2022
SUBJECT: Monterey Regional Waste Management District Appointment
CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

Approve appointment of Mayor Peake to Monterey Regional Waste Management District Joint Powers Authority (MRWMD) Board of Directors serving until December 31, 2022.

DISCUSSION

The City is a member of the MRWMD JPA which provides the City with garbage disposal, recycling, reuse, composting, and hazardous household waste disposal. The JPA doesn't include collection of materials and transport to MRWMD facilities in Marina which is under a franchise agreement with GreenWaste Recovery, Inc.

JPA participation requires appointment of a representative to the board of directors by Council. The term of office is nominally 4 years, however, in the event of a vacancy as is currently the case, the appointment is for the remainder of the vacancy. The current term of office ends December 31, 2022. With this appointment Council board appointments would be:

- Association of Monterey Bay Area Governments (AMBAG) – Mayor Pro Tempore McAdams
- California Joint Powers Insurance Authority (CJPIA) – Councilmember Tomlinson
- Central Coast Community Energy (3CE) – Councilmember Tomlinson
- Community Human Services (CHS) – Alan Cohen
- Monterey One Water (M1W) – Councilmember Smith
- Monterey Regional Waste Management District (MRWMD) – Mayor Peake
- Monterey-Salinas Transit (MST) – Councilmember Amelio
- Transportation Agency of Monterey County (TAMC) – Councilmember Poduri

OPTIONS

Provide alternative.

FINANCIAL IMPACT:

N/A

GOAL ALIGNMENT: Not Applicable.



CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council
FROM: Bill Peake, Mayor
MEETING DATE: February 2, 2022
SUBJECT: Mary Ann Whitten Appointment to Library Board
CEQA: Does not constitute a “Project” per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

Approve appointment of Mary Ann Whitten to Library Board for a term ending January 31, 2026.

DISCUSSION

Boards, commissions, and committees (committees) play a vital role in city government and provide opportunities for residents to become engaged in civic activities and work to improve local governance.

Mayoral appointments to City committees must be confirmed by Council (Charter Article 26). Further regulations and policy regarding appointments can be found in PGMC Chapter 3.02 and Policy 000-5.

Terms are 4 years for Charter committees.

OPTIONS

N/A

FINANCIAL IMPACT:

N/A

GOAL ALIGNMENT: Not Applicable.

Attachments

Application

Persons interested in being appointed to serve on a board, commission, or committee of the City of Pacific Grove are invited to complete the following application.

Name:
Mary Ann Whitten

Street Address:
[REDACTED]

City:
Pacific Grove

State:
CA

ZIP Code:
93950

Residence Telephone Number:
[REDACTED]

Work Telephone Number:
[REDACTED]

E-Mail Address:
[REDACTED]

Name of Board, Commission, or Committee on which you would like to serve:
Library Board

Brief Description of Background and Qualifications (Additional Information May Be Attached on Separate Sheets): ATTACHMENT OF A RESUME IS DESIRABLE.

Background: --BA in English; MA in French; MLS in library science
--professional library experience in K-12 schools and at university level as well as post-MLS certificate and practical experience in rare books, manuscripts, and archives
--two-decade career as U. S. Foreign Service officer specializing in educational, cultural, and media affairs

Qualifications: active involvement in PG Public Library (PGPL) affairs since moving here in 2014:
-PGPL Foundation member 2015-2020
-rare/vintage book advisor to Friends of PGPL book sale, 2016-2021
-President, PGPL Foundation, 2017-2020
-PG Library Board member, 2017-2018
-Co-Chair, PGPL Capital Campaign for library renewal, 2018-2020

I was a member of this Library Board 2017-2018 but regretfully resigned in order to fulfill my duties as co-chair of the capital campaign that raised nearly \$3 million for the PGPL renewal project. Before leaving, I actively recruited new Library Board members to ensure a smooth transition. As our beautifully restored library returns once again to full service, I would be honored to be appointed to the city commission supporting its work.

I hereby certify that I am a registered voter of the City of Pacific Grove (not required for EDC appointees)

Signature of Applicant:

Mary Ann Whitten

Date:
January 7, 2022

FOR CITY USE ONLY

Appointed to: _____

Date of Appointment: _____

Expiration: _____

Date of Reappointment: _____

End of Term: _____

Date Certification of Appreciation Awarded: _____

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CITY OF PACIFIC GROVE



CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council
FROM: Daniel Gho, Public Works Director/Deputy City Manager
MEETING DATE: February 2, 2022
SUBJECT: September Recreation Board Minutes
CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

Receive September 2021 Recreation Board Meeting Minutes

Attachments

Minutes

CALL TO ORDER – The meeting was called to order at 4:02 pm.

ROLL CALL – Charles Gibson, Jay Tulley, Elliot Hazen, Absent: Colleen Goldsmith, Daryl Smith. Also present: Public Works Director: Dan Gho; Recreation Manager: Katie Clark; and Amy Colony.

1. Approval of Agenda: Approved 3-0-0 (Hazen/Tulley)

2. Board and Staff Announcements: Amy Colony announced the landscape cleanup of Esplanade Park by the Pacific Grove Garden Group on Saturday, September 25 from 9AM – noon.

3. Council Liaison Comments: Amy Tomlinson (absent)

4. General Public Comments: none

A. Written Communication: none

B. Oral Communication: None

5. Approval of Minutes from August 26, 2021: Tulley/Hazen – Approved 3-0-0

6. Regular Agenda:

A. Recreation Board Goals: Discussion about the development of recreation goals continues. Specific improvements and maintenance needs were discussed for Washington Park however, it was felt that some of the items identified are PWD maintenance items that should be addressed via ongoing operations. Using the Park and Facility Registry of Existing Assets report, the idea of conducting an inspection of parks and facilities on an annual or biannual basis would assist in identifying where repairs and improvements are needed. This process would aid the PWD in prioritizing repair expenditures and help identify parks and facilities where Capital Improvement Projects (CIP's) are most needed. Additional discussion focused on the potential for Washington Park (developed portion) landscape architectural evaluation and recommendations and the proposed CIP. Other updates included the CIP for the Youth Center (complete) and in general, how the recreation goals are aligning with city developed goals such as repairs to Chautauqua Hall. The update of the recreation goals document (Google Doc's) was also discussed and it was determined the board members assigned to the sub committee (Tulley/Smith) and the Public Works Director can have access the document to develop and update as needed. The recreation board goals item will be carried over to the October 2021 meeting to update all board members.

B. Recreation Department Update:

Next Agenda: October 28, 2021, Time TBD - update and discussion of Recreation Board goals (continued)

Meeting was adjourned at 5:13 pm.

Submitted by Charles Gibson



CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council
FROM: Rob Mullane, AICP, Contract Planner
MEETING DATE: February 2, 2022
SUBJECT: **DRAFT Adoption of a Resolution Conditionally Authorizing the Vacation of Excess Right-of-Way Located on Sloat Ave.** *This public hearing will be opened, public comment shall begin at the February 2, 2022, City Council meeting, but the hearing will then be continued to the February 16, 2022 City Council meeting; the public hearing shall remain open -- but NOTE -- individual members of the public may choose to speak either at the February 2, 2022 meeting or the February 16, 2022 meeting, but no person shall be allowed to speak at more than one hearing date.*
CEQA: Environmental Impact Report

RECOMMENDATION

Open the public hearing and continue the item to the February 16, 2022, meeting.

DISCUSSION

Discussion will be included in the February 16, 2022, agenda report.

OPTIONS

n/a

FINANCIAL IMPACT:

n/a

GOAL ALIGNMENT: Not Applicable.

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CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council
FROM: Alyson Hunter, AICP, CDD Director
MEETING DATE: February 2, 2022
SUBJECT: Approval of Amendments to PGMC 23.80 - Accessory Dwelling Units (ADU)
CEQA: Statutory Exemption, CEQA Guidelines 15282(h) - Adoption Regarding Second Units in a Single or Multi Family Residential Zone

RECOMMENDATION

Approve the proposed amendments to PGMC 23.80 - Accessory Dwelling Units (ADUs) as recommended by the Planning Commission.

DISCUSSION

In 2019, the State legislature passed a variety of housing laws pertaining to the development of Accessory Dwelling Units (ADU) in residential zones which removed much of a local jurisdictions' ability to assert discretion over the size, placement, and architectural design of such units. In response, staff drafted for the Planning Commission's review and discussion, a comprehensive amendment to Chapter 23.80 of the PGMC. This amendment was codified through the adoption of [Ordinance 20-007](#) by the City Council on March 18, 2020.

In the ensuing year, additional changes to ADU law have been adopted by the State legislature. These laws became effective in January 2021. In an effort to keep up with these changes and remain in compliance with State law, the Planning Commission appointed a subcommittee to review the new laws and help draft an update to the Ordinance. Subcommittee member Sawyer discussed the changes with the State Housing & Community Development (HCD) staff and received guidance on the items that the City should consider in our amendment process. These items were incorporated into the draft amendment attached here for the City Council's review and action. The Planning Commission recommended approval of this draft at its November 4, 2021, meeting. Staff will continue to monitor State law to ensure that the City is in compliance. This may require additional amendments over time.

On an informational note, since 2019, 104 ADU/Jr. ADU building permits have been issued. Of those, 29 have received their final inspection and 21 are in the process of building plan review. The remaining 54 are somewhere in between likely awaiting contractor and materials availability. Lastly, the Community Development Department's [ADU website](#) is updated frequently as information becomes available.

OPTIONS

1. The Council could make further amendments to the proposed ordinance.
2. The Council could not adopt amendments and continue to rely on the existing chapter.

FINANCIAL IMPACT:

The adoption of the proposed amendments will not result in a financial impact to the City.

GOAL ALIGNMENT: Increase Affordable Housing: Determine policies, projects and programs that will advance the effort to create new affordable housing in the City.

Attachments

Draft PGMC 23.80 Amendment

ORDINANCE NO. 21-___

**AN ORDINANCE OF THE CITY OF PACIFIC GROVE
AMENDING CHAPTER 23.80 OF THE PACIFIC
GROVE MUNICIPAL CODE REGARDING
ACCESSORY DWELLING UNITS**

WHEREAS, Accessory Dwelling Units (ADUs) and Junior Accessory Dwelling Units (JADUs) are a form of housing in the state of California and in the City of Pacific Grove (City); and

WHEREAS, the City has regulated ADUs since 1983 as set forth in Pacific Grove Municipal Code (PGMC) Chapter 23.80; and

WHEREAS, in 2017, in response to State law, the City Council amended Chapter 23.80 to reduce barriers, streamline approval, and further accommodate the development of ADUs; and

WHEREAS, the California State Legislature brought forward several bills in 2019 relating to the planning and permitting of ADUs and JADUs; and

WHEREAS, in October 2019, Governor Newsom signed numerous housing bills related to the development and regulation of ADUs and JADUs, which requires the City to make certain additional amendments to PGMC Chapter 23.80; and

WHEREAS, in 2020, in response to State law, the City Council further amended Chapter 23.80 to reduce barriers, streamline approval, and further accommodate the development of ADUs; and

WHEREAS, the new standards will facilitate the development of ADUs and JADUs within the City, and are necessary for maintaining orderly growth and development patterns; and

WHEREAS, additional new state laws took effect in December 2021 which continue to contain a clause providing that a local government's ordinance that does not comply with all provisions of the State law shall become null and void; and

WHEREAS, the City has determined that it is appropriate to further amend PGMC Chapter 23.80 again to comply with State law and to provide a more streamlined process for the development of ADUs and JADUs in an effort to provide additional affordable housing opportunities; and

WHEREAS, notice of a public hearing before the Planning Commission was published in the Monterey County Weekly on October 20, 2021, posted at City Hall by October 22, 2021; and

WHEREAS, this Ordinance amends PGMC Section 23.80, entitled "Accessory Dwelling Units"; and

WHEREAS, in the enactment of this Ordinance, the City followed the guidelines adopted by the State of California and published in the California Code of Regulations, Title 14, Section 15000, et seq.; and

WHEREAS, amendment of PGMCM Section 23.80 pertaining to ADUs is statutorily exempt from review under the California Environmental Quality Act (CEQA) per Section 15282(h) of the CEQA Guidelines as it implements Government Code Sections 65852.1 and 65852.2 as set forth in Section 21080.17 of the Public Resources Code.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE:

SECTION 1. The foregoing recitals are adopted as findings of the City Council as though set forth fully herein.

SECTION 2. Pacific Grove Municipal Code Chapter 23.80 shall be amended by deletion of all text shown in strikeout text (~~strikeout-text~~) and the addition of all text shown in bold, italic, underscored text (**bold, italic, underscored text**), as follows:

Chapter 23.80
ACCESSORY DWELLING UNITS

Sections:

- 23.80.010 Purpose and intent.
- 23.80.020 Effect of nonconforming.
- 23.80.030 Definitions.
- 23.80.040 Approvals.
- 23.80.050 General ADU and JADU requirements.
- 23.80.060 Specific ADU **and JADU** requirements.
- 23.80.070 Fees and charges.
- 23.80.080 Nonconforming ADUs and discretionary approval.

23.80.010 Purpose and intent.

The purpose of this chapter is to allow and regulate accessory dwelling units (ADUs) and junior accessory dwelling units (JADUs) in compliance with California Government Code Sections 65852.2 and 65852.22, as may be amended.

23.80.020 Effect of nonconforming.

An ADU or JADU that conforms to the standards in this chapter will not be:

- (a) Deemed to be inconsistent with the city's general plan and zoning designation for the lot on which the ADU or JADU is located.
- (b) Deemed to exceed the allowable density for the lot on which the ADU or JADU is located.

(c) Considered in the application of any local ordinance, policy, or program to limit residential growth.

(d) Required to correct a nonconforming zoning condition, as defined in PGMC 23.80.030. This does not prevent the city from enforcing compliance with applicable building standards in accordance with Health and Safety Code Section 17980.12.

23.80.030 Definitions.

As used in this chapter, terms are defined as follows:

“Accessory Dwelling Unit” or “ADU” means an attached or a detached residential dwelling unit that provides complete independent living facilities and permanent provisions for living, sleeping, eating, cooking, sanitation, and connection to utilities for one or more persons and is located on a lot with a proposed or existing primary residence or multi-family residences and may include. ~~An accessory dwelling unit also includes~~ the following:

~~(1) An efficiency unit, as defined by Section 17958.1 of the California Health and Safety Code, as may be amended;~~

~~(2) A manufactured home, as defined by Section 18007 of the California Health and Safety Code, as may be amended.~~

(1) Detached: the unit is separated from the primary structure or structures.

(2) Attached: the unit is attached to the primary structure.

(3) Converted Existing Space: space (e.g. bedroom, attached garage, storage area, or an accessory structure) on the lot of primary residence(s) that is converted into an independent living unit.

(4) Manufactured Home.

(5) Efficiency Unit.

“Accessory structure” means a building or structure that is incidental to that of the main building on the same lot.

“Complete independent living facilities” means permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family or multifamily dwelling is or will be situated.

“Efficiency ~~kitchen~~ Unit” means a ~~kitchen~~ unit that includes each of the following:

(1) ~~A cooking facility with appliances~~ Compliance with Section 17958.1 Health & Safety Code, as may be amended;

(2) A food preparation counter or counters that are adequate for ~~the size of the~~ unit; and

(3) Food storage cabinets that are adequate for the ~~size of the~~ unit.

“Junior accessory dwelling unit” or “JADU” means a residential unit that:

(1) Is no more than 500 square feet in size;

(2) Is contained entirely within an existing or proposed single-family structure;

(3) Includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure; and

(4) Includes an efficiency ~~kitchen-unit~~, as defined in this chapter.

“Living area” means the interior habitable area of a dwelling unit, including basements and attics, but does not include a garage or any accessory structure.

“Manufactured Home” means a unit as defined by Section 18007 of the California Health and Safety Code, as may be amended.

“Ministerial approval” means approval related to a building permit that does not require discretionary action or a hearing.

“Nonconforming zoning condition” means a physical improvement on a property that does not conform with current zoning standards.

“Passageway” means a pathway that is unobstructed clear to the sky and extends from a street to one entrance of the ADU or JADU.

“Proposed dwelling” means a dwelling that is the subject of a permit application and that meets the requirements for permitting.

“Public transit” means ~~a location, including, but not limited to, any~~ a fixed-route (bus stop or other transit stop) ~~with~~ transportation that charges set fees, runs on fixed routes, and is available to the public.

“Tandem parking” means ~~that~~ two or more automobiles are parked on a driveway or in any other location on a lot, lined up behind one another.

23.80.040 Approvals.

The following approvals apply to ADUs and JADUs under this section:

- (a) ~~Building Permit Only~~ Ministerial Approval. ~~If an ADU or JADU~~ An ADU or JADU which complies with each of the general requirements in PGMC 23.80.050, ~~it~~ is allowed with ~~only~~ a building permit and shall not require discretionary planning approval. The ADU/JADU project shall be reviewed in a ministerial and administrative manner, limited to only considering the project's compliance with the applicable objective standards.

- (1) ~~Converted on Single Family Lot. Only one~~ One ADU and one JADU on a lot with a proposed or existing single-family dwelling, ~~on it, where the ADU or JADU:~~

~~(A) Is either: within the space of a proposed single family dwelling; within the existing space of an existing single family dwelling; or within the existing space of an accessory structure, plus up to 150 additional square feet if the expansion is limited to accommodating ingress and egress;~~

~~(B) Has exterior access that is independent of that for the single family dwelling; and~~

~~(C) Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building and fire codes.~~

(2) Converted on a Single-Family Lot:

(A) Created within the existing space of an accessory structure.

(B) Has side and rear setbacks sufficient for fire and safety, as dictated by applicable building codes.

(C) An ADU created within an existing accessory structure may expand an additional 150 sq. ft. if expansion is limited to accommodating ingress and egress only.

(3) Attached ADU on Single-Family Lot:

(A) Shall not exceed 50% of the square footage of proposed or existing building, or 1,000 sq. ft., whichever is greater.

(B) Setbacks same as (2)(B) above.

- (24) Limited Detached on Single-Family Lot. ~~One detached, new construction ADU on a lot with a proposed or existing single family dwelling (in addition~~

~~to any JADU that might otherwise be established on the lot under subsection (a)(1) of this section), if the detached ADU satisfies the following limitations:~~

- (A) The side and rear yard setbacks are at least three (3) feet;
- (B) The total maximum floor area is up to ~~1,000~~ 1,200 square feet; and
- (C) The peak height above grade is 16 feet or less.

~~(35)~~ (35) Converted on Multifamily Lot. Multiple ADUs within portions of existing multifamily dwelling structures that are not used as livable space, including but not limited to storage rooms, boiler rooms, passageways, attics, basements, or garages, if each converted ADU complies with state building standards for dwellings. At least one converted ADU is allowed within an existing multifamily dwelling, or up to 25 percent of the existing multifamily dwelling units may each have a converted ADU under this subsection.

~~(46)~~ (46) ~~Limited~~ Detached on Multi-family Lot. No more than two detached ADUs on a lot that has an existing multifamily dwelling if each detached ADU satisfies the following limitations:

- (A) The side and rear yard setbacks are at least three feet (corner and exterior setbacks for the zoning district apply); and
- (B) The total floor area is 800 square feet or smaller.

(7) Junior Accessory Dwelling Unit (JADU):

(A) Constructed entirely within an existing or proposed single-family structure.

(B) Includes its own separate sanitation facilities or shares sanitation facilities with the existing or proposed single-family structure.

(C) Includes an efficiency unit as defined in this chapter

(b) Process and Timing.

(1) An ADU or JADU permit is considered and approved ministerially, without discretionary review or a hearing, if it meets the minimum standards above.

(2) The City must act on an application to create an ADU or JADU within 60 days from the date that the City receives a completed application, unless either:

(A) The applicant requests a delay, in which case the 60-day time period is tolled for the period of the requested delay; or

(B) In the case of a JADU and the application to create a JADU is submitted with a permit application to create a new single-family dwelling on the lot, the City may delay acting on the permit application for the JADU until the City acts on the permit application to create the new single-family dwelling, but the application to create the JADU will ~~still~~ be considered ministerially without discretionary review or a hearing.

23.80.050 General ADU and JADU requirements.

The following requirements apply to all ADUs and JADUs that are approved under PGMC 23.80.040(a):

(a) Zoning. An ADU or JADU subject only to a building permit under PGMC 23.80.040(a) may be created on a lot in any zone that allows residential uses.

(b) Fire Sprinklers. Fire sprinklers are required in an ADU if sprinklers are required in the primary residence.

(c) Rental Term. *An ADU or JADU may be rented under the following conditions:*

(1) No ADU or JADU may be rented for a term ~~that is~~ less than 30 days; and

(2) JADU – owner must reside in either the primary residence or the JADU per Government Code 65852.22, Subd. (a)(2), as may be amended.

(d) No Separate Conveyance. ~~An ADU or JADU may be rented, but~~ No ADU or JADU may be sold or otherwise conveyed separately from the lot and the primary dwelling (in the case of a single-family lot) or from the lot and all of the dwellings (in the case of a multifamily lot) *unless allowed by Gov. Code, § 65852.26 (Qualified nonprofit corporation conveyance).*

(e) Septic System. If the ADU or JADU will connect to an on-site water-treatment system, the owner must include with the application a percolation test completed within the last five years or, if the percolation test has been recertified, within the last 10 years.

(f) Each ADU or JADU shall have a separate address from the single or multi-family dwelling on the property.

(g) Each ADU or JADU shall have a separate exterior access independent of the existing or proposed single or multi-family dwelling.

23.80.060 Specific ADU and JADU requirements.

(a) Size.

- (1) The total maximum floor area ~~is~~ may be up to ~~1,000~~ 1,200 square feet.
- (2) The minimum size is 150 square feet to include efficiency unit. ~~ADUs that meet these requirements shall be approved ministerially.~~
- (3) ~~An attached ADU that is created on a lot with an existing primary dwelling is further limited to 50 percent of the floor area of the existing primary dwelling, but may not exceed the size in subsection (a)(1) of this section~~ A JADU shall not exceed 500 square feet.

(b) Height.

- (1) A single-story, attached or detached ADU may not exceed 16 feet in height above grade, measured to the peak of the structure.
- (2) A second story or two-story attached ADU addition may be permitted subject to an architectural permit and may not exceed the height of the zoning district.

(c) Passageway. No passageway, as defined in PGMC 23.80.030, is required for an ADU.

(d) Parking.

- (1) Generally. Off-street parking is not required for an ADU ~~or JADU~~ located ~~less than~~ within one-half mile walking distance of public transit. If a property is not within one-half mile walking distance to a transit stop, one off-street parking space shall be provided and may be located in setback areas or as tandem parking, as defined in PGMC 23.80.030.
- (2) No Replacement. When a garage, carport, or covered parking structure is demolished in conjunction with the construction of an ADU or converted to an ADU, those off-street parking spaces are not required to be replaced.

(3) No parking is required for a JADU.

(e) Architectural Requirements.

(1) Where the development of an ADU includes exterior alterations, additions, or construction of new structure, the ADU ~~shall~~ may, where feasible, incorporate the same or similar architectural features, building materials, including window style and materials, and roof slopes as the main dwelling unit or dwellings located on the subject property. ~~adjacent properties.~~

~~(f) Landscape Requirements. The site plan shall provide open space and landscaping that are useful for both the ADU and the principal single family dwelling. Landscaping shall provide for the privacy and screening of adjacent properties.~~

(g) Historical Protections. Historic review shall be required for properties listed on the California Register of Historic Resources.

(g) Tree Removal and Pruning. Tree permits for the removal and/or pruning of permit trees shall be required per PGMC Title 12, but shall in no way prohibit the development of a minimum 800 sq. ft. ADU.

(1) Applicants are encouraged to locate and design ADU and/or JADU additions so that the retention of native trees (Gowen cypress, Coast live oak, Monterey cypress, Shore pine, Torrey pine, and Monterey pine) can be accommodated whenever possible.

(2) All trees in or within 100 yards of designated Monarch sanctuaries. (Pruning and removal of trees within the Monarch sanctuaries is prohibited between October 1 and May 1).

(3) A Coastal Development Permit (CDP) may be required for tree removal in the Coastal zone.

23.80.070 Fees and charges.

(a) Impact Fees.

(1) No impact fee is required for an ADU or JADU that is less than 750 square feet in size.

(2) Any impact fee that is required for an ADU that is 750 square feet or larger in size must be charged proportionately in relation to the square footage of the primary dwelling unit (e.g., the floor area of the primary dwelling, divided by the floor area of the ADU, times the typical fee amount charged for a new dwelling). "Impact fee" here does not include any connection fee or capacity charge for water or sewer service.

- (b) Utility Fees. Converted ADUs and JADUs on a single-family lot, created under PGMC 23.80.040(a)(1), are not required to have a new or separate utility connection directly between the ADU or JADU and the utility. Nor is a connection fee or capacity charge required unless the ADU or JADU is constructed with a new single-family home.

23.80.080 Nonconforming ADUs and discretionary approval.

Any proposed ADU or JADU that does not conform to the objective standards set forth in this chapter may be allowed by the city with a use permit, in accordance with the other provisions of this title.

SECTION 3. The City Manager is directed to execute all documents and to perform all other necessary City acts to implement effect this Ordinance.

SECTION 4. Severability. If any provision, section, paragraph, sentence, clause or phrase of this ordinance, or any part thereof, or the application thereof to any person or circumstance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, or any part thereof, or its application to other persons or circumstances. The City Council hereby declares that it would have passed and adopted each provision, section, paragraph, subparagraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, paragraphs, subparagraphs, sentences, clauses or phrases, or the application thereof to any person or circumstance, be declared invalid or unconstitutional.

SECTION 5. In accord with Article 15 of the City Charter, this ordinance shall become effective on the thirtieth (30th) day following passage and adoption hereof.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE THIS ____ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

BILL PEAKE, Mayor

ATTEST DATED: _____

SANDRA KANDELL, City Clerk

APPROVED AS TO FORM:

DAVID C. LAREDO, City Attorney

DRAFT

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CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council
FROM: Laurel O'Halloran, Associate Planner
MEETING DATE: February 2, 2022
SUBJECT: Promissory Agreement for Payment of Water Entitlement for the PG Hotel, formerly known as the Hotel Durrell *This item was continued from the January 19, 2022 meeting*
CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

Approve a promissory agreement for water entitlement for the Pacific Grove (PG) Hotel, formerly known as the Hotel Durrell, to be located at 157 Grand Avenue (APN 006-173-002)

DISCUSSION

The Pacific Grove Municipal Code (PGMC) sets forth water distribution rules in Title 11. Chapter 11.68 governs Water Entitlement processes by which potable water made available by funding and operation of the Pacific Grove Local Water Project (PGLWP) are available for sale. The City began sales of entitlement water in July 2019.

Commercial projects purchasing water entitlement include the PG Hotel located at 157 Grand Avenue and the mixed-use project at 520 Lighthouse Ave. Water has been distributed by the MPWMD for the 520 Lighthouse mixed-use project. Final occupancy will not be granted until the promissory agreement is paid in full.

At the September 1, 2021, City Council meeting the City Council adopted Ordinance 21-023 to approve a code change to 11.68.040 *Entitlement Water* to enable Promissory Agreements associated with payment of entitlement water sales. Per PGMC 11.68.040 (c), City Council approval shall be required for the City to enter into any promissory agreement related to payment for entitlement water. The maximum amount payable pursuant to the promissory agreement shall not exceed 90 percent of the purchase price with a 10 percent deposit required at the time of the execution of the agreement.

The PG Hotel is requesting Council approval for a Promissory Agreement to defer the payment of water entitlement, due to the scale of the project. The opportunity to stage costs can promote completion of projects that rely on construction loan financing. The obligation to pay water entitlement costs will be secured by the City's ability to withhold final occupancy permits. The 8.816 acre-feet requested will cost \$1,542,800.00 with the 30% discount recently reauthorized by the City Council and in effect until June 2022. The required 10% deposit in the amount of \$154,280.00 will need to be paid to execute the Promissory Agreement.

OPTIONS

1. Do not approve Promissory Agreement.
2. Provide an alternative action.

FINANCIAL IMPACT:

The issuance of a Promissory Agreement is neither a gift of water nor of public funds. The Agreement simply allows the developer of a large project, as defined in PGMC 11.68.040, to leverage financing so that the large financial outlay associated with the purchase of water can be deferred until the time of final inspection and certificate of occupancy. This is a tool that can help investment in the City and increase revenues. Resulting from increased sales and property tax. Conversely, the City will not “lose” money if the applicant defaults on the Agreement as no the Agreement does not constitute a loan and the City will retain the 10% deposit.

GOAL ALIGNMENT: Facilitate Local Business Recovery: Review and revise existing policies and programs and develop a strategic plan to better serve existing businesses.

Attachments

Draft Promissory Agreement
Draft Deed of Trust
Certificates of Good Standing
Water Release Form
Water Subscription Agreement

PROMISSORY AGREEMENT

This Promissory Note, ("NOTE") dated for reference purposes as of _____ ("Effective Date"), is made in consideration of the mutual covenants and conditions set forth below, by which the Parties agree as follows:

The CITY OF PACIFIC GROVE (CITY)

hereby promises to sell, transfer and convey to

**ROHNERT PARK RI LP, BELVNUS, LLC,
TRAVEL INN ASSOCIATES, LP, and MOHAMMAD REZAI
(Collectively, BUYER)**

Water Entitlement in the amount totaling **8.816 AF** which is the subject of this NOTE under the terms and conditions set forth below.

**FOR VALUE RECEIVED, THE UNDERSIGNED, JOINTLY AND SEVERALLY,
PROMISES:**

1. BUYER is the owner of record of the property commonly known as 157 Grand Avenue, APN 006-173-002 (the Property). Title of the Property is taken as follows:
ROHNERT PARK RI LP. A CALIFORNIA LIMITED PARTNERSHIP
AS TO AN UNDIVIDED 62.0% INTEREST; BELVNUS, LLC, A
CALIFORNIA LIMITED LIABILITY COMPANY AS TO AN
UNDIVIDED 21.0% INTEREST; TRAVEL INN ASSOCIATES, LP, A
CALIFORNIA LIMITED PARTNERSHIP AS TO AN UNDIVIDED
7.0% INTEREST AND MOHAMMAD REZAI, A MARRIED MAN AS
HIS SOLE AND SEPARATE PROPERTY AS TO AN UNDIVIDED
10.0% INTEREST
2. This NOTE evidences the obligation of BUYER to CITY for repayment of funds under a Water Subscription Agreement between BUYER and CITY. The terms and covenants of the Water Subscription Agreement are incorporated in this NOTE by reference, as if set forth in its entirety.
3. The Water Entitlement subject to this NOTE shall be used solely upon the Property and shall be subject to the conditions contained herein and in Water Subscription Agreement.
4. PRINCIPAL: BUYER promises to pay CITY the principal sum of **\$1,542,800** calculated at the rate of \$175,000 per Acre Foot.

PAYMENT PROVISIONS: This Note shall be repaid by an initial down payment of **\$154,280.00** representing ten percent (10%) of the NOTE's Principal. This down payment

shall be due upon execution of this NOTE. Payment of the remaining balance shall be deferred until BUYER submits a Notice of Completion to CITY. A Final Inspection shall be dependent on full and complete satisfaction of this NOTE and release of the Water Entitlement for use by BUYER on the property. At any time while not in default under this NOTE, BUYER may pay the outstanding balance then owing under this NOTE to CITY, without penalty.

5. INTEREST: This NOTE shall accrue interest at the rate of zero (0) percent per annum provided the BUYER is not in default. Should the BUYER be in default as to the terms of the NOTE, interest on the unpaid principal of this NOTE shall accrue interest which shall be payable at the rate of ten (10) percent per annum.
6. This NOTE is secured by a Deed of Trust recorded in the office of the County Recorder of Monterey County (Trust Deed). The Trust Deed securing this NOTE provides that CITY may at its option, declare all funds secured by the Trust Deed immediately due and payable, if any interest in the real property is sold, transferred or conveyed to any person, whether voluntarily or involuntarily. The Trust Deed further provides that if BUYER does not comply with the requirements of the Water Subscription Agreement and fails to come into compliance with the Agreement within ten (10) days after CITY's written notice to BUYER of such failure, CITY may at its option, declare all funds secured by the Trust Deed immediately due and payable.
7. To the extent applicable, BUYER shall maintain its corporate existence in good standing in California. BUYER shall maintain in force all licenses, approvals, and agreements, the loss of which could have a material adverse effect as to performance on this NOTE. BUYER shall provide to CITY a Certificate of Good Standing or Certificate of Existence from the appropriate authority, submitted within ten days upon request by CITY, certifying that BUYER is in good standing as a corporation or as an LLC, as may be applicable, in the State of California.
8. DEFAULT: All sums remaining unpaid under this NOTE shall become immediately due and payable, at CITY's option, upon ten (10) day's calendar notice without further demand, or presentment, and regardless of any prior forbearance, on the occurrence of any of the following events:
 - a. BUYER's failure to make any payment when due under the terms of this NOTE;
 - b. The filing of a petition in bankruptcy by, or the initiation of any proceeding under any bankruptcy or insolvency laws against, the BUYER or any present or future guarantor of this NOTE;
 - c. BUYER's or any present or future guarantor's default under any agreement or instrument executed in connection with this NOTE; or
 - d. The revocation of any guaranty of this NOTE by any guarantor.

9. POST DEFAULT INTEREST: Upon default, interest on the unpaid principal balance of this NOTE is payable at the rate of ten (10) percent per annum until this NOTE is paid in full, or until the date of Water Entitlement revocation occurs as provided below.
10. PAYMENT OF NOTE COSTS AND EXPENSES BY CITY: If the CITY has required the BUYER or any other holder of this NOTE to pay immediately in full as described above, CITY shall have the right to be reimbursed by BUYER for all of its costs and expenses to the extent not prohibited by applicable law, including but not limited to, outside collection agencies and reasonable attorney's fees.
11. REVOCATION OF WATER ENTITLEMENT UPON DEFAULT: Upon any event of default referenced above, the CITY at CITY's option, upon ten (10) day's calendar notice without further notice, demand, or presentment, and regardless of any prior forbearance, may revoke in full or in part the increment of Water Entitlement provided in the Water Subscription Agreement referenced above, in proportion to remaining sums (not to include interest, costs or fees) that are unpaid by the BUYER.
12. General Provisions:
 - a. ATTORNEYS' FEES AND COSTS: If any action is commenced which arises out of or related to this Promissory Note, the prevailing party shall be entitled to recover from the other party such sums as the court may adjudge to be reasonable attorneys' fees, expert fees, and expenditures in the action, in addition to costs and expenditures otherwise allowed by law. Recovery of these fees or expenses shall be as additional costs awarded to the prevailing party and shall not require initiation of a separate legal proceeding. In any matter arising out of or relating to the bankruptcy of BUYER, BUYER agrees to pay all of CITY's costs and expenditures, including attorneys' fees and expert fees, which may be incurred in enforcing or protecting CITY's rights or interests.
 - b. NON-WAIVER: No failure or delay by CITY in exercising CITY's rights under this NOTE shall be considered a waiver of such rights.
 - c. NOTICE: Any notices required or permitted to be given hereunder shall be given in writing and shall be delivered (a) in person, (b) by certified mail, postage prepaid, return receipt requested, (c) by facsimile, or (d) by a commercial overnight courier that guarantees next day delivery and provides a receipt, and such notices shall be made to the Parties at the addresses listed below.
 - d. WAIVER: Any waiver of any terms and conditions of this NOTE must be in writing and signed by the CITY and the BUYER. A waiver of any of the terms and conditions shall not be construed as a waiver of any other terms or conditions in this NOTE.
 - e. COMPLIANCE WITH APPLICABLE LAW: The Parties shall comply with all applicable federal, state, and local laws and regulations in performing this Agreement.
 - f. GOVERNING LAW. This NOTE shall be governed by and interpreted under the laws of the State of California. Venue for any action shall be in the County of Monterey.

- g. COUNTERPARTS. This NOTE may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same NOTE.
 - h. AUTHORITY. Any individual executing this NOTE on behalf of the CITY or the BUYER represents and warrants hereby that he or she has the requisite authority to enter into this NOTE on behalf of such Party and bind the Party to the terms and conditions of this NOTE.
 - i. INTEGRATION. This NOTE including the exhibits and any documents incorporated by reference, represent the entire agreement between the CITY and the BUYER with respect to the subject matter of this NOTE and shall supersede all prior negotiations, representations, or agreements, either written or oral, between CITY and BUYER as of the effective date which is the date that the CITY signs the NOTE.
 - j. SEVERABILITY. If any of the provisions contained in the NOTE are held illegal, invalid, or unenforceable, the enforceability of the remaining provisions shall not be impaired thereby. Limitations of liability and indemnities shall survive termination of the NOTE for any cause. If a part of this NOTE is valid, all valid parts that are severable from the invalid part remain in effect. If a part of this NOTE is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.
13. EXECUTION: The BUYER executes this NOTE as a principal and not as a surety. If there is more than one BUYER, each BUYER shall be jointly and severally liable under this NOTE.

[signature page to follow]

IN WITNESS WHEREOF, CITY and BUYER have executed this Agreement as of the day and year written below.

CITY OF PACIFIC GROVE

By:

City Manager

Date:

By:

Mayor

Date:

BUYER

Name

By:

(Signature of Chair, President, or
Vice-President) *

(Printed Name and Title)

Date:

Attachment: Water Subscription Agreement
 Certificate of Good Standing
 Deed of Trust

RECORDING REQUESTED BY
CITY OF PACIFIC GROVE

AND WHEN RECORDED MAIL TO
City of Pacific Grove
Attn: CDD
300 Forest Avenue
Pacific Grove, CA 93950

*No fee document pursuant to
Government Code Section 27383*

CITY OF PACIFIC GROVE

DEED OF TRUST

WITH ASSIGNMENT OF RENTS AS ADDITIONAL SECURITY

This DEED OF TRUST, made this _____, 2022, between Rohnert Park RI LP, Belvnus, LLC, Travel Inn Associates, LP, and Mohammad Rezai (herein collectively called TRUSTOR), whose property is located at 157 Grand Avenue, Pacific Grove, California 93950, Old Republic Title Company, a California corporation (herein called TRUSTEE), and the City of Pacific Grove (herein called BENEFICIARY),

TRUSTOR IRREVOCABLY GRANTS, TRANSFERS AND ASSIGNS TO TRUSTEE IN TRUST, WITH POWER OF SALE, AND RIGHT OF ENTRY AND POSSESSION that Property in the City of Pacific Grove, County of Monterey, State of California, described as:

See legal description attached as **EXHIBIT “A”** and incorporated herein by reference,

together with the rents, issues and profits thereof, subject, however, to the right, power and authority hereinafter given to and conferred upon BENEFICIARY to collect and apply such rents, issues and profits.

For the Purpose of Securing (1) payment of the sum **One Million, Five Hundred Forty-Two Thousand Eight Hundred Dollars (\$ 1,542,800)** with interest thereon according to the terms of a Promissory Note herewith made by TRUSTOR, payable to order of BENEFICIARY, and extensions or renewals thereof; (2) the performance of each agreement of TRUSTOR incorporated by reference or contained herein or reciting it is so secured; (3) payment of additional sums and interest thereon which may hereafter be loaned to TRUSTOR, or its successors or assigns, when evidenced by a promissory note reciting that it is secured by this Deed of Trust.

To protect the security of this Deed of Trust, and with respect to the Property above described, TRUSTOR expressly makes each and all of the agreements, and adopts and agrees to perform and be bound by each and all of the Agreements, Terms and Provisions set forth in the attached **EXHIBIT “B,”** incorporated herein by reference.

It is mutually agreed that all of the Agreements, Terms and Provisions set forth in **EXHIBIT “B”** shall inure to and bind the parties hereto, with respect to the Property above described.

The undersigned TRUSTOR requests that a copy of any notice of default and any notice of sale hereunder be mailed to them at their address hereinbefore set forth.

Date: _____

By: _____

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

ACKNOWLEDGEMENTS

State of California

County of _____

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

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

WITNESS my hand and official seal.

Signature _____ (seal)

EXHIBIT “A”

LEGAL DESCRIPTION

LEGAL DESCRIPTION: The land referred to is situated in the County of Monterey, City of Pacific Grove, State of California, and is described as follows:

PARCEL ONE:

Parcel 2 as shown on Parcel Map recorded in the Office of the County Recorder of Monterey County, State of

California, on August 19, 2015 in Book 23, Page 48 of Parcel Maps.

PARCEL TWO:

25 foot reciprocal vehicle access easement over a portion of Parcel 1, as shown on the above referenced Parcel Map.

APN: 006-173-002

EXHIBIT "B"

AGREEMENTS, TERMS, AND PROVISIONS

The following is incorporated by reference in the foregoing Deed of Trust as being a part thereof as if set forth at length therein.

A. TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR AGREES:

(1) To keep said property in good condition and repair; not to remove or demolish any building thereon without prior written City approval; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon and to pay when due all claims for labor performed and materials furnished therefor; to comply with all laws affecting said property or requiring any alterations or improvements to be made thereon; not to commit or permit waste thereof; not to commit, suffer, or permit any act upon said property in violation of law; to cultivate, irrigate, fertilize, fumigate, prune and do all other acts which from the character or use of said property may be reasonably necessary, the specific enumerations herein not excluding the general.

(2) To provide TRUSTEE 90-days' advance written notice of any change in ownership, management, or control of said property; to provide 90-days advance written notice of any change or revocation to the "Tenant In Common Agreement" Effective March 12th, 2020 regarding said property.

(3) To provide, maintain and deliver to BENEFICIARY fire insurance satisfactory to and with loss payable to BENEFICIARY. The amount collected under any fire or other insurance policy may be applied by BENEFICIARY upon any indebtedness secured hereby and in such order as BENEFICIARY may determine, or at option of BENEFICIARY the entire amount so collected or any part thereof may be released to TRUSTOR. Such application or release shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

(4) To appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of BENEFICIARY or TRUSTEE; and to pay all costs and expenses, including cost of evidence of title and attorney's fees in a reasonable sum, in any action or proceeding in which BENEFICIARY or TRUSTEES may appear, and in any suit brought by BENEFICIARY to foreclose this Deed of Trust.

(5) To pay: at least ten days before delinquency all taxes and assessments affecting said property, including assessments; when due, all encumbrances, charges and liens, with interest, on said property or any part thereof, which appear to be prior or superior hereto; all costs, fees and expenses of this Trust.

Should TRUSTOR fail to make any payment or to do any act as herein provided, then BENEFICIARY or TRUSTEE, but without obligation so to do and without notice to or demand upon TRUSTOR and without releasing TRUSTOR from any obligation hereof, may, make or do the same in such manner and to such extent as either may deem necessary to protect the security hereof, BENEFICIARY or TRUSTEE being authorized to enter upon said property for such purposes; appear in and defend any action or proceeding purporting to affect the security hereof or the rights or powers of BENEFICIARY or TRUSTEE; pay, purchase, contest or compromise any encumbrance, charge, or lien

which in the judgment of either appears to be prior or superior hereto; and, in exercising any such powers, pay necessary expenses, employ counsel and pay his or her reasonable fees.

(6) To pay immediately and without demand all sums so expended by BENEFICIARY or TRUSTEE, with interest from date of expenditure at the amount allowed by law in effect at the date hereof, and to pay for any statement provided for by law in effect at the date hereof regarding the obligation secured hereby, any amount demanded by the BENEFICIARY not to exceed the maximum allowed by law at the time when said statement is demanded.

B. IT IS MUTUALLY AGREED:

(1) That any award of damages in connection with any condemnation for public use of or injury to said property or any part thereof is hereby assigned and shall be paid to BENEFICIARY who may apply or release such moneys received by it in the same manner and with the same effect as above provided for regarding disposition of proceeds of fire or other insurance.

(2) That by accepting payment of any sum secured hereby after its due date, BENEFICIARY does not waive its right either to require prompt payment when due of all other sums so secured or to declare default for failure so to pay.

(3) That at any time or from time to time, without liability therefor and without notice, upon written request of BENEFICIARY and presentation of this Deed of Trust and said Promissory Note for endorsement, and without affecting the personal liability of any person for payment of the indebtedness secured hereby, TRUSTEE may: reconvey any part of said property; consent to the making of any map or plat thereof; join in granting any easement thereon; or join in any extension agreement or any agreement subordinating the lien or charge hereof.

(4) That upon written request of BENEFICIARY stating that all sums secured hereby have been paid, and upon surrender of this Deed of Trust and said Promissory Note to TRUSTEE for cancellation and retention or other disposition as TRUSTEE in its sole discretion may choose and upon payment of its fees, TRUSTEE shall reconvey, without warranty, the property then held hereunder. The recitals in such reconveyance of any matters or facts shall be conclusive proof of the truthfulness thereof. The Grantee in such reconveyance may be described as "the person or persons legally entitled thereto."

(5) That as additional security, TRUSTOR hereby gives to and confers upon BENEFICIARY the right, power and authority, during the continuance of this Trust, to collect the rents, issues and profits of said property, reserving unto TRUSTOR the right, prior to any default by TRUSTOR in payment of any indebtedness secured hereby or in performance of any agreement hereunder, to collect and retain such rents, issues and profits as they become due and payable. Upon any such default, BENEFICIARY may at any time without notice, either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness hereby secured, enter upon and take possession of said property or any part thereof, in its own name sue for or otherwise collect such rents, issues, and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees, upon any indebtedness secured hereby, and in such order as BENEFICIARY may determine. The entering upon and taking possession of said property, the collection of such rents, issues and profits and the application thereof as aforesaid, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

(6) That upon default by TRUSTOR in payment of any indebtedness secured hereby or in performance of any agreement hereunder, BENEFICIARY may declare all sums secured hereby immediately due and payable by delivery to TRUSTEE of written declaration of default and demand for sale and of written notice of default and of election to cause to be sold said property, which notice TRUSTEE shall cause to be filed for record. BENEFICIARY also shall deposit with TRUSTEE this Deed of Trust, said Promissory Note and all documents evidencing expenditures secured hereby.

After the lapse of such time as may then be required by law following the recordation of said notice of default, and notice of sale having been given as then required by law, TRUSTEE, without demand on TRUSTOR, shall sell said property at the time and place fixed by it in said notice of sale, either as a whole or in separate parcels, and in such order as it may determine, at public auction to the highest bidder for cash in lawful money of the United States, payable at time of sale. TRUSTEE may postpone sale of all or any portion of said property by public announcement at such time and place of sale, and from time to time thereafter may postpone such sale by public announcement at the time fixed by the preceding postponement. TRUSTEE shall deliver to such purchaser its deed conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in such deed of any matters or facts shall be conclusive proof of the truthfulness thereof. Any person, including TRUSTOR, TRUSTEE, or BENEFICIARY as hereinafter defined, may purchase at such sale.

After deducting all costs, fees and expenses of TRUSTEE and of this Trust, including cost of evidence of title in connection with sale, TRUSTEE shall apply the proceeds of sale to payment of: all sums expended under the terms hereof, not then repaid, with accrued interest at the amount allowed by law in effect at the date hereof; all other sums then secured hereby; and the remainder, if any, to the person or persons legally entitled thereto.

(7) BENEFICIARY, or any successor in ownership of any indebtedness secured hereby, may from time to time, by instrument in writing, substitute a successor or successors to any TRUSTEE named herein or acting hereunder, which instrument, executed by the BENEFICIARY and duly acknowledged and recorded in the office of the recorder of the county or counties where said property is situated, shall be conclusive proof of proper substitution of such successor Trustee or Trustees, who shall, without conveyance from the TRUSTEE predecessor, succeed to all its title, estate, rights, powers and duties. Said instrument must contain the name of the original TRUSTOR, TRUSTEE and BENEFICIARY hereunder, the book and page where this Deed is recorded and the name and address of the new Trustee.

(8) That this Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors, and assigns. The term BENEFICIARY shall mean the owner and holder, including pledgees of the Promissory Note secured hereby, whether or not named as BENEFICIARY herein. In this Deed of Trust, whenever the context so requires, the masculine gender includes the feminine and/or the neuter, and the singular number includes the plural.

(9) The TRUSTEE accepts this Trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. TRUSTEE shall notify any party hereto of pending sale under any other Deed of Trust.



Secretary of State Certificate of Status

I, SHIRLEY N. WEBER, Ph.D., Secretary of State of the State of California, hereby certify:

Entity Name: BELVNUS, LLC
File Number: 201733210050
Registration Date: 11/17/2017
Entity Type: DOMESTIC LIMITED LIABILITY COMPANY
Jurisdiction: CALIFORNIA
Status: ACTIVE (GOOD STANDING)

As of January 5, 2022 (Certification Date), the entity is authorized to exercise all of its powers, rights and privileges in California.

This certificate relates to the status of the entity on the Secretary of State's records as of the Certification Date and does not reflect documents that are pending review or other events that may affect status.

No information is available from this office regarding the financial condition, status of licenses, if any, business activities or practices of the entity.



IN WITNESS WHEREOF, I execute this certificate
and affix the Great Seal of the State of California
this day of January 6, 2022.

SHIRLEY N. WEBER, Ph.D.
Secretary of State

Certificate Verification Number: Z2X3G6R

To verify the issuance of this Certificate, use the Certificate Verification Number above with the Secretary of State Certification Verification Search available at webbizfile.sos.ca.gov/certification/index.



Secretary of State Certificate of Status

I, SHIRLEY N. WEBER, Ph.D., Secretary of State of the State of California, hereby certify:

Entity Name: ROHNERT PARK RI L.P.
File Number: 201217300011
Registration Date: 06/21/2012
Entity Type: DOMESTIC LIMITED PARTNERSHIP
Jurisdiction: CALIFORNIA
Status: ACTIVE (GOOD STANDING)

As of January 5, 2022 (Certification Date), the entity is authorized to exercise all of its powers, rights and privileges in California.

This certificate relates to the status of the entity on the Secretary of State's records as of the Certification Date and does not reflect documents that are pending review or other events that may affect status.

No information is available from this office regarding the financial condition, status of licenses, if any, business activities or practices of the entity.



IN WITNESS WHEREOF, I execute this certificate
and affix the Great Seal of the State of California
this day of January 6, 2022.

SHIRLEY N. WEBER, Ph.D.
Secretary of State

Certificate Verification Number: ZBJNAPR

To verify the issuance of this Certificate, use the Certificate Verification Number above with the Secretary of State Certification Verification Search available at bizfile.sos.ca.gov/certification/index.



Secretary of State Certificate of Status

I, SHIRLEY N. WEBER, Ph.D., Secretary of State of the State of California, hereby certify:

Entity Name: TRAVEL INN ASSOCIATES, LP
File Number: 200527300006
Registration Date: 09/30/2005
Entity Type: DOMESTIC LIMITED PARTNERSHIP
Jurisdiction: CALIFORNIA
Status: ACTIVE (GOOD STANDING)

As of January 5, 2022 (Certification Date), the entity is authorized to exercise all of its powers, rights and privileges in California.

This certificate relates to the status of the entity on the Secretary of State's records as of the Certification Date and does not reflect documents that are pending review or other events that may affect status.

No information is available from this office regarding the financial condition, status of licenses, if any, business activities or practices of the entity.



IN WITNESS WHEREOF, I execute this certificate and affix the Great Seal of the State of California this day of January 6, 2022.

SHIRLEY N. WEBER, Ph.D.
Secretary of State

Certificate Verification Number: Z1N374R

To verify the issuance of this Certificate, use the Certificate Verification Number above with the Secretary of State Certification Verification Search available at bizfile.sos.ca.gov/certification/index.

MONTEREY PENINSULA WATER MANAGEMENT DISTRICT
NON-RESIDENTIAL WATER RELEASE FORM AND WATER PERMIT APPLICATION

NOTE: When approved and signed by the Jurisdiction this form must be submitted with final and complete Construction Plans to:

5 Harris Court, Bldg. G ~ Monterey, CA 93940 ~ (831) 658-5601 ~ www.mpwmd.net

Completing the Water Release Form & Water Permit Application does not guarantee issuance of a Water Permit.

ALL SPACES BELOW MUST BE COMPLETED OR THE APPLICATION MAY NOT BE PROCESSED. (Please print firmly)

1. OWNERSHIP INFORMATION:

Name: Rohnert Park RD LP et al
Daytime telephone: 510 853-2100
Mailing Address: 1260 Munras Ave. Monterey CA 93960
E-Mail Address: belvnus@yahoo.com

2. AGENT/REPRESENTATIVE INFORMATION:

Name: Robert Leach
Daytime telephone: 916 798-3649
Mailing Address: 2347 Loch Way El Dorado Hills, CA 95762
E-Mail Address: robert@westriverhotels.com

3. PROPERTY INFORMATION:

Year building was constructed? _____ Existing Square-footage 17,650 Proposed Square-footage 9,087.3
Address: 157 Grand Ave, Pacific Grove, CA Assessor Parcel Number 006-173-002

Water Company serving parcel: _____ Is a water meter needed? (Circle one) YES/ NO (How Many _____)
NOTE: Separate water meters are required for each User. Cal-AM Account Number: _____

4. Type of Non-Residential Use: 102 room hotel with subterranean parking and on site restaurant and Day Spa

5. Project Description (Be thorough and detailed): 102 room hotel with approximately 3776 Sf restaurant of approximately 40 seats interior and 20 seats exterior, day spa area of 865 SF, and a fitness center of approximately 760 Sf

Any change in Use/Expansion of Use requires a Water Permit. Deed Restriction Required for all Water Permits. Mandatory Retrofit Upon Expansion of Use.

Existing Group I (All Uses before project)

Users in this category are low water uses where water is primarily used for employee hygiene and minimal janitorial uses. Examples are shown below.

Type of Use	SqFt	Factor	Capacity
Auto Uses		x 0.00007	=
Bank		x 0.00007	=
Dry Cleaner (No Onsite Laundry)		x 0.00007	=
Gym		x 0.00007	=
Nail Salon		x 0.00007	=
Office		x 0.00007	=
Retail	17,650	x 0.00007	= 1.235
Supermarket		x 0.00007	=
Warehouse		x 0.00007	=
Tasting Room (ABC Type 2)		x 0.00007	=

Post Project Group I (All Uses after project)

Type of Use	SqFt	Factor	Capacity
Auto Uses		x 0.00007	=
Bank		x 0.00007	=
Dry Cleaner (No Onsite Laundry)		x 0.00007	=
Gym	760	x 0.00007	= 0.0532
Nail Salon (Day Spa)	865	x 0.00007	= 0.06055
Office Hotel admin	919	x 0.00007	= 0.06433
Retail		x 0.00007	=
Supermarket		x 0.00007	=
Warehouse		x 0.00007	=
Tasting Room (ABC Type 2)		x 0.00007	=

Existing Group II (All Uses before project)

Users in this category prepare and/or sell food/beverages that are primarily provided to customers in/on disposable tableware. Food with high moisture content and liquid food may be served on reusable tableware. Glassware may be used to serve beverages. Users in this category are not full-service restaurants.

Type of Use	SqFt	Factor	Capacity
Bakery		x 0.0002	=
Bar (ABC License-Indoor/Outdoor)		x 0.0002	=
Catering		x 0.0002	=
Coffee House		x 0.0002	=
Deli		x 0.0002	=
Ice Cream Shop/ Sandwich Shop		x 0.0002	=
Pizza		x 0.0002	=

Post Project Group II (All Uses after project)

Type of Use	SqFt	Factor	Capacity
Bakery		x 0.0002	=
Bar (ABC License-Indoor/Outdoor)		x 0.0002	=
Catering		x 0.0002	=
Coffee House		x 0.0002	=
Deli		x 0.0002	=
Ice Cream Shop/ Sandwich Shop		x 0.0002	=
Pizza		x 0.0002	=

Existing Group III (All Uses before project)

Type of Use	Quantity/SF	Factor	Capacity
Assisted Living (more than 6 beds)		x 0.085 bed	=
Dry Cleaner (with Onsite Laundry)		x 0.0002	=
Beauty Shop/Dog Grooming		x 0.0567 station	=
Child/Dependent Adult Day Care		x 0.0072 person	=
Dormitory		x 0.020 bed	=
Laundromat		x 0.12 machine	=
Motel/Hotel/Bed & Breakfast		x 0.064 room	=
w/Large Tub (add to room)		x 0.03 tub	=
w/Each Showerhead beyond one		x 0.02 per head	=
Irrigated area (within 10 ft. of bldg.)		x ETWU ¹	=
Plant Nursery		x 0.00009 sf	=
Public Toilet		x 0.058 toilet	=
Public Urinal		x 0.036 urinal	=
Zero Water Consumption Urinal		No value	=
Recreational Vehicle (RV) Hookup		x 0.064	=
Restaurant (Includes Bar/Brewpub Seat)	42	x 0.02 seat	= 0.84
Ext. Seats above Allowance		x 0.01 seat	=
Ext. Seats within Allowance		No value	=
Restaurant (24-Hour and Fast Food)		x 0.038 seat	=
School/Church		x 0.00007 sf	=
Self-Storage		x 0.0008 unit	=
Skilled Nursing/Alzheimer's Care		x 0.120 bed	=
Spa		x 0.05 spa	=
Swimming Pool (each 100 sq-ft of pool surface)		x 0.02 sf	=
Theater		x 0.0012 seat	=
EXISTING Capacity		TOTAL	= 2.075

Post Project Group III (All Uses after project)

Type of Use	Quantity/SF	Factor	Capacity
Assisted Living (more than 6 beds)		x 0.085 bed	=
Dry Cleaner (with Onsite Laundry)		x 0.0002	=
Beauty Shop/Dog Grooming		x 0.0567 station	=
Child/Dependent Adult Day Care		x 0.0072 child	=
Dormitory		x 0.020 bed	=
Laundromat		x 0.12 machine	=
Motel/Hotel/Bed & Breakfast	102	x 0.064 room	= 6.525
w/Large Tub (add to room)	13	x 0.03 tub	= 0.39
w/Each Showerhead beyond one		x 0.02 per head	=
Irrigated area (within 10 ft. of bldg.)		x ETWU	=
Plant Nursery		x 0.00009 sf	=
Public Toilet	6	x 0.058 toilet	= 0.348
Public Urinal		x 0.036 urinal	=
Zero Water Consumption Urinal		No value	=
Recreational Vehicle (RV) Hookup		x 0.064	=
Restaurant (Includes Bar/Brewpub Seat)	160	x 0.02 seat	= 3.2
Ext. Seats above Allowance	20	x 0.01 seat	= 0.2
Ext. Seats within Allowance		No Value	=
Restaurant (24-Hour and Fast Food)		x 0.038 seat	=
School/Church		x 0.00007 sf	=
Self-Storage		x 0.0008 unit	=
Skilled Nursing/Alzheimer's Care		x 0.120 bed	=
Spa	1	x 0.05 spa	= 0.05
Swimming Pool (each 100 sq-ft of pool surface)		x 0.02 sf	=
Theater		x 0.0012 seat	=
PROPOSED Capacity		TOTAL	= 10.891

Group IV - Modified Uses

Reduced water Capacity and have received a Water Use Credit or modified factor from the District

New/Refurbished Landscape - Refer to [District Rule 142.1 "Water Efficient Landscape Requirements"](#)

PROPOSED WATER CAPACITY (DIFFERENCE BETWEEN EXISTING CAPACITY - POST PROJECT CAPACITY)

NOTE: Water Factors are subject to change by Board action.

(Jurisdiction must authorize water for positive result)

In completing this Water Release Form, the undersigned (as owner or as agent for the property owner) acknowledges that any discrepancy or mistake may cause rejection or delay in processing of the application. Additionally, the undersigned is responsible for accurately accounting for the type of Non-Residential use. Changes of Use or Expansions completed without a Water Permit may result in additional fees and penalties, the imposition of a lien on the property, and the deduction of water from the local Jurisdiction's Allocation.

I certify, under penalty of perjury, that the information provided on this Water Release Form & Permit Application is to my knowledge correct, and the information accurately reflects the changes presently planned for this property.

Signature of Owner/Agent 

Date 1/21/22

AUTHORIZATION FOR WATER PERMIT - JURISDICTION USE ONLY

AF Paralia Allocation _____ AF Public Credits _____ AF Pre-Paralia Credits _____ WDS (Private Well) _____ No water needed _____ Entitlement _____
Notes: _____ Authorized by: _____ Date: _____

¹ See [MPWMD Rule 142.1](#)



CITY OF PACIFIC GROVE
300 FOREST AVENUE
PACIFIC GROVE, CALIFORNIA 93950

WATER SUBSCRIPTION AGREEMENT

The undersigned (“Subscriber”) understands the CITY OF PACIFIC GROVE, a Charter City of the State of California (“City”), has offered increments of water for sale (the “Available Water Entitlement”) that derive from the Water Entitlement granted to the City by the Monterey Peninsula Water Management District (“MPWMD”) in accord with MPWMD Rule 23.9, “City of Pacific Grove Water Entitlement,” attached as **Exhibit 1** hereto. Rule 23.9 was adopted by the MPWMD Board of Directors on February 23, 2016. The Available Water Entitlement is evidenced by Water Use Permits and will, to the extent transferred, have the rights, privileges, and preferences as set forth in the Rule.

Sale, distribution and use of the Available Water Entitlement shall conform to the interpretation of the State Water Resources Control Board (“SWRCB”) set forth in the April 19, 2019 joint letter of Erik Ekdahl, Deputy Director, Division of Water Rights, SWRCB, and Leslie S. Laudon, Deputy Director, Division of Financial Assistance, SWRCB (“April 19, 2019 Letter”), a copy of which is attached as **Exhibit 2** hereto.

Sale, distribution and use of available water shall also conform to the Pacific Grove Water Distribution Regulations set forth in Pacific Grove Municipal Code (PGMC) Chapter 11.68, a copy of which is attached as **Exhibit 3** hereto.

The Subscriber understands the offering is made only to holders of record of fee title to property located in the City of Pacific Grove.

1. Subscription.

Subject to terms, conditions and limits of this Water Subscription Agreement (“Agreement”), Subscriber commits to acquire and subscribes to the quantity (“Entitlement Increment”) of Available Water Entitlement shown on **Appendix A** to this Agreement and pay the price of **\$ 250,000** per acre foot for the Entitlement Increment. (This price may be temporarily adjusted by an applicable discount if authorized by the City Council.) The Entitlement Increment shall be dedicated to the specific real property described in **Appendix B** to this Agreement (“Property”). The purchase price is payable as described in Section 4 of this Agreement. The City has set the minimum subscription shall be one-hundredth (.01) of an acre foot and in minimum increments of one-hundredth (one acre foot is equal to 100 fixture units under the MPWMD’s methodology). Subscriber acknowledges the City has the right, in its sole discretion, to reduce or even reject in its entirety the amount of Available Water Entitlement to be sold pursuant to this Agreement.

2. Acceptance of Subscription.

This Agreement shall be accepted by the City only when it is signed by an authorized officer of the City and delivered to the Subscriber. Notwithstanding anything in this Agreement to the contrary,

the City shall have no obligation to transfer any Available Water Entitlement to property owner's property if transfer of the Available Water Entitlement to the Property would violate Rule 23.9, violate terms of the April 19, 2019 Letter, violate PGMC Chapter 11.68 or violate other applicable laws (collectively, "Laws").

3. Closing Date, Time and Place.

The closing of the transfer of the Entitlement Increment from the City to the Subscriber to be dedicated to the Property, and the payment by the Subscriber for the Entitlement Increment (the "Closing"), shall take place at the Monterey office of Chicago Title Company to be specified by the City in a written notice to the Subscriber (the "Escrow Holder"). Subject to the satisfaction or waiver of the conditions precedent set forth in this Agreement, the Closing shall take place on a date and time designated by the City.

4. Payment; The Closing.

(a) At least five (5) days prior to the Closing, the Subscriber shall deposit with Escrow Holder, by cashier's check or wire transfer into the escrow account, the full amount of the purchase price set forth in **Appendix A** to this Agreement. Provided all conditions precedent have been satisfied, then on or before the business day prior to the Closing, the City shall deposit with Escrow Holder documents transferring the Entitlement Increment to the Subscriber to be dedicated to the Property (the "Conveyance Documents"), which documents shall be duly executed by authorized signatories on behalf of the City and, when necessary for recordation, properly acknowledged. The Subscriber and the City shall each deposit such other instruments as are reasonably required to consummate the transfer of the Entitlement Increment in accordance with the terms of this Agreement and applicable Laws.

(b) When all required documents and funds have been deposited with Escrow Holder, and all conditions precedent have been satisfied, Escrow Holder shall immediately close Escrow by:

- (i) recording the Conveyance Documents with the Monterey County Recorder's Office, together with instructions for the County Recorder to deliver the Conveyance Documents to the Subscriber after recording, and
- (ii) paying the amount set forth in **Appendix A** to this Agreement, reduced by the closing costs payable by the City pursuant to Section 8 of this Agreement, to an account designated by the City in accordance with applicable Laws. The Subscriber shall execute such additional escrow instructions as may be reasonably requested by Escrow Holder, but in the event of any inconsistency between the terms of such escrow instructions and the terms of this Agreement, the terms of this Agreement shall prevail.

5. Additional Provisions/ Exhibits.

These Exhibits and Appendices are incorporated by this reference as an integral part of this Agreement:

Exhibit 1:	MPWMD Rule 23.9, "City of Pacific Grove Water Entitlement"
Exhibit 2:	April 19, 2019 Letter
Exhibit 3:	PGMC Chapter 11.68, "Water Distribution Regulations"
Appendix A:	Purchase Price
Appendix B:	Legal Description of Real Property

6. Representations and Warranties of the City.

As of the Closing, the City represents and warrants that:

- (a) The City is duly formed and validly exists under the laws of the State of California, with full power and authority to conduct business as it is currently being conducted and to own its assets.
- (b) The City has duly authorized transfer of the Entitlement Increment pursuant to this Agreement.
- (c) Except as otherwise expressly provided in this Agreement, the City disclaims any representations or warranties, express or implied, regarding the Entitlement Increment or matters affecting the Entitlement Increment.
- (d) The City will take no position contrary to continued existence of the Entitlement Increment or Available Water Entitlement, or that would jeopardize availability of water sufficient to satisfy the Entitlement Increment.

7. Representations, Warranties, and Covenants of the Subscriber.

Subscriber represents, warrants and covenants with the City and each officer, director, and agent of the City that:

(a) General:

- (i) Subscriber has all requisite authority to enter into this Agreement and to perform all the obligations required to be performed hereunder.
- (ii) Subscriber is the holder (of record) of fee title to the Property and is not acquiring the Entitlement Increment as an agent or otherwise for any other person.
- (iii) The Property is located in the City of Pacific Grove.

(b) Information Concerning the Entitlement Increment and related State Water Resources Control Board and other legal proceedings:

- (i) Subscriber has reviewed, or has had the opportunity to review, (A) MPWMD Rule 23.9, “City of Pacific Grove Water Entitlement” (Exhibit 1); (B) “April 19, 2019 Letter” (Exhibit 2), (C) SWRCB Cease and Desist Order WR 2009-0060, dated October 20, 2009, as amended by Order WR 2010-0001, dated January 5, 2010, against California American Water Company (“Cal-Am”) (Order WR 2009-0060 and Order WR 2010-0001 are collectively referred to herein as the “Order” and are found at the State Water Resources Control Board website: http://www.waterboards.ca.gov/waterrights/water_issues/programs/hearings/caw_cdo/); and (D) litigation in the Superior Court of California by various parties (including Cal-Am and MPWMD) challenging the validity of the Order, including MPWMD and *Cal-Am v. SWRCB*, Santa Clara County Case No. 1-10-CV163328 (collectively, the “Lawsuits”).

(ii) In entering into this Agreement and completing the purchase and transfer of the Entitlement Increment contemplated herein, Subscriber has not relied on any information from the City other than that expressly contained in this Agreement (including the appendices and exhibits). Neither the City nor anyone acting or claiming to act on behalf of City has made any representation or warranty concerning the Order or the Lawsuits, or their impact or potential impact on Subscriber's ownership or use of the Entitlement Increment as contemplated in, and in accordance with, Rule 23.9, nor have they given legal advice to Subscriber. Subscriber is exclusively relying on the advice of its own legal counsel regarding the legal merits and consequences of this Agreement and the transfer, ownership, and use of the Entitlement Increment, including the impact or potential impact of the Order and/or the Lawsuits on the Entitlement Increment.

(iii) Subscriber waives any right, claim, or cause of action, known or otherwise, against the City arising from the Order, any amendment or modification of the Order, and/or the Lawsuits.

(iv) Subscriber shall take title to the Entitlement Increment subject to the Order, any amendment or modification to the Order, the April 19, 2019 Letter, the Lawsuits, and/or any effects of any of them, whether known or unknown, disclosed or undisclosed, including, without limitation, the potential that Subscriber may be prohibited from using the Entitlement Increment as contemplated in, and in accordance with Rule 23.9.

(v) Subscriber hereby releases City and each Exculpated Party (as defined below) from any liability of any kind or nature arising with respect to the Order, any amendment or modification to the Order, the April 19, 2019 Letter, and/or the Lawsuits, and, specifically, agrees that, if any claim or action is brought against Subscriber arising out of the Order, any amendment or modification to the Order, and/or the Lawsuits, Subscriber shall have no claim of any kind or nature against City or any Exculpated Party.

(vi) Subscriber hereby agrees that (A) City shall have no further liability or obligation in respect to matters of any kind or nature pertaining to the Entitlement Increment, the Order, any amendment or modification to the Order, the April 19, 2019 Letter, and/or Lawsuits, as they relate to the Property, and (B) Subscriber shall fully assume any such liability or obligation as it relates to the Entitlement Increment, the Order, any amendment or modification to the Order, the April 19, 2019 Letter, and/or the Lawsuits, as they relate to the Property.

(vii) Notwithstanding anything to the contrary contained in this Agreement, no officer, employee, manager, partner, or agent of the City (collectively, the "Exculpated Parties"), whether disclosed or undisclosed, shall have any personal obligation or liability hereunder, and Subscriber shall not seek to assert any claim or enforce any of its rights under this Agreement against any Exculpated Party.

(viii) Notwithstanding anything to the contrary in this Agreement, any liability or other obligation of the City contained in this Agreement that, despite the terms of this Agreement to the contrary, survives the closing, or any liability or other obligation of the City under any other document or instrument delivered by the City in connection with the Closing, shall not

exceed a total aggregate amount equal to the purchase price set forth in Appendix A to this Agreement.

(ix) Prior to executing this Agreement, Subscriber has been given the opportunity to obtain information necessary to evaluate the information set forth in Rule 23.9, the Order, the April 19, 2019 Letter, and/or the Lawsuits, and has obtained from its own legal or other professional advisors all such information so requested.

(c) Financial and Other Matters:

(i) Subscriber acknowledges it has not received from the City, or anyone acting or claiming to act on the City's behalf, any accounting, tax, financial, architectural, permitting, legal or other advice with respect to this Agreement and the transfer, ownership, or use of the Entitlement Increment. To the extent necessary, Subscriber has retained, at its sole expense, and relied solely upon, the advice of its own accounting, tax, financial, architectural, permitting, legal, and other professional advisors regarding the merits and consequences of this Agreement and the transfer, ownership, and use of the Entitlement Increment.

(ii) Subscriber agrees to furnish additional information requested by any governmental agency to assure compliance with Rule 23.9, the April 19, 2019 Letter, and other Laws in connection with the transfer of the Entitlement Increment.

(d) Restrictions on Further Transfer: Subscriber may transfer the Entitlement Increment only to successors-in-interest to the Property; Subscriber acknowledges and agrees the Entitlement Increment cannot be transferred independently to any other person or property.

(e) Reaffirmation and Confirmation of Subscriber's Representations, Warranties, and Covenants at Closing: Subscriber understands that, unless it notifies the City in writing to the contrary at or before the Closing, each of the representations, warranties, and covenants contained in this Agreement will be deemed to have been reaffirmed and confirmed as of the Closing.

8. Conditions to Obligations of Subscriber and the City.

(a) Obligations of the Subscriber to obtain and pay for the Entitlement Increment specified herein, and of City to transfer the Entitlement Increment, are subject to the following conditions precedent. If all conditions precedent set forth in this Section have not been satisfied or waived within the times provided below, the party for whose benefit the unsatisfied condition exists may unilaterally cancel this Agreement at any time thereafter, prior to such satisfaction or waiver, by written notice to Escrow Holder and the other party. If the party for whose benefit the unsatisfied condition exists cancels this Agreement as provided above, the Escrow Holder shall return to each party all funds and other items, if any, deposited by that party with the Escrow Holder.

(i) As of the Closing, except for the Order and the Lawsuits, no administrative, legislative, or judicial action or proceeding shall be pending wherein an unfavorable judgment, order, decree, or ruling would (A) prevent consummation of the transaction contemplated by this Agreement, or (B) prohibit or otherwise affect adversely the right of Subscriber to own and use the Entitlement Increment as contemplated in, and in accordance with, Rule 23.9 (and no such judgment, order, decree, or ruling shall be in effect). This condition is for the benefit

of both parties. The Subscriber is purchasing a portion of the Available Water Entitlement expressly subject to the Order and the Lawsuits.

(ii) The representations and warranties of the City contained in this Agreement and the representations and warranties of the Subscriber contained in this Agreement shall be true and correct on and as of the Closing in all respects with the same effect as though such representations and warranties had been made on and as of the Closing. This condition is for the benefit of each of the parties as to the representations and warranties of the other party.

(b) Subscriber shall make full use of purchased entitlement water (quantified by Water Use Capacity set by MPWMD) no later than the first date of occupancy for any improvement constructed based upon any part of the entitlement water purchase.

9. Costs.

Subscriber shall be solely responsible for the payment of all escrow fees and recording costs related to the Closing. Subscriber shall be solely responsible for the payment of all fees, costs and expenses of any nature whatsoever accruing or arising following the Closing Date in connection with the transfer, ownership, or use of the Entitlement Increment, including, without limitation, any capacity or other fees payable to the MPWMD, or any fees payable to California American Water Company. Except as otherwise specifically set forth elsewhere in this Agreement, each party shall pay its own attorney's fees and any other fees, costs, or expenses incurred by it regarding this Agreement and the Entitlement Increment transfer contemplated hereby.

10. Notices.

Notices required under this Agreement shall be delivered personally or by first-class, postage pre-paid mail to the City and Subscriber at the addresses listed below:

FOR CITY:	FOR SUBSCRIBER:
Bill Peake	JAY DESAI
	Rohnert Park RI LP
Mayor	Owner
300 Forest Avenue	P.O Box 2106,
Pacific Grove, CA 93950	Monterey CA 93942.
Address	Address
(831) 648-3127	(510) 914-7679

11. Miscellaneous Provisions.

(a) Brokers. Subscriber has not entered into any agreement to pay any broker's or finder's fee to any person with respect to this Agreement or the transactions contemplated hereby.

(b) Amendment. This Agreement may be amended or modified only by an instrument in writing signed by the City and the Subscriber.

(c) Waiver. Any waiver of terms or conditions of this Agreement must be in writing and signed by the City and the Subscriber. A waiver of any of the terms and conditions of this Agreement shall not be construed as a waiver of any other terms or conditions in this Agreement.

(d) Assignability. Neither this Agreement nor any right, remedy, obligation, or liability arising hereunder or by reason hereof shall be assignable by the Subscriber without the prior written consent of the City; provided that the Subscriber may assign this Agreement without the prior written consent of the City to any successor-in-interest to the Subscriber's fee interest in the Property.

(e) Applicable Law. This Agreement shall be governed by and interpreted under the laws of the State of California. Venue for any challenge shall be in Monterey County.

(f) Headings. The section and other headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

(g) Counterparts. This Agreement may be executed in two or more counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which together shall be deemed to be one and the same agreement.

(h) Construction of Agreement. The City and Subscriber agree each party has fully participated in the review and revision of this Agreement and any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Agreement or any amendment to this Agreement.

(i) Binding Effect. This Agreement shall bind upon and accrue to the benefit of the parties and their respective heirs, legal representatives, successors, and assigns.

(j) Survival. All representations, warranties, and covenants by the Subscriber contained in this Agreement shall survive (i) the acceptance of this Agreement by the City, (ii) the Closing (and shall not merge with the provisions of any closing documents), and (iii) the death or disability of the Subscriber. If the Subscriber is more than one person, the obligations of the Subscriber shall be joint and several and the representations, warranties, and covenants shall be deemed to be made by and be binding on each of the Subscriber, and their respective heirs, executors, administrators, successors, and assigns.

(k) Notification of Changes. The Subscriber covenants and agrees to notify City upon the occurrence of any event prior to the Closing of the transfer of the Entitlement Increment pursuant to this Agreement that would cause any representation, warranty, or covenant of the Subscriber contained in this Agreement to be false or incorrect.

(l) Integration. This Agreement and the attached appendices and exhibits constitute the entire agreement between the Subscriber and the City. There are no oral agreements or representations that are not expressly set forth in this Agreement.

(m) Severability. If any term, provision, or condition contained in this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, provision, or condition to persons or circumstances other than those with respect to which it is invalid or unenforceable, shall not be affected thereby, and each and every other term, provision, and condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

IN WITNESS WHEREOF, City and SUBSCRIBER have executed this Agreement as of the day and year written below.

SUBSCRIBER:

Managing Partner:

JAY DESAI
Rohnert Park RI LP

P.O Box 2106 Monterey CA 93942.

Mailing Address City State Zip

Email address: desaijay11@yahoo.com

Phone Number: 510 914-7679

Date: _____

Accepted by CITY OF PACIFIC GROVE:

Date: _____ By: _____
Bill Peake, Mayor

City Agreement Number: 41

EXHIBIT 1

RULE 23.9 - CITY OF PACIFIC GROVE WATER ENTITLEMENT

A. CITY OF PACIFIC GROVE WATER ENTITLEMENT

1. The City of Pacific Grove Water Entitlement confers on the City of Pacific Grove, a vested property right to release up to 66 AFA of water for consumption from the California American Water Company Water Distribution System.
2. 13 AFA of metered water demand previously used by the City of Pacific Grove to irrigate its Golf Links and El Carmelo Cemetery shall be permanently suspended from use in order to provide lasting benefits to the Carmel River system.
3. Benefited Properties of the City of Pacific Grove Water Entitlement shall mean all properties that are located within the City of Pacific Grove.
4. City of Pacific Grove is authorized to separately sell, transfer and convey to owners of Benefited Properties for such consideration and upon such terms and conditions as City of Pacific Grove in its discretion may determine, such portions of the City of Pacific Grove Water Entitlement as it may choose. Any portion of the City of Pacific Grove Water Entitlement conveyed to the owner of a Benefited Property by an Assignment Document shall vest in the owner of the Benefited Property, and become appurtenant to title to the particular Benefited Property, at the time the Water Use Permit is issued as evidence of such conveyance.
5. The City of Pacific Grove Water Entitlement shall be separate and distinct from any other Allocations provided in Rule 30.
6. For purposes of collecting Capacity Fees and tracking the use of a Water Entitlement, the projected increase in Water Use Capacity of a Benefited Property shall be calculated in the manner set forth in Rule 24, as it may be amended from time to time.
7. Each Water Use Permit issued pursuant to this Rule shall represent a vested property interest upon issuance and shall not be subject to Revocation or cancellation except as expressly set forth in subparagraph B below.
8. The portion of the City of Pacific Grove Water Entitlement granted by each Water Use Permit shall not be subject to reallocation pursuant to MPWMD Rule 30.

B. REVOCATION, TERMINATION, OR MODIFICATION OF WATER USE PERMITS

1. Each Water Use Permit which, on or after January 1, 2075, embodies an annual Water Entitlement in excess of requirements for planned land uses on the Benefited Property, or which purports to authorize usage in excess of the constitutional limitation (California Constitution, article 10, section 2) to

23.9-1

EXHIBIT 1

reasonable and beneficial use, shall be subject to modification, Revocation, or termination in the sole discretion of MPWMD, such that the water usage authorized thereby shall not exceed such requirements and limitations.

2. Prior to any modification, termination or Revocation pursuant to this subparagraph E, the holder of the Water Use Permit shall be entitled to notice and a hearing, and any termination, Revocation, or modification shall be subject to appeal to the Board pursuant to Rule 70 of the MPWMD Rules and Regulations.

Added by Ordinance No. 168 (1/27/2016)



COPY

RECEIVED
CITY MANAGER'S OFFICEGAVIN NEWSOM
GOVERNORJARED BLUMENFELD
SECRETARY FOR
ENVIRONMENTAL PROTECTION

2019 APR 24 P 2:03

State Water Resources Control Board

CITY OF PACIFIC GROVE

APR 19 2019

SENT VIA E-MAIL AND USPS

Mr. Ben Harvey, City Manager
City of Pacific Grove
300 Forest Avenue, 2nd Floor
Pacific Grove, CA 93950
bharvey@cityofpacificgrove.org

Mr. David C. Laredo, City Attorney
City of Pacific Grove
606 Forest Avenue
Pacific Grove, CA 93950
dave@laredolaw.net

**CITY OF PACIFIC GROVE (CITY) CLEAN WATER STATE REVOLVING FUND (CWSRF)
PROJECT NO. C-06-8026-110 – PACIFIC GROVE LOCAL WATER PROJECT (PROJECT) –
REQUEST FOR MEETING ON TECHNICAL FUNDING CONDITION**

Dear Mr. Harvey and Mr. Laredo:

You have requested a meeting with representatives of the State Water Resources Control Board (State Water Board) regarding a condition of the State Water Board's \$7.7 million financial assistance to the City for construction of the Project, a satellite recycled water treatment plant. Specifically, you have sought clarification of how the State Water Board's limitations on new or increased water use within the City affects the City's proposal to allocate potable water that the City has conserved by constructing and operating the Project.

If the City were to allocate this conserved potable water only to existing service addresses that are not to undergo a "change in zoning or use," as the State Water Board interprets this term, the City would not violate the technical funding condition and would not require the prior consent of the Executive Director to proceed. The State Water Board urges the City to remain focused on further reducing and offsetting its community's demand for and use of Carmel River water.

Background on Relevant Funding Condition

In both State Water Board Resolution 2015-0070 and the resulting agreement between the State Water Board and the City (Agreement No. D15-01021), the technical funding condition at issue states:

E. JOAQUIN ESQUIVEL, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

APR 19 2019

The City shall apply recycled water produced by the Project to service of existing uses and shall use the ensuing demand reductions to offset deliveries from Cal-Am [California American Water Company] until such time as the City receives consent from the State Water Board's Executive Director to apply the Project's recycled water and associated demand reductions to new service connections or to increased use at existing service addresses resulting from a change in zoning or use.

The funding condition is intended to reflect the current cease and desist order against Cal-Am, which owns and operates the community water system that serves the City and other Monterey Peninsula communities. In addition to requiring Cal-Am to cease diversions from the Carmel River in excess of its water rights no later than December 31, 2021, the order also includes a condition limiting new water demand and use within Cal-Am's Monterey District service area:

Cal-Am shall not divert water from the Carmel River for new service connections or for any increased use of water at existing service addresses resulting from a change in zoning or use

(State Water Board Order WR 2009-0060, Condition 2 [p. 57]; see also State Water Board Order WR 2016-0016 [amending and superseding parts of Order WR 2009-0060 but maintaining Condition 2 as originally adopted].) When approving funding for the Project in 2015, the State Water Board extended similar water use limitations directly upon the City through the Project-specific funding condition. The State Water Board's intent was and is to limit new water demand while Cal-Am's unlawful Carmel River diversions persist, but neither condition directly prohibits new or increased potable water use that involves no "new service connections" and no "change in zoning or use."

As you are aware, Condition 2 of State Water Board Order WR 2009-0060 has been the subject of discussion and dispute for years. More recently, the Monterey Peninsula Water Management District (District) adopted Resolution 2018-05, a contrary interpretation of the condition, specifically regarding increased uses of water at existing service addresses. The conflict between the District's resolution and the State Water Board's own interpretation of its order condition have prompted a series of meetings among parties that had been involved in prior litigation over State Water Board Order WR 2009-0060.

The State Water Board has since clarified that the phrase "change in use" in the order condition means only a service address's change from "Residential" ("Table 1") to "Non-Residential" ("Table 2") or from "Non-Residential" to "Residential," as those terms are defined and described in the District's current local water permitting rules. (See District Rules 11 and 24.) This interpretation applies to both Condition 2 of State Water Board Order WR 2009-0060 and the corresponding Project-specific funding condition. In practice, the State Water Board has advised in several instances that a project under which a Non-Residential service address is to remain Non-Residential does not involve a "change in use."

"Change in zoning" has not been a topic of questions or conflicting interpretations as "change in use" has. A "change in zoning" is a distinct concept based on the zoning ordinance of the applicable local agency with land use authority. A "change in use" from Residential to Non-Residential or vice versa may also involve a "change in zoning" in certain circumstances, but it does not necessarily. Similarly, real property may have its zoning amended or changed but still remain in its prior Residential or Non-Residential water use table under the District's rules.

APR 19 2019

Several parties continue to disagree over other language in Condition 2 of State Water Board Order WR 2009-0060, including the appropriate baseline for measuring a potential "increased use of water," the precise method of measuring or calculating a service address's use of water, the validity of offsetting a service address's increased use of water through various District credit or allocation systems, and the definition of "service address." The State Water Board has tentatively proposed updating and clarifying its interpretation of the condition, including these subtopics. Aside from the more recent "change in use" interpretation discussed above, which has been applied in practice, the Deputy Director for Water Rights's April 9, 2012 and May 31, 2013 interpretive letters continue in effect in the interim. (See the two documents entitled "SWRCB Response . . ." under "Past Correspondences Regarding Condition 2" at https://www.waterboards.ca.gov/waterrights/water_issues/projects/california_american_water_company/.) These letters only directly address the water rights order condition, but the letters also indicate the State Water Board's existing interpretation of the funding condition's substantially similar limitations on "increased use at existing service addresses . . ."

Application to City's Request

In 2016, following State Water Board approval of funding for the Project, the District adopted a 66 acre-feet per year water entitlement for the City based on the Project's anticipated potable water demand reduction. (District Ordinance No. 168 and Rule 23.9.) To the State Water Board's knowledge, since beginning operation of the Project in January of 2018, the City has produced roughly between 100 to 150 acre-feet of recycled water for irrigation use at several existing municipal sites, as well as possibly for public toilets and water truck filling. It is the State Water Board's understanding that, prior to operation of the Project, these purposes were served with potable water from Cal-Am.

Your request focuses on whether and how the City may at this time utilize the related water entitlement from the District. Mr. Laredo has communicated to the State Water Board that, beginning this year, the City intends to allocate 47.88 acre-feet per year from the entitlement for increased uses of water at existing service addresses within the City. Mr. Laredo has stated that the City will specifically refrain from allocating water to any new service connection or to any service address that is to undergo a "change in zoning or use."

The State Water Board does not endorse or agree with the City's determinations that the City's proposed new water allocations comprise only a pro rata lawful "share" of the Carmel River and other Cal-Am water supply sources and that, because total annual water consumption within the City has decreased since 2009, the new allocations "will not constitute growth . . ." But, assuming your representations that the City will allocate the Project's ensuing or associated potable water demand reductions exclusively to existing service addresses that are not undergoing a change in zoning¹ or a change from "Residential" to "Non-Residential" or vice versa, the State Water Board agrees that its current water rights enforcement and funding conditions would not prohibit the City's proposed action. In other words, the stated scope of the City's proposed water allocation would not violate these conditions and would not require special consent from the Executive Director.

¹ State Water Board staff has not fully analyzed the City's zoning code or map but has identified amendments that clearly constitute "change in zoning," including adding section 23.31.025 to the Pacific Grove Municipal Code in 2016.

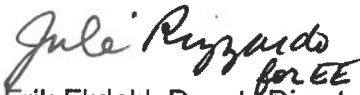
APR 19 2019

Conclusion

The technical funding condition referenced above do not prohibit the City from proceeding as it has proposed: selling and distributing Project-based water allocations exclusively for increased uses of water at existing service addresses that will not undergo a change in zoning or a change in use, as those terms have been interpreted and clarified by the State Water Board. The State Water Board urges the City to diligently work with Cal-Am and with local agencies and communities to implement solutions for ceasing unlawful diversion and use of Carmel River water supplies as required no later than the end of 2021.

We believe this letter may satisfy the purpose of your request for a meeting with State Water Board officials. If you have additional questions regarding this letter, please contact Steven Westhoff in the State Water Board's Office of Chief Counsel at (916) 327-7295 or Steven.Westhoff@waterboards.ca.gov.

Sincerely,


Erik Ekdahl, Deputy Director
Division of Water Rights


Leslie S. Laudon, Deputy Director
Division of Financial Assistance

cc: [via email only]
Steven Westhoff, Office of Chief Counsel

EXHIBIT 3

Chapter 11.68 WATER DISTRIBUTION REGULATIONS

Sections:

[11.68.005 Definitions.](#)

[11.68.010 Distribution of potable water.](#)

[11.68.015 Priority dates for wait-listed applications.](#)

[11.68.020 Unavailability of water – Readiness for building permit applications.](#)

[11.68.030 Time limits for wait-listed projects.](#)

[11.68.040 Entitlement water.](#)

[11.68.050 Repealed.](#)

[11.68.060 Repealed.](#)

11.68.005 Definitions.

(a) This section provides definitions for terms or phrases used in this chapter that are technical or specialized, or that may not reflect common usage. If any of the definitions in this chapter conflict with definitions in other provisions of the Pacific Grove Municipal Code, the definitions set forth in this section shall control for the purposes of this chapter. If a word is not defined in this chapter, or in other provisions of this title, the most common dictionary definition shall be presumed to be correct.

(b) The following are defined terms for use in this chapter:

“Allocation” means a discrete quantity of water held by the city from the Monterey Peninsula Water Management District for new or intensified water use within the city.

“City water distribution regulations” means this chapter.

“Entitlement” (also “water entitlement”) means a discrete quantity of potable water developed through use of city funds, available for sale to end users to enable new or intensified use of water from the California American Water Distribution System. Entitlements are evidenced by a vested contractual right granted by the city.

“Intensified water use” means any change in water use on a parcel which, in a residential use, is evidenced by an increase in the number of fixture units serving that parcel; or, in any nonresidential use, evidenced by the incremental change in the project’s capacity for annual water use based upon factors set by the Monterey Peninsula Water Management District.

“Mixed use” means where one or more water meters or connections supply both residential and nonresidential water uses, often within the same building.

EXHIBIT 3

“Notice of available water” means a notice provided by the city manager, or agent, to advise an applicant that water from a water entitlement or water allocation is ready for immediate use for a project, which may trigger time limits for wait-listed properties within which applicants must claim and purchase water or be removed from the water wait list.

“Pacific Grove local water project (PGLWP)” means a reclamation plant intercepting and treating sewer water to deliver nonpotable water to the Pacific Grove Golf Links and El Carmelo Cemetery, and providing water for other public uses.

“Water credits” means a record created by the Monterey Peninsula Water Management District that allows reuse of a specific quantity of water upon a specific location, based upon documented permanent abandonment of prior water use on that site.

“Water subscription” means a document through which a property owner acquires a contract interest for a discrete quantity of water from the legal owner of a water entitlement.

“Water use capacity” means the maximum potential water use which theoretically may occur, based on average water use data for similar structures and uses in the Monterey Peninsula region, as shown by projected water use tables developed by the Monterey Peninsula Water Management District. Anticipated maximum annual water demand is expressed in acre-feet for a specific real property.

“Water wait list” means a chronological list that quantifies unmet potable water requests for unserved end use water users. Prerequisite qualifying criteria must have been met before a project was placed on the water wait list. [Ord. 19-006 § 2, 2019; Ord. 18-015 § 3, 2018].

11.68.010 Distribution of potable water. SHARE

(a) All water available for distribution and use within the city shall be distributed by resolution passed and adopted by the council.

(b) Water shall be distributed based solely on the date/time of each request, provided the request is accompanied by payment of all city fees or other city charges for water, and further provided the requestor can demonstrate an ability to make timely use of the water. [Ord. 19-006 § 2, 2019; Ord. 18-015 § 3, 2018].

11.68.015 Priority dates for wait-listed applications. SHARE

Project applications placed on any water wait list will be eligible for water on priority date basis provided the project is then able to use the water; if not, the available water will be passed to the next buildable project and the delayed project shall remain on the water wait list; the

EXHIBIT 3

project shall retain its original priority date water wait list until it acquires water available for use. [Ord. 19-006 § 2, 2019; Ord. 18-015 § 3, 2018].

11.68.020 Unavailability of water – Readiness for building permit applications. SHARE

(a) Applications for projects for which there is no available water shall not be accepted or processed. However, there shall be established a prioritized waiting list according to order of receipt of proof of readiness to apply for a building permit.

(b) For projects requiring only a building permit, proof of readiness to apply for a building permit shall include submittal of all materials normally required to be filed with building permit applications.

(c) For projects requiring discretionary land use entitlements (including, without limitation, variances, use permits, historical preservation permits, architectural approvals), proof of readiness to apply for a building permit shall include the final discretionary approval and submittal of all materials or plans normally required to be filed with a discretionary permit application. Final discretionary approval shall occur upon the granting of all required project approvals by the boards and commissions having jurisdiction to first hear the project applications. In the event of a successful appeal, i.e., denial of the project application, from such approval, the project shall be removed from the water wait list.

(d) A request for inclusion on a prioritized waiting list shall include a written acknowledgment that there is, at the time of such request, no water available for the requested project. Fees may apply to remain current on this waiting list.

(e) Proofs of readiness shall be placed on prioritized waiting lists according to order received. Once water is available to service a project covered by proofs of readiness, those affected shall be notified and may apply for building permits. Once a building permit is determined to be complete and ready for issuance, the applicant shall be granted authorization to seek a water permit. [Ord. 19-006 § 2, 2019; Ord. 18-015 § 3, 2018].

11.68.030 Time limits for wait-listed projects. SHARE

(a) When water is available for project use, or by purchase via entitlement, time limits set forth below shall apply to wait-listed properties within which those that can take immediate advantage of the water must claim and purchase water, or be bypassed on the water wait list. Projects prevented by regulation or operation of law from immediate use of water shall remain on the water wait list and retain their priority date.

(b) The city will send a notice of available water to applicants on the water wait list. Applicants shall have 30 calendar days from the date of the notice to notify the city, in writing, of their intent to use available water or to remain on the water wait list (“passing”). Wait-listed

EXHIBIT 3

properties shall be required to reapply for permit amendments or renewal, if needed, within 30 days of the date notice of available water by the property is sent. In the alternative, applicants shall be required to state their intent to “pass” on purchasing entitlement water during this same time period. Building permits shall be obtained 120 days thereafter. Full payment shall be tendered for any water entitlement within 180 days of the date water is available for use by the property. Extensions to these time limits may be granted for good cause by the city manager, or designee, in accord with this chapter.

(c) Full use of water, including purchased entitlement water or water from an allocation (quantified by water use capacity), shall be required by the first date of occupancy. Any unused entitlement shall be subject to revocation to enable reassignment or sale for other uses. The city may consider rebate of the pro rata purchase price of any unused water entitlement to the then-current property owner (less a reasonable processing fee) upon revocation of an increment of unused water entitlement, but payment of the rebate amount shall not be made by the city until sale of that water increment has been completed and paid in full by another water user. [Ord. 19-006 § 2, 2019; Ord. 18-015 § 3, 2018].

11.68.040 Entitlement water. SHARE

(a) Sale of PGLWP entitlement water shall be set at the rate determined by council resolution. Fees paid to the city by the applicant to remain on a water wait list shall be applied as a credit toward the purchase of the water entitlement; no refund shall be granted.

(b) If warranted by circumstances related to the sale of 2.0 acre-feet of water or more for a specific project, the city in its sole discretion may elect to enter into a promissory agreement with the property owner(s) to effect sale of entitlement water. The maximum amount payable pursuant to the promissory agreement shall not exceed 90 percent of the water entitlement purchase price; the purchaser shall pay to the city as a deposit the remaining purchase cost as a condition precedent to execution of the promissory agreement.

(1) Any water entitlement that is subject to a promissory agreement shall be subject to revocation, shall not vest and shall not run with the land until the promissory obligation has been paid in full to the city.

(2) If consideration required pursuant to a promissory agreement is not paid to the city in full when due, including but not limited to principal, interest, costs and fees, the owner(s) shall be in default of the promissory agreement. Unconditional transfer of an entitlement shall occur only following receipt of full payment by the city.

(3) If full and complete payment is not timely received by the city, the city shall retain authority to revoke the water entitlement, in part or in full.

EXHIBIT 3

(4) Transfer or assignment of any promissory agreement or any interest in a water entitlement subject to a promissory agreement shall not be made without the advance written consent of the city.

(5) The city shall also withhold all final occupancy permits for any project for which a promissory agreement is in default, until such time as the default has been cured by full payment of all amounts owed.

(c) City council approval shall be required for the city to enter into any promissory note related to payment for entitlement water.

(d) After purchase of entitlement water, the city may rebate the pro rata purchase price to the then-current property owner (less a reasonable processing fee) upon city revocation of any increment of unused water entitlement, but payment of the rebate amount shall not be made by the city until sale of that water increment has been completed and paid in full to the city by another water user. [Ord. 21-023 § 2, 2021; Ord. 19-006 § 2, 2019; Ord. 18-015 § 3, 2018].

11.68.050 Building permit time limit. SHARE

Repealed by Ord. 19-006. [Ord. 18-015 § 3, 2018].

11.68.060 Additional water supplies.



APPENDIX A

WATER ENTITLEMENT INCREMENT ASSIGNED

Location (Property Address): 157 Grand Avenue, Pacific Grove CA 93950

Subscriber Name(s): JAY DESAI

1. Quantity of Water Entitlement requested: 8.816 (fraction of per acre foot)
2. Original Cost \$2,204,00 (\$250,000 per acre foot)
3. Discount \$ 661,200 (30% discount until June 30, 2022)
4. Total Amount Due \$1,542,800

I execute this document in the City of Pacific Grove, and declare under penalty of perjury that the information provided is true and correct of my knowledge.

JAY DESAI

Date

APPENDIX B

LEGAL DESCRIPTION:

The land referred to is situated in the County of Monterey, City of Pacific Grove, State of California, and is described as follows:

PARCEL ONE:

Parcel 2 as shown on Parcel Map recorded in the Office of the County Recorder of Monterey County, State of

California, on August 19, 2015 in Book 23, Page 48 of Parcel Maps.

PARCEL TWO:

25 foot reciprocal vehicle access easement over a portion of Parcel 1, as shown on the above referenced Parcel Map.

APN: 006-173-002

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CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council
FROM: Ben Harvey, City Manager
MEETING DATE: February 2, 2022
SUBJECT: CONCEPT REVIEW: ARPA Funding Public Outreach *This item was continued from the January 19, 2022 meeting*
CEQA: Does not constitute a "Project" per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

Review proposed public outreach approach and provide direction to staff.

DISCUSSION

The City anticipates receiving another \$1.84 million in American Recovery Plan Act (ARPA) funds in July of this year. These anticipated funds will be booked as revenue, upon receipt. However, the City will anticipate their arrival, and will include them within the proposed Fiscal Year 22-23 budget. At this time, it is not known if the anticipated ARPA funds will need to be used to address City revenue shortfalls, as was the case with the last tranche of ARPA funds received in Fiscal Year 21-22. City staff will have more information in this area after the mid-year budget presentation and forecast, which will take place at either the end of February or early March.

Assuming that at least a portion, if not most, of the anticipated ARPA funding coming in the next fiscal year is not needed to backfill revenue shortfalls, it is suggested that public outreach take place to determine the public's proposed priorities for spending the revenue. To accomplish this, a survey may be deployed, and a town hall meeting may be convened. For the survey, it is suggested that the City avail itself of the survey functionality through its software license with Zencity. Zencity has a sample survey that has been used in other municipalities that is attached to this agenda report for review. The survey may be modified should the City Council wish for additional information. Zencity will create a link to the survey, which may be posted on social media, accessed through the City website, and printed on postcards should the City decide to incur a US Mail expense as part of this effort. Following at least a month after the survey has been released, a town hall meeting could be convened to review the results with the public, and gain additional feedback. The result could then be presented to the City Council for discussion and determination as to how best to program the ARPA funding.

OPTIONS

1. Take no action; please note that taking no action will cause this proposed public outreach effort to cease.
2. Provide revised or alternate direction.

FINANCIAL IMPACT:

Should the City Council provide direction to send out postcards with the survey link, there could be an expenditure for this effort estimated at approximately \$3,000, which could be covered with available funding within the approved FY 21-22 budget.

GOAL ALIGNMENT: Transparency, Accountability and Communication: Implement programs, processes, revisions, and training to improve and advance the City's efforts.

Attachments

Sample ARPA Survey

ARPA funding prioritization Survey

The city of Pacific Grove is running a survey to help prioritize incoming ARPA funding according to its residents' needs.

In your opinion, how should the funding be spent? Share your opinion in this quick anonymous survey.

Do you live in the limits of Pacific Grove? [\[check all that apply\]](#)

☐ Yes

☐ No [\[divert out of the survey\]](#)

select 10-13 of the following for utilizing ARPA funds that you would like residents to rank. You can also suggest options that are relevant to your community.

1. Please rank the following opportunities to use APRA funds using the following scale:
1 - No priority 2 - Low priority 3 - Medium priority 4 - High priority 5 - Very high priority

1. Support for households facing housing insecurity, such as emergency rent/mortgage assistance, utility assistance, and legal support for those facing eviction or foreclosure
2. Funding to address homelessness, including temporary shelters and affordable long-term housing
3. Assistance to restaurants, bars, retail stores, and other small businesses impacted by COVID-19
4. Funding for local nonprofits such as food banks and social service agencies
5. Support for local arts, music, entertainment, and tourism-related businesses
6. Funding for new economic development and job training initiatives
7. Improvements to local water and sewer infrastructure
8. Improvements to public streets, intersections, and sidewalks
9. Improvements to city / town buildings and other public facilities
10. Government technology upgrades to more online services and improve cybersecurity
11. Increased internet access through broadband infrastructure and public wi-fi networks
12. Investments in improved public transit services
13. Increased funding for local parks and recreation programs
14. Increased funding for police and other public safety agencies
15. Increased funding for fire, EMS, and other first responders

16. Expanded outreach to promote vaccination, greater access to testing, and other public health measures
2. [\[optional\]](#) In what other ways should Pacific Grove use APRA funding? [\[Open-ended\]](#)

Demographic question [optional]:



CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council
FROM: Bill Peake, Mayor
MEETING DATE: February 2, 2022
SUBJECT: Leadership - Mastering Your Role as an Elected Official *This item was continued from the January 19, 2022 meeting*
CEQA: Does not constitute a “Project” per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

Receive report and discuss.

DISCUSSION

Material below originated from the Institute for Local Government’s ‘Level Up Your Leadership’ training held December 6 and 13, 2021.

Leadership on the Council: Foundations For Exceptional Councils

- Develop a sense of team
 - Successfully transition from candidate to a member of council.
 - Become a champion for your agency. Make decisions based on the needs and interests of the community at-large / the greater good.
 - Develop, communicate and support policy goals and council decisions.
 - Demonstrate a willingness to work collaboratively and have an agency-wide perspective.
- Have clear roles and responsibilities
 - Understand your role in local government and responsibilities.
 - Know your role: to set vision and policy, avoid micromanagement.
 - Council should strive to be informed about the issues facing their agency and be prepared to ask questions of staff and each other.
- Honor the relationship with staff and each other
 - Elected officials have the ability to respectfully disagree (i.e. to disagree without being disagreeable).
 - They are able to leave it at the dais; debates are about policy, not personality.
 - Exceptional elected officials reflect positive decorum and model leadership by using respectful tone with colleagues.
 - Effective councils establish a set of behaviors in advance - to promote civility and respect.
- Conduct effective meetings
 - Elected officials are respectful of each other, the public and everyone’s time.
 - Elected officials use engaging body language as a way to demonstrate respect.
 - Issues are not personalized - thoughtful dialogue is the objective.

- Agenda packets are read, councilmembers come prepared and have an open mind.
- Respect is demonstrated for varied opinions.
- Everyone strives to be civil and act with decorum.
- Hold themselves and the agency accountable
 - Operate ethically and with integrity.
 - Conduct team building and/or goal setting exercises to track progress towards mutually agreed upon goals
 - Take responsibility for the results (good and bad).
 - Celebrate success.
 - Hold themselves responsible for adhering to operating protocols and codes of conduct.
- Practice continuous learning and development.
 - Stay informed on key issues.
 - Gain key insights and knowledge on all aspects of governing, from budgets to plans and everything in between.
 - Learn to listen. Listening is sometimes more important than learning to give a speech.

If the above were a scorecard, how do you think we rate? Where can you/we improve? Does being an exceptional Council mean members always agree? Additional topics discussed included trust. “Trust takes years to build, seconds to break and forever to repair”.

I recommend this training.

GOAL ALIGNMENT - ALL

OPTIONS

N/A

FINANCIAL IMPACT:

There is no fiscal impact.

GOAL ALIGNMENT: See Goal Alignment within Discussion section.



CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: Honorable Mayor and Members of the City Council
FROM: Nick Smith, Councilmember
MEETING DATE: February 2, 2022
SUBJECT: Council Liaison Role *This item was continued from the January 19, 2022 meeting*
CEQA: Does not constitute a “Project” per California Environmental Quality Act Guidelines Section 15378

RECOMMENDATION

Review role and provide staff direction.

DISCUSSION

Since at least 2010, Council has had an informal practice of assigning a “Council liaison” to its Boards and Commissions (“Boards”). However, there has been confusion and a lack of clarity in the purpose and scope of the Council liaison role. Further, liaisons have been serving in this role without a formal Council action in ordinance or resolution to institute or define the practice. In my five years serving on the Council, I have found the Council liaison appointment to be problematical in a number of ways, which are highlighted below.

First, having a Council liaison leads to potential Brown Act violations. The Boards often look to Councilmembers to provide advice or guidance on various topics while in session or outside of session. Frequently, these topics include items that could come before Council as the governing body and the Board as the subordinate body. Any such activity by a Councilmember may require recusal by the Councilmember, depending on the content of the discussion at the subordinate body level or with members of the subordinate body. It is an area ripe with potentially significant issues.

Second, the purpose of the City’s Boards is to act independently of the Council and advise the Council on matters rather than the reverse. It should not be influenced by Councilmembers serving as liaisons so that as many interests as possible are represented within the jurisdiction.

Third, Councilmembers must spend time to attend Board meetings. However, Councilmember roles and participation must be extremely limited. This is time that Councilmembers could spend on various initiatives at the Council level. Commonly, a Council liaison provides a very brief summary of the previous Council meeting. In lieu of this brief report, Board members could review the Council minutes to keep abreast of the actions of the Council and can also attend Council meetings. Likewise, a Councilmember could catch up on Board activities by reading meeting minutes, which are included in Council agenda packets.

Overall, the costs outweigh the benefits of having Council liaisons. There is a reason the role has not been clarified at some point in the last decade by various Councils who have considered doing so; it is very problematic to try to define.

We should allow our Boards to function independently and end the Council liaison practice.

OPTIONS

Provide alternate direction.

FINANCIAL IMPACT:

There is no fiscal impact.

GOAL ALIGNMENT: Not Applicable.